

CHAPTER III

THE PETITION AND CASE SYSTEM

A. Introduction

1. This chapter deals with the work done by the Inter-American Commission on Human Rights during 2006, and it concerns the system of petitions and individual cases before both the Commission and the Inter-American Court of Human Rights. This chapter covers the precautionary measures granted by the Commission and requested of member states of the Organization and the reports approved pursuant to Articles 49 or 51 of the American Convention or Article 45.3 of the Rules of Procedure of the Commission in effect as of May 1, 2001--in the case of those states not party to the Convention--and which the Commission has decided to publish; and its reports on cases declared admissible or inadmissible under the terms of Articles 46 and 47 of the Convention and Article 37.1 of the Rules of Procedure. This chapter also describes the activities of the Commission before the Inter-American Court of Human Rights, *vis-à-vis* provisional measures, contentious cases, and requests for advisory opinions.

2. Section B includes statistical tables on the information contained in this chapter; section C.1 contains information on the precautionary measures agreed on or extended by the IACHR. In this regard, the Commission has continued its practice of reporting on the precautionary measures sought from member states of the Organization during 2006, either on its own initiative or at the request of a party, pursuant to the provisions of Article 25 of its Rules of Procedure, in those cases where such action was necessary to prevent irreparable harm to persons. The precautionary measures are presented in alphabetical order according to the names of the states to which the request was submitted; the listings also indicate the name of the person or persons on whose behalf the request was made, a summary of the information on which the request was grounded, the rights of the persons exposed to grave and imminent harm, and, finally, the date of the request and the name of the state in question, as well as other relevant information.

3. Section C.2 includes all the petitions and cases processed and resolved by the Commission during the time covered by this report. It contains a total of 88 reports: 56 cases that were declared admissible; 14 reports on petitions that were deemed inadmissible; 10 friendly settlement reports; and 8 reports on merits.

4. In accordance with Article 46 of the IACHR's Rules of Procedure, section D includes an analysis relative to compliance by States with the recommendations contained in reports on individual cases published in the Annual Reports for 2000, 2001, 2002, 2003, 2004 and 2005.

5. Section E deals with the individual petitions and cases taken by the Commission to the Inter-American Court of Human Rights. It lists the provisional measures ordered by the Court at the Commission's request in cases of extreme gravity and urgency, pursuant to the provisions of Article 63.2 of the American Convention on Human Rights; a summary of a number of Court judgments; and the actions taken by the Commission in several contentious cases. The provisional measures are also listed in the order of their presentation; they include the name of the person or persons on whose behalf they were requested, a summary of the facts of the case and of the rights at stake, the date of the request, the name of the state in question, and the date on which the Court adopted the relevant decision.

6. Over 2006, the Commission received 1325 complaints alleging violations of human rights protected in the American Declaration of the Rights and Duties of Man and the American Convention on Human Rights or other relevant instruments; it also instituted 147 petitions during

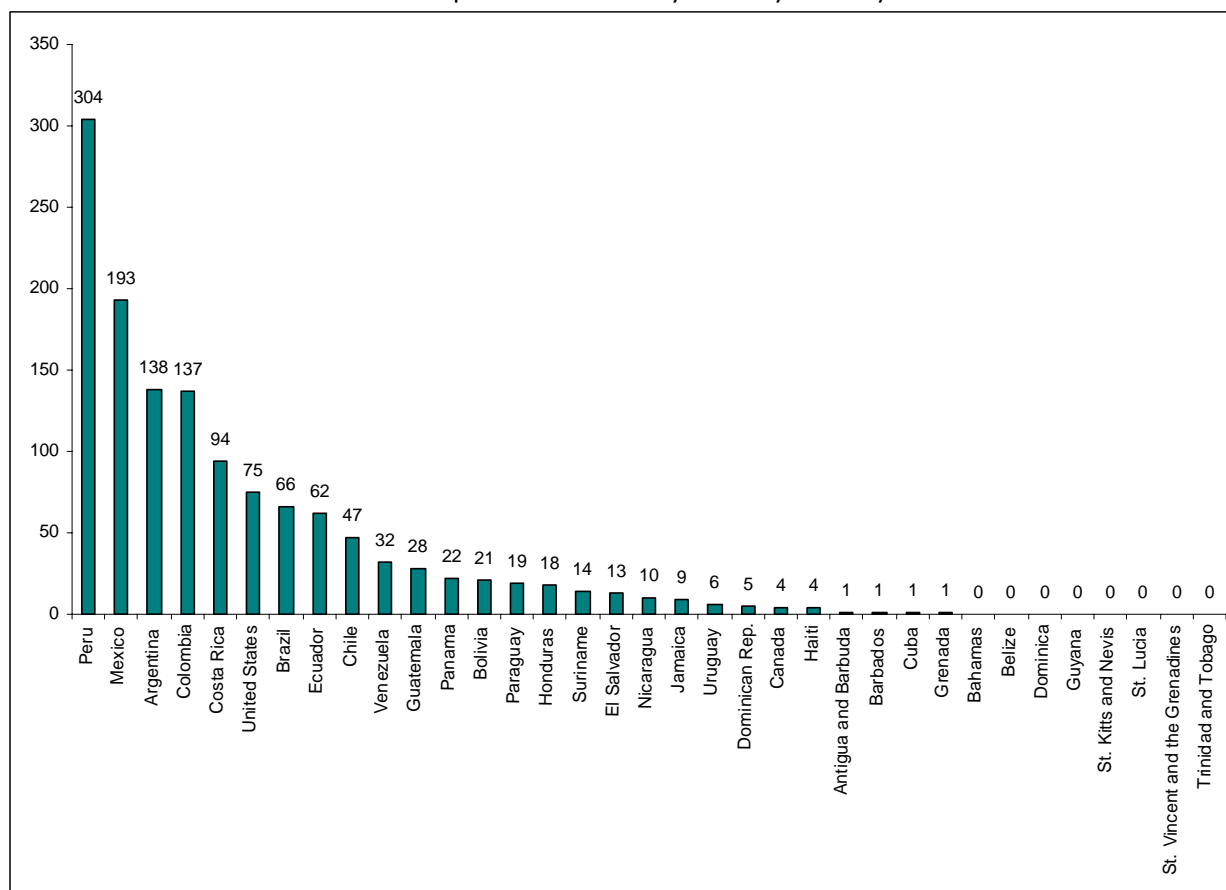
the period covered by this report, giving a total of 1237 individual cases and petitions being processed by the Commission in the year 2006.

B. Statistics

7. This chapter of the 2006 Annual Report contains statistical information to provide a general overview of the different activities carried out by the Inter-American Commission on Human Rights.

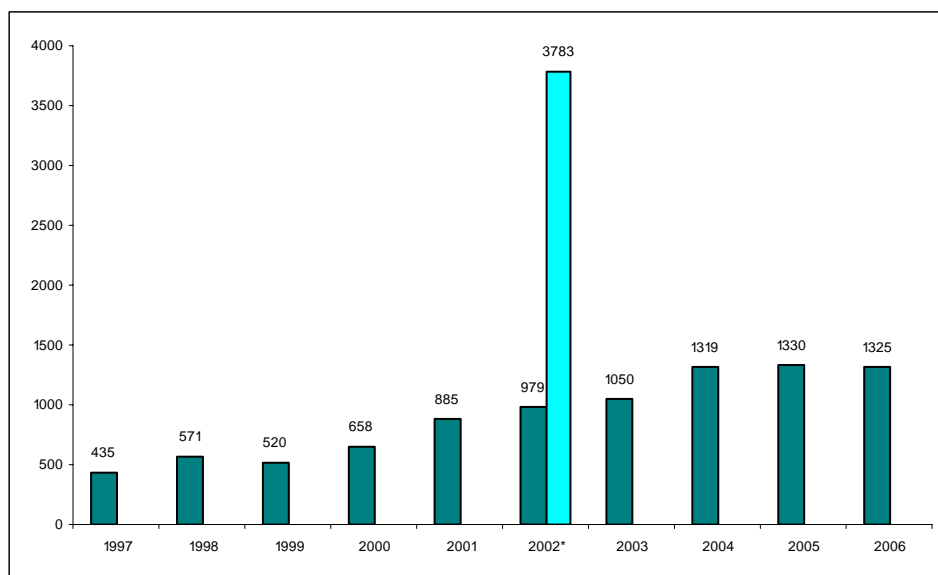
8. First it presents data concerning the cases and petitions being processed. These comprise the greater volume of the Commission's work. "Cases" is taken as meaning all those petitions declared admissible by means of a report on admissibility. "Petitions" is taken as meaning all those complaints that have been forwarded to the state involved but in which no report on admissibility has been issued.

1. Total number of complaints received by country in the year 2006.



The preceding graph illustrates the total number complaints received by the IACHR according to the OAS member States in respect of which the complaints were presented.

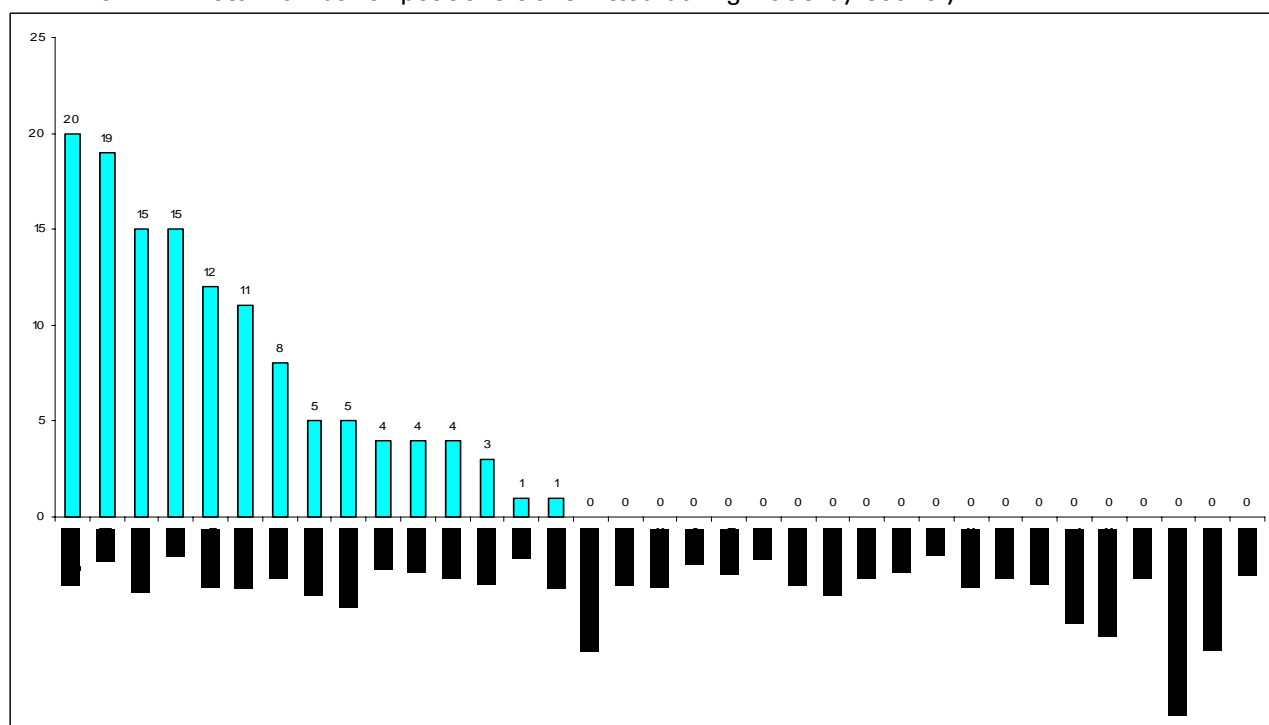
2. Total number of complaints received by year.



This graph illustrates the total number of complaints received by the Commission during the last ten years. "Complaints" for the purposes of these statistics includes all complaints, presented in writing, concerning an alleged violation by an OAS member state of the Convention, the Declaration and/or other pertinent instrument.

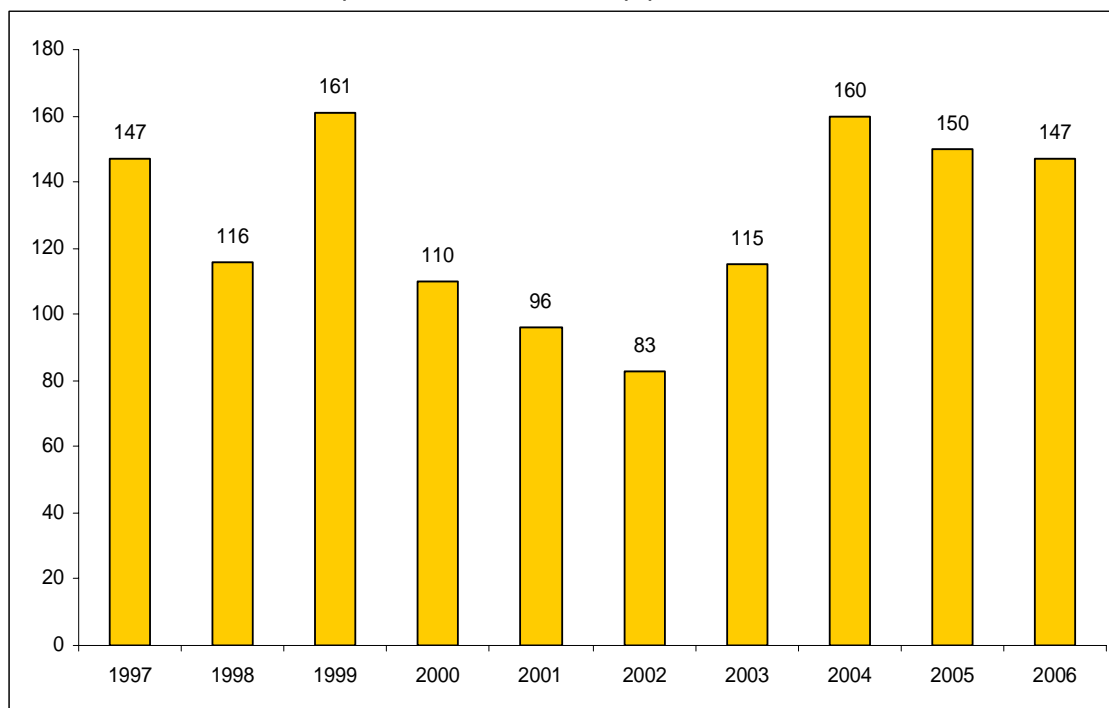
* The 3783 petitions refer to the human rights situation of persons affected by various banking measures ("corralito") in Argentina.

3. Total number of petitions transmitted during 2006 by country.



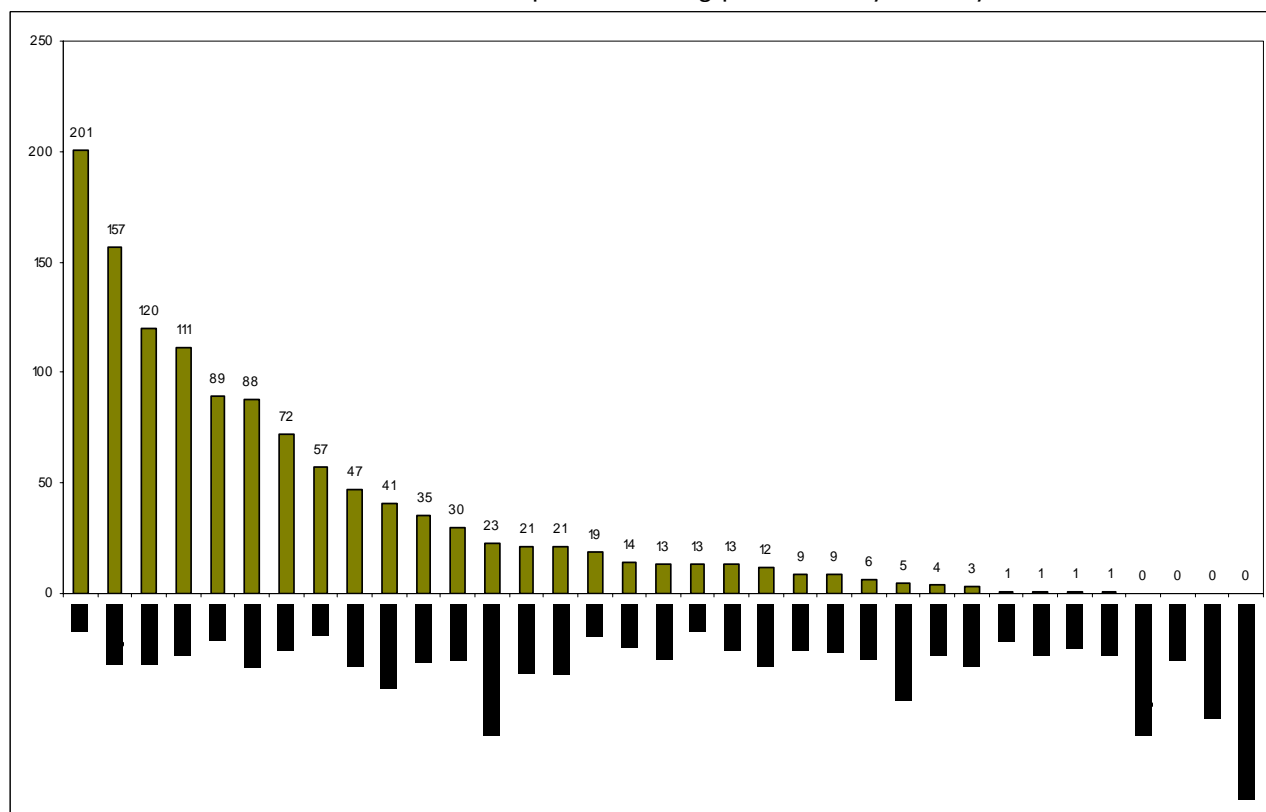
This graph illustrates the total petitions transmitted between January 1 and December 31, 2006, according to the OAS member states in respect of which the petitions were presented.

4. Total number of petitions transmitted by year.



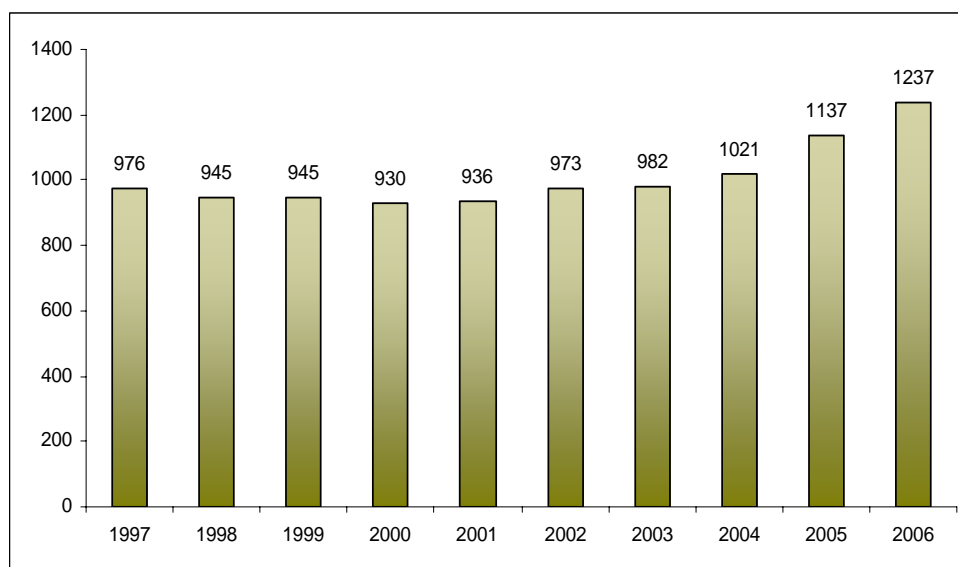
The preceding graph shows the total number of petitions transmitted since 1997.

5. Total number of cases and petitions being processed by country.



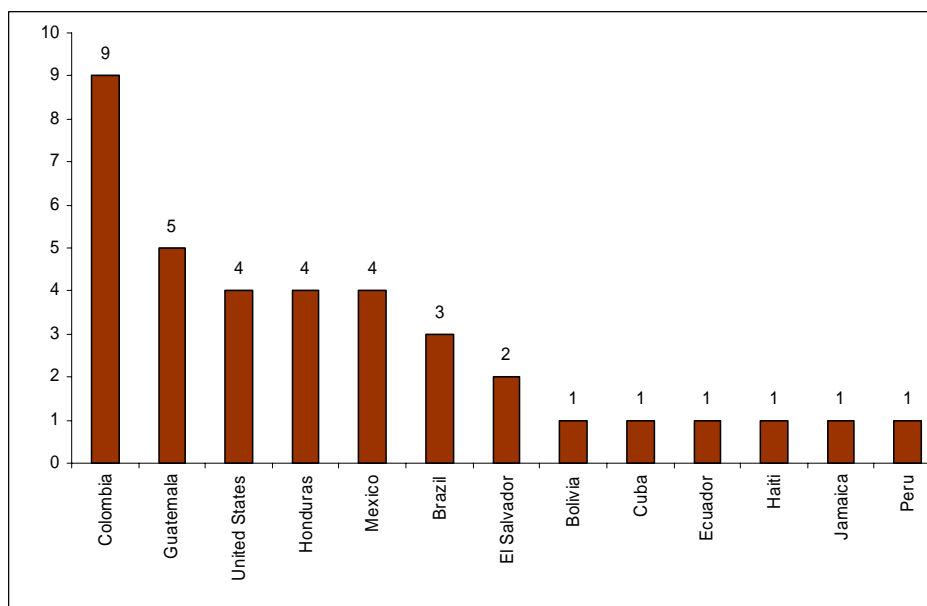
This graph includes the total number of cases and petitions pending before the Commission and their breakdown by OAS member state in descending order by country.

6. Total number of cases and petitions being processed by year.



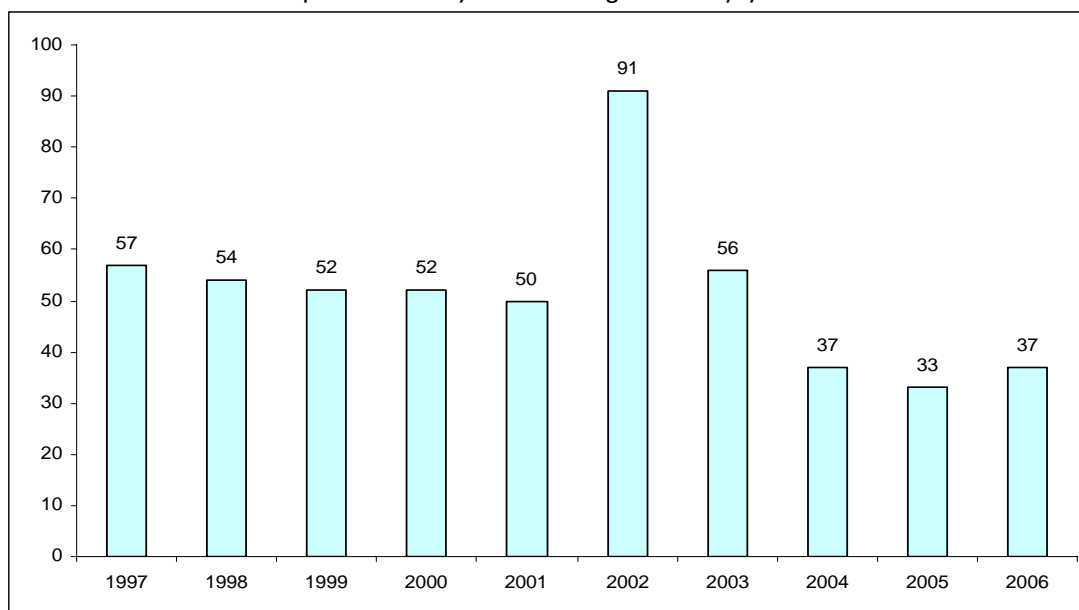
The preceding chart shows the total number of cases and petitions being processed by the Commission in the past ten years.

7. Total number of Precautionary measures granted by country during 2006.



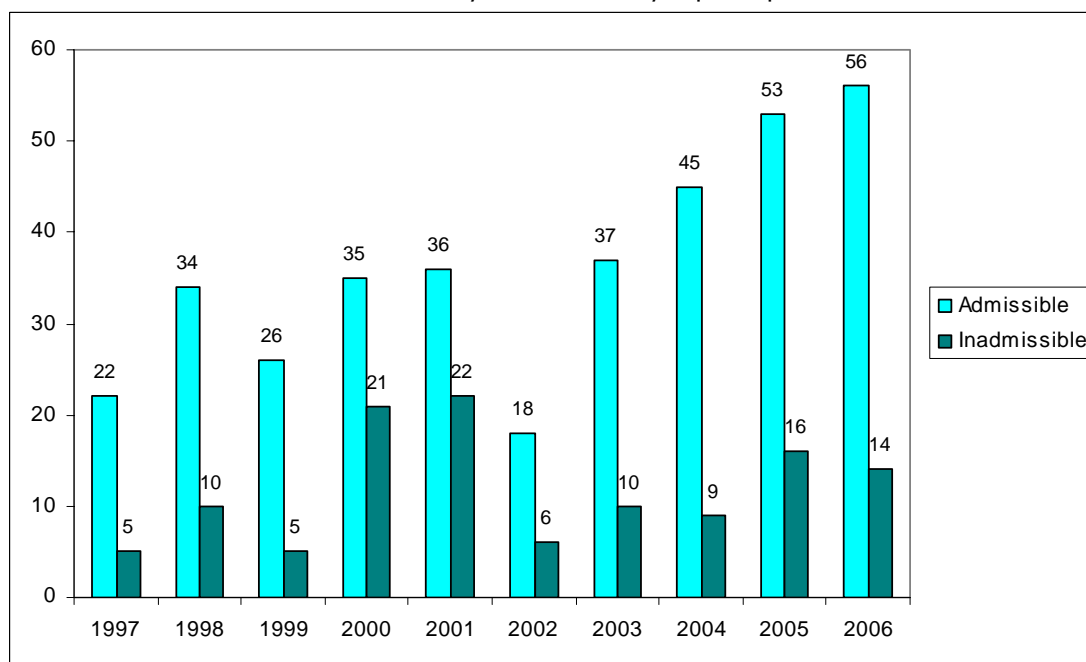
The preceding graph shows the number of precautionary measures granted by country during the year 2006.

8. Total number of precautionary measures granted by year.



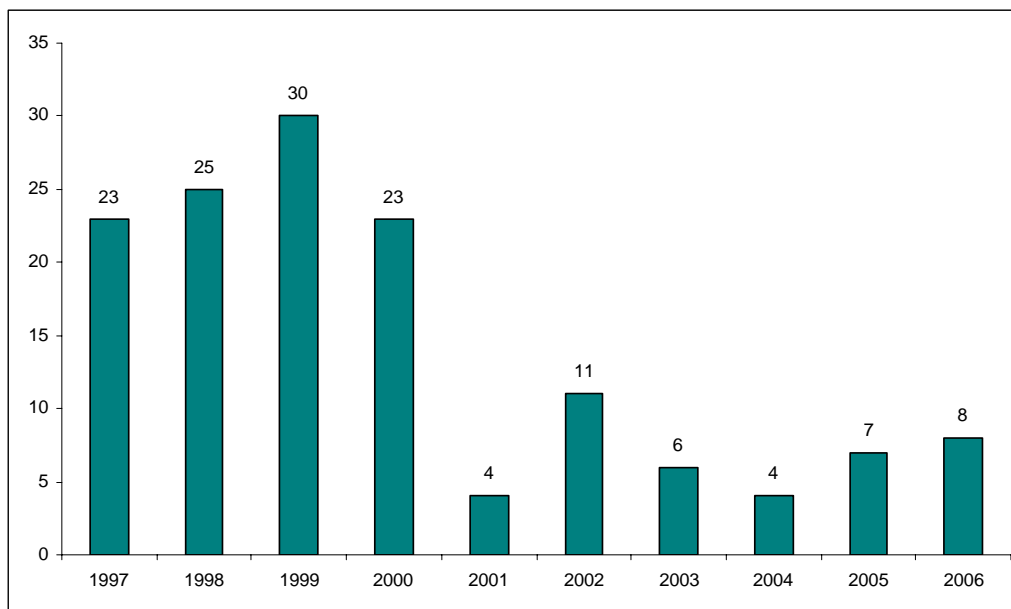
The preceding table shows the total number and variation in the figure corresponding to precautionary measures granted by the IACHR in the past ten years. The number of precautionary measures granted does not necessarily reflect the number of persons protected when measures are adopted, since, on many occasions, several persons or entire communities receive protection.

9. Total number of admissibility/inadmissibility reports published.



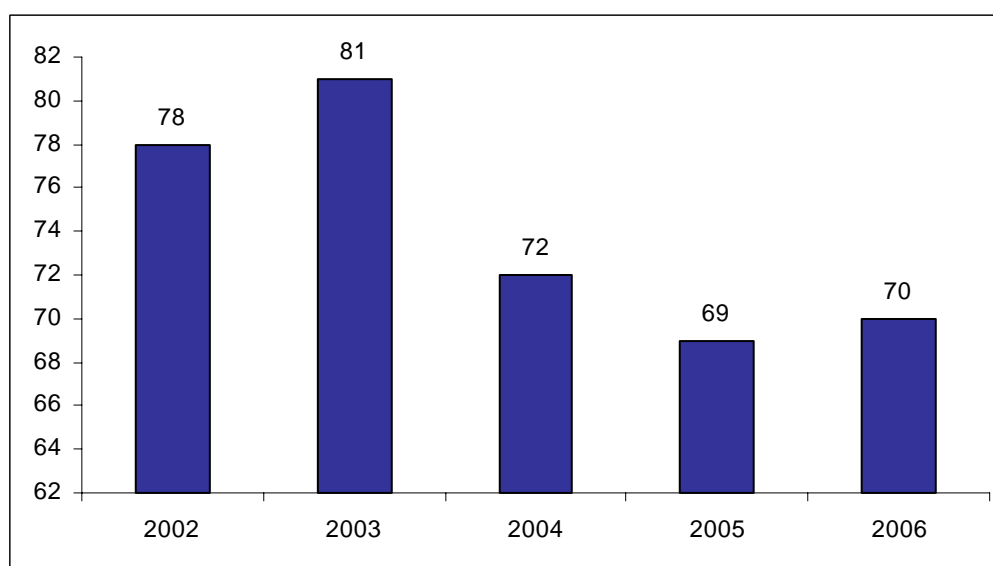
The chart shows the figures corresponding to admissibility and inadmissibility reports published in the past ten years. These reports reflect the final decision of the IACHR on fulfillment of the admissibility requirements of petitions.

10. Total number of reports published on merits by year.

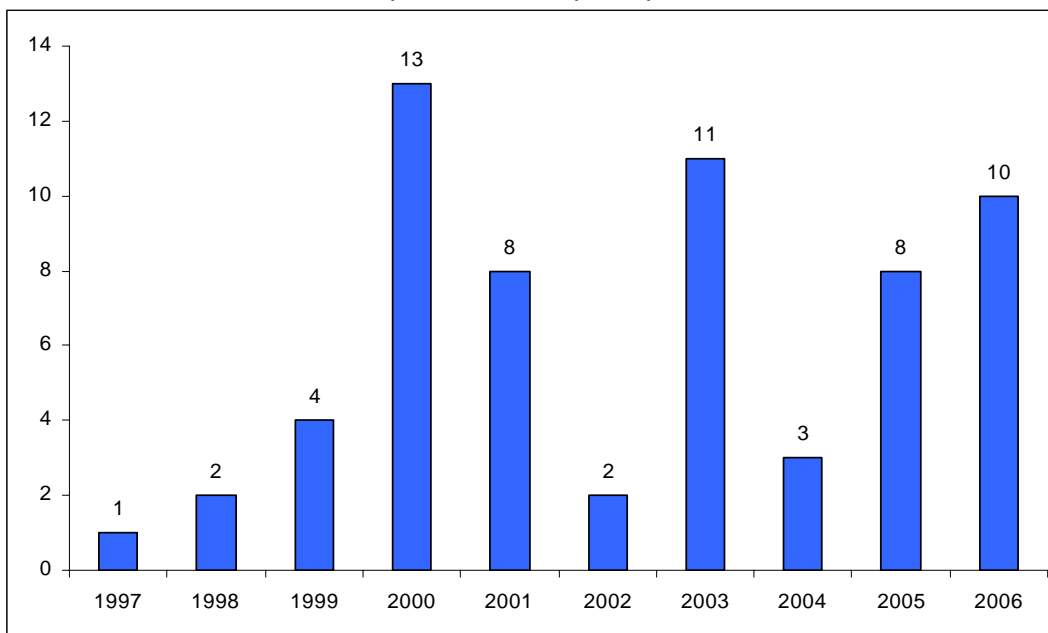


The graph illustrates the variation in the total number of reports on the merits of individual cases approved and published in the past ten years. The figures include reports in which the IACHR has rendered a decision on the alleged violation of the American Convention by the states parties and of the American Declaration by member states that have not yet ratified the Convention. It should be pointed out that a report on the merits of a case may include decisions on several individual cases that have been previously processed individually.

11. Cases being processed through friendly settlement proceedings.

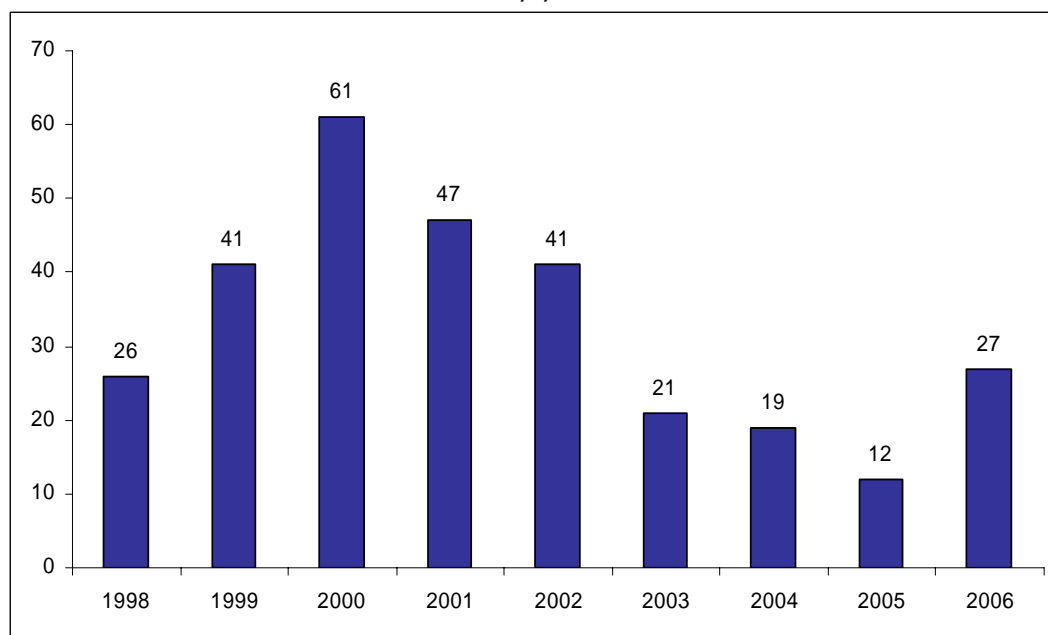


12. Total number of friendly settlement reports published.



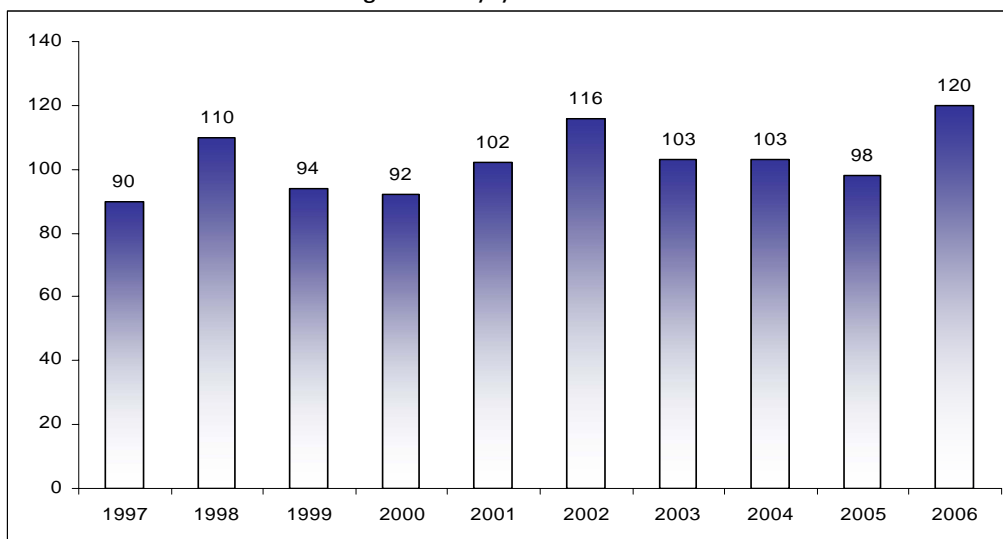
The preceding chart shows the number of cases in which under the auspices of the Commission the petitioners and the State have reached a friendly settlement agreement.

13. Total number of cases archived by year.



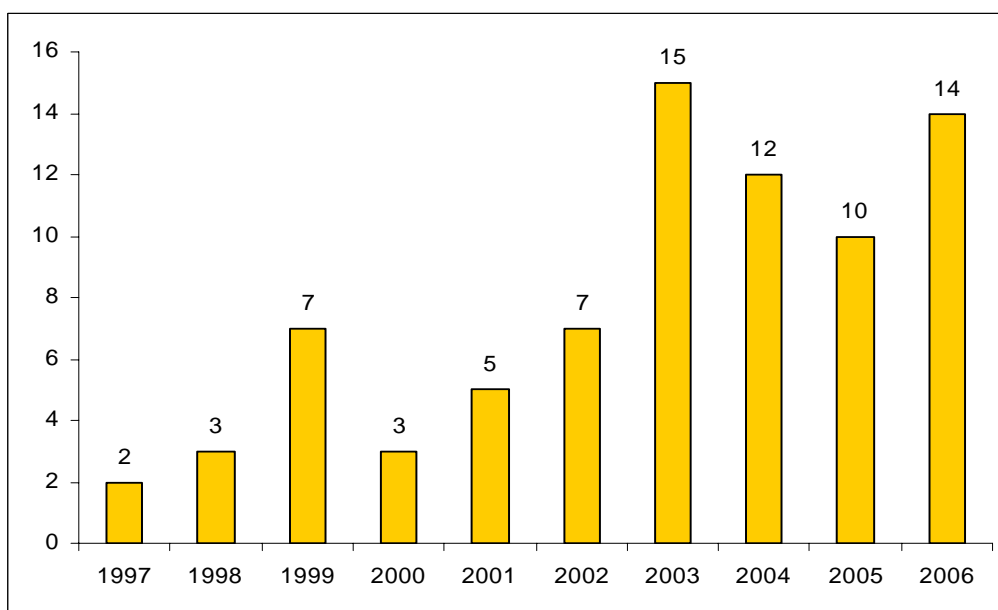
The preceding graph presents data corresponding to the total number of cases closed by the IACHR in the past nine years, when it was decided that grounds did not exist for the petition.

14. Total number of hearings held by year.



During its regular sessions, the Inter-American Commission held hearings on individual cases in order to receive information, evidence, and/or arguments regarding admissibility, merits, and fulfillment of obligations or in order to contribute to the friendly settlement of a case. The IACHR also held hearings in order to receive information on the general or specific human rights situation in member states.

15. Cases submitted to the Inter-American Court of Human Rights.



After a ruling on the merits of a case has been given pursuant to Article 50 of the American Convention, either the IACHR or the state(s) involved may submit a case to the contentious jurisdiction of the Inter-American Court of Human Rights.

C. Individual cases and petitions before the Inter-American Commission on Human Rights

1. Precautionary Measures granted by the IACHR during 2006

9. The mechanism for precautionary measures is established in Article 25 of the Rules of Procedure of the IACHR. This provision states that in serious and urgent cases, and wherever necessary according to the information available, the Commission may, on its own initiative or at the request of a party, request that the State concerned adopt precautionary measures to prevent irreparable harm to persons. If the Commission is not in session, the President, or, in his absence, one of the Vice-Presidents, shall consult with the other members, through the Executive Secretariat, on the application of this provision. If it is not possible to consult within a reasonable period of time under the circumstances, the President shall take the decision on behalf of the Commission and shall so inform its members. In accordance with the procedure established, the IACHR may request information from the interested parties related to any aspect of the adoption and observance of the precautionary measures. The granting of such measures and their adoption by the State shall not constitute on the part of the IACHR a prejudgment in the eventuality of a decision on the merits of the case.

10. A summary can be found below of the precautionary measures granted or issued during 2006 in relation to member states. It should be highlighted that the number of precautionary measures granted does not reflect the number of persons protected by their adoption, because as can be seen below, many of the precautionary measures issued by the IACHR protect more than one person and, in certain cases, groups of persons such as indigenous peoples or communities.

BOLIVIA

The Union of Guarayo Native Peoples (COPNAG)

11. On November 27, 2006, the IACHR granted precautionary measures on behalf of Élide Urapuca Priori, Felipe Male Uraeza, Ángel Yubanore Zerobei, Modesto Checuire, Silvia Aracae, Miguel Manguari, Alfredo Añez, Edil Sánchez, and Cataline Castro, in their capacity as directors of the Union of Guarayo Native Peoples (COPNAG); Juan Pablo Encinas, Miriam Guzmán, Wilson Añez, Osbin Abiyana, and Francisco Uraruin, in their capacity as members of the Disciplinary Tribunal of COPNAG; Ovidio Yubanore Zerobé, Eladio Uraeza Abacay, Ambrosio Yaboo, Hildeberto Urapovi, Gastón Estrada, Severiano Abancay, in their capacity as leaders of the Community Unions in Urubichá, Yotaú, Cururú, Salvatierra, Momené, and Yaguarú, respectively; Venancio Morobanchi, in his capacity as member of the Urubichá Municipal Council; Benigno Urapuca Priori, in his capacity as ex-leader of COPNAG; and Alicia Tejada Soruco, in her capacity as Technical Consultant. The Commission's decision was based on the request for precautionary measures in which it was alleged that these persons are at risk as a consequence of the conflict between COPNAG's leaders, members of the Disciplinary Tribunal and community leaders, and the Guarayo Indigenous People, and former leaders of COPNAG, which has given rise to threats, physical aggression, and enforced displacements. The Commission requested that the State, *inter alia*, adopt the measures necessary to ensure the safe return of community leaders to their localities; ensure the presence of police at COPNAG headquarters and the Urubichá Community headquarters during the assemblies and activities in which the beneficiaries are taking part; and report on action taken to investigate judicially the events that gave rise to the precautionary measures.

BRAZIL

Maria Aparecida Denadai

12. On February 3, 2006, the IACHR granted precautionary measures to protect the life and physical integrity of Maria Aparecida Denadai and her two daughters Bruna Denadai and Deise Denadai. The information states that Maria Aparecida de Denadai witnessed the murder of her brother Marcelo Denadai, who was the beneficiary of precautionary measures granted by the IACHR on June 24, 1999. It is considered that the life and physical integrity of Maria Aparecida Denadai is at risk because other witnesses in the case of the murder of Marcelo Denadai before the Court of Justice of Espiritu Santo have been murdered. Maria Aparecida Denadai is a participant in other legal cases against organized crime in Espiritu Santo and has been the victim of death threats, acts of harassment, and attempts on her life. The Commission requested that the State, *inter alia*, adopt the security measures needed to protect the life and physical integrity of the beneficiary. The Commission is monitoring the situation of the beneficiary.

Center for the Defense of Children's and Adolescents's Rights of the Federal District

13. On February 9, 2006, IACHR granted precautionary measures on behalf of the adolescents detained in CAJE (Center for Specialist Juvenile Care) in the city of Brasilia. The available information indicate that since 1992 there have been a series of deaths and physical injuries caused by the conditions in which the adolescents are detained in CAJE. Specifically, it is alleged that between 1997 and 1998 nine adolescents have died, some of them after having been tortured; that between 2003 and 2004, five more died, and towards the end of 2005, the lifeless body of Iván Marques (16) was found in his cell with signs of torture and mutilation. The Commission requested that the State, *inter alia*, adopt the measures necessary to resolve overcrowding in the center in line with minimum international standards; ensure the safety of detainees by providing security staff who are trained to deal with adolescent detainees; eliminate the use of indefinite detention without access to the yard or the prohibition of family visits as disciplinary measures; separate detainees according to the gravity of the crimes of which they are accused, their age, and in line with each one's disciplinary record, making allowances for the conflicts which may exist between detainees themselves; publish a list of the causes of the detention of each of the adolescents in the Center; and ensure access to appropriate and effective judicial remedies, in order to manage the conditions of detention, and ensure the legality of the causes that justify their detention.

Persons detained in the 76th Police Precinct (76 DP)

14. On October 19, 2006, the IACHR granted precautionary measures in favor of approximately 400 people detained in the 76th Police Precinct in Niterói, Rio de Janeiro, because of the unsanitary conditions and the inhumane, degrading and cruel treatment to which they were exposed. The information available states that the approximately 400 beneficiaries are held in cells designed for 140 persons, with an average of 14 detainees in cells that measure 2m x 3m, with no activities and the right to use a bathroom only once every 24 hours. Amongst those detained in the above-mentioned police precinct are some that were caught *in flagrante delicto*, some who are in preventive custody, some who have been sentenced, members of rival criminal gangs, and no criteria are applied in order to separate the prisoners according to categories that might ensure the appropriate protection of their lives and physical integrity. Furthermore, there are no beds and persons must sleep on the floor or alternatively in hammocks because of the overcrowding. It is alleged that hygiene conditions are unreliable, as well there is a high risk of fire; and lack of medical care. Given the situation of risk to the beneficiaries, the IACHR requested that the Brazilian State adopt the measures necessary to protect the lives and physical integrity of the persons detained in the 76th Precinct, including the transfer of those sentenced to penitentiaries; a substantial reduction

in numbers; medical care for all beneficiaries; and report on action taken to investigate the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

COLOMBIA

The Colombian Association of Democratic Lawyers

15. On February 3, 2006, the IACHR granted precautionary measures in favor of Ernesto Moreno Gordillo, María Restrepo Vélez, Miguel Ángel González Reyes, and Alberto Acevedo, all members of the Colombian Association of Democratic Lawyers, an organization which, *inter alia*, is dedicated to the legal defense of community and civic leaders, mayors, ex mayors, councilors, leftwing members of parliament, trades people, all of whom have been affected by so-called "mass arrests." The information states that after denouncing the violations of the right to due process of its defenders, the members of the association were followed, harassed, and became the objects of death threats, and on November 17, 2005, there was an attack against the lawyer Moreno Gordillo in which he was shot five times. The Commission requested that the State, *inter alia*, adopted the necessary measures to protect the life and physical integrity of the beneficiaries and report on actions taken to judicially investigate the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

Eduardo César Ariza Ulloque et al.

16. On March 23, 2006, the IACHR requested precautionary measures in favor of Eduardo César Ariza Ulloque, leader of a community of nine families displaced by the river diversion, Medellín city. The situation falls within the framework of precautionary measures adopted in October 2004 on behalf of a number of families left homeless and displaced in the city of Medellín, who were forcibly evicted in spite of the existence of a judicial order that defined the specific, non-violent circumstances in which they could be moved from the so-called "Bello or river diversion." The State agreed to provide transitional facilities for the affected families and to include them in a housing plan, which allowed the IACHR to lift the precautionary measures. It appears that nine of the families were excluded from the housing plan, because they had been displaced from within the city, and they therefore returned to the Bello or river diversion. The Commission's decision is now based on information that indicates that the beneficiary has been the victim of a firearm attack and that the nine families he represents have been the objects of threats from groups of paramilitaries operating in the area. The Commission requested that the State, *inter alia*, adopt the necessary measures to protect the life and physical integrity of Eduardo César Ariza Ulloque, his wife Sor Elena Arboleda Metre, and their two children, Anderson Ariza Arboleda, and Edgar Ariza Arboleda, and report on action taken to judicially investigate the events that gave rise to the precautionary measures. The Commission has also requested that the State provide information on the situation of the nine affected families who were beneficiaries of precautionary measure 784-04 *64 Children and 50 Adults in the Bello Diversion*. The Commission is continuing to monitor the beneficiaries' situation.

Iván Cepeda Castro, Claudia Girón, and Emberth Barrios Guzmán

17. On June 26, 2006, the IACHR granted precautionary measures in favor of Iván Cepeda Castro, Claudia Girón, and Emberth Barrios Guzmán, all members of the Manuel Cepeda Vargas Foundation, an organization which, amongst other activities, represents victims of human rights violations before the Inter-American Commission. The Commission's decision was based on information that indicates that the beneficiaries have received threats and been followed increasing the risk to their lives given the context of comments and other violent acts against members of the Patriotic Union, and that Mr. Emberth Barrios Guzmán, who is part of the protection plan granted,

has been the victim of an attack. The Commission requested that the State, *inter alia*, adopt the necessary measures to protect the life and physical integrity of Iván Cepeda Castro, Claudia Girón, and Emberth Barrios Guzmán, and in view of the threats against members of the group, strengthen the protective measures already in force; and report on the action it has taken to investigate the alleged involvement of state employees in the harassment inflicted on the beneficiaries, as well as the measures adopted to put an end to the threats against his life. The Commission is monitoring the beneficiaries' situation.

Marcos Perales Mendoza et al.

18. On August 1, 2006, the IACHR granted precautionary measures in favor of the journalist Marcos Perales Mendoza and his family, in the Republic of Colombia. The information states that the journalist and his family have been the targets of death threats since May, 2005. It is alleged that the threats, which were made by email, began following the publication of articles about allegedly corrupt acts in the office of the mayor of the city of Barrancabermeja, and the participation of members of paramilitary groups in the administration of that municipality. The articles were published in the *Portada* daily newspaper, which circulates in the Department of Santander and belongs to Mr. Marcos Perales Mendoza. Given the threats, Mr. Marcos Perales and his family were obliged to leave the city of Barrancabermeja, in spite of which the threats continued. The Commission requested that the Government of Colombia adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on the action it has taken to investigate legally the events which gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

Four families of COTRAGROBLAN

19. On September 1, 2006, the IACHR granted precautionary measures in favor of the Mause, Rodríguez, Bravo Pertuz, and Tordecilla Cordero families, all members of the Blanquicet Agricultural Workers' Cooperative (COTRAGROBLAN) in the municipality of Turbo. The available information indicates that in 1998, 12 families belonging to the COTRAGROBLAN cooperative were violently ejected from the "La Esperanza" farm in the municipality of Turbo. Four of these families, who are still living in the area, were subjected to intimidation by armed civilians who wanted to legalize their ownership of the property belonging to the evicted families. The four families fear reprisals for not obeying the paramilitaries who took possession of the farm and for taking judicial action to recover their property. The IACHR requested that the Government of Colombia adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on the action it has taken to judicially investigate the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

Luis Alberto Díaz and family

20. On September 6, 2006, the IACHR granted precautionary measures in favor of Luís Alberto Díaz and his family in the Republic of Colombia. The information indicates that Mr. Díaz and members of his family were subjected to threats and harassment, including attacks on their liberty. By note of May 31, 2006, repeated on June 16, 2006, the IACHR requested information from the Government of Colombia regarding the situation of Mr. Díaz and his family, and the steps taken to identify those responsible for the acts of harassment alleged, as well as the investigations pending before the office of the Attorney General, in order to evaluate the need to activate the precautionary measures mechanism. On June 29, 2006, the Government requested more time to provide the information requested, and finally sent the information by note DDH.OAS 33904/1644 on July 12, 2006, received at the IACHR on July 18, 2006. This note merely indicates that an investigation is underway in the 45th deputy district attorney's office (*Fiscalía 45 Delegada*), without showing how this relates to the question of the safety of Mr. Luís Alberto Díaz and his family. At the same time,

the IACHR received information indicating that the death threats against Mr. Díaz continued, therefore proceeded to grant the precautionary measures and to request that the Government of Colombia adopt the measures necessary to protect the life and physical integrity of the beneficiary and his family, and to report on the action taken to judicially investigate the events that gave rise to the precautionary measures. The Commission continues monitoring the beneficiaries' situation.

Marta Cecilia Díaz Suárez and María Mancilla Gamboa-ASTEMP

21. On September 22, 2006, the IACHR granted precautionary measures in favor of Marta Cecilia Díaz Suárez and María Paz Mancilla Gamboa, President and Vice President, respectively, of ASTDEMP (the Santander Association of Public Servants) in the Republic of Colombia. The information available indicates that Mrs. Marta Cecilia Díaz Suárez and Mrs. María Paz Mancilla were both subjected to threats, harassment, abduction, and serious physical assault because of their union work on behalf of state workers. In view of this, the Commission requested that the Government of Colombia adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on the action taken to investigate judicially the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

Members of the National Movement for Victims, Sucre Chapter

22. On November 8, 2006, the IACHR granted precautionary measures in favor of Juan David Díaz Chamorro, Ana Verónica Montañó Chamorro, Malena Mariet Martínez, Ingrid Vergara Chavez, Arnol Gómez Anaya, Adil Meléndez Márquez, Carmelo Agames Berrío, Luis Bautista Gómez Gómez, Ever José Mosquera Salazar, Domingo Banquets Wilches, Omar Enrique Julio Blanco, Jackeline Moguea Berrío, Roberto Serpa, Pedro Nel Mejía Uparela, Franklin Torres, Adolfo Berbel, and Amauri Bidual, members of the National Movement for Victims of State Crimes, who denounced human rights violations committed in the regions of Sucre, Bolívar, Sur de Bolívar, and Montes de María, in the Republic of Colombia. The information available states that the human rights defenders were subjected to threats and harassment that put at risk their lives and physical integrity. In view of the background to the matter, the Commission requested that the Government of Colombia adopt the necessary measures to protect the life and physical integrity of the beneficiaries and the continuity of their work and report on action taken to judicially investigate the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

María Bertha Echeverri and family

23. On November 10, 2006, the IACHR granted precautionary measures in favor of Mrs. María Bertha Echeverri, her sons César Augusto Pardo Echeverri, Claudia Patricia Pardo Echeverri, Héctor Hernán Pardo Echeverri, Santiago Pardo Echeverri, and her grandchildren Yojan Alejandro Pardo Echeverri, Brayan Camilo Pardo Sánchez, and Salomé Álvarez Pardo, in the Republic of Colombia. The information available states that María Bertha Echeverri and her family are in danger following the murder of her son Juan Guillermo Pardo Echeverri, a young man who was recruited by illegal groups in the 13th Commune of Medellín under threat of harm to his family. Mrs. María Bertha Echeverri has taken systematic action to denounce the death of her son in order that the events are judicially investigated which has aggravated the safety of her own situation. In view of this, the Commission requested that the Government of Colombia adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on the action taken to investigate judicially the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

CUBA

Jorge Luis García Pérez-Antúnez

24. On November 22, 2006, the IACHR granted precautionary measures in favor of Jorge Luis García Pérez-Antúnez, who is currently detained by the State of Cuba. The information available states that Mr. García Pérez-Antúnez has been warned by the authorities that he will not leave alive the prison where he is currently serving a 17 year sentence. Mr. García Pérez-Antúnez is close to completing his sentence and being set free. In view of this, the Commission has requested that the Government of Cuba adopt the measures necessary to protect the life and physical integrity of the beneficiary and report on the action taken to investigate judicially the events that gave rise to the precautionary measures.

ECUADOR

The Tagaeri and Taromenami Indigenous Peoples

25. On May 10, 2006, the IACHR granted precautionary measures in favor of the Tagaeri and Taromenami indigenous peoples who inhabit the Ecuadorian Amazon jungle in the area bordering Peru and who are currently voluntarily isolated or "hidden". The information available states that members of the Taromenami tribe were murdered on April 26, 2006 in the Cononaco (River Chiripuno) area during reprisals linked to illegal tree felling in the Yasuní Park and encroachments onto indigenous lands. In view of this, the IACHR requested that the Ecuadorian State adopt the measures necessary to protect the territory inhabited by the beneficiaries from third parties.

EL SALVADOR

Damián Miguel Pedro Taylor Colosal

26. On March 22, 2006, the IACHR granted precautionary measures in favor of the U.S citizen, Damián Miguel Pedro Taylor Colosal who is currently detained in the APANTEOS penitentiary in Santa Ana, El Salvador. The information available indicates that Mr. Taylor Colosal was a witness to violent events that took place in the "La Esperanza" prison before he was transferred to APANTEOS. It is alleged that he has been the victim of physical aggression inside the prison without the matter being investigated. On February 7, 2006, the IACHR requested information from the State regarding Mr. Taylor Colosal's situation in order to evaluate the need to activate the precautionary measures mechanism. In view of the response provided by the State on February 27, 2007 regarding the absence of measures designed to guarantee the physical integrity of the prisoner, the IACHR decided to adopt precautionary measures and request that the State adopt the measures necessary to protect his life and physical integrity, judicially investigate the events, and bring to justice those responsible. The Commission is monitoring the beneficiary's situation.

Adrián Meléndez Quijano et al.

27. On October 10, 2006, the IACHR granted precautionary measures in favor of the lawyer and army major Adrián Meléndez Quijano, his brother Eurípedes Meléndez Quijano, and their respective families in El Salvador. The information available states that Major Meléndez Quijano and his family have been harassed on several occasions, and since June 2006 have been subjected to observation, in particular at home and when attending the Human Rights Institute of the Central American University "José Simeón Cañas," and have received telephone death threats. It is stated that his mother received telephone threats which caused her to leave the country and in November

2005, his brother, Eurípedes Meléndez was the victim of a knife attack. In view of this, the Commission requested that the Government of El Salvador should adopt the measures necessary to protect the life and physical integrity of the beneficiary and report on action taken to investigate judicially the events that gave rise to the precautionary measures.

GUATEMALA

Dolores Karla Morales Jiménez, Mario Morales Jiménez and family

28. On January 10, 2006, the IACHR granted precautionary measures in favor of Dolores Karla Morales Jiménez, Mario Morales Jiménez, and their families in Guatemala. The information available states that these persons were the object of death threats presumably as a consequence of the role they had played in the murder investigation occurred in December 2005, of the husband of Dolores Karla Morales Jiménez and brother-in-law of Mr. Mario Morales Jiménez, and of his four bodyguards. It is alleged that the murder possibly involved the participation of state agents. In view of these antecedents, the Commission requested that the Government of Guatemala adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

Kevin Josué Alegría Robles and members of OASIS

29. On February 3, 2006, the IACHR granted precautionary measures in favor of Kevin Josué Alegría Robles, Jorge Luis López Sologastoa and another 11 members of OASIS (the Organization to Support Integrated Sexuality) in Guatemala. The information available states that on the night of December 16, 2005, in Guatemala, two trans-sexual persons called Paulina (Juan Pablo Méndez Cartagena), a communications assistant at OASIS, and Sulma (Kevin Josué Alegría Robles), a client of OASIS, were shot and injured in an incident allegedly involving four uniformed policemen. It is stated that Paulina's injury proved fatal and that Sulma, who survived the incident, is a key witness in the investigation of the affair. Other sources confirm that the lesbian, gay, bisexual, and cross-gender community in Guatemala face attacks and threats that often involve the police, which creates the fear of an existing clandestine policy of "social cleansing". In view of these antecedents, the Commission requested that the Government of Guatemala adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

René Galvez et al.

30. On July 3, 2006, the IACHR granted precautionary measures in favor of René Gálvez and other members of the board of directors of ASIDECQ (the Integrated Association for the Development of Quetzal City and Neighboring Colonies) in Guatemala. The information available states that the members of the board of directors of ASIDECQ were subjected to serious acts of violence, intimidation, and threats, as a consequence of their work. Specifically, it is stated that Oscar Humberto Duarte, one of the members of the board of directors, was abducted and disappeared on May 24, 2006, with no further trace of him being found. Furthermore, other members of the organization have been harassed and followed, and members of their families threatened by telephone. In view of this, the Commission requested that the Government of Guatemala adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

The Maya-Sitio Community of El Rosario-Naranjo

31. On July 14, 2006, the IACHR granted precautionary measures in favor of the Maya-Sitio Community of El Rosario-Naranjo, identified as both area and archaeological monument, and sacred place for those in Guatemala who practice Mayan spirituality. The information available states that Government Decision No. 1,210 protects the areas identified as archaeological sites. It is stated that the area of El Rosario-Naranjo belonged to third parties who started to build a housing project on the protected land and commissioned a study that reduces the sacred area from six to three mounds (mounds I, II, and III). In 2005, the general directorate of the Office of National and Cultural Patrimony, at the request of the firm LEXUS, authorized building work in the areas adjacent to Mounds I, II, and III. However, the Supreme Court of Justice declared that building in El Rosario-Naranjo obstructs the holding of Mayan religious and social celebrations, in violation of the Guatemalan constitution, and ordered the suspension of the building work on the site to be suspended, in spite of which they continued building and argued that they had not been notified of the decision. In response to a request from the IACHR for information prior to the granting of precautionary measures, the State indicated that until final judgment has been reached in the summary proceedings, there was nothing to prevent the granting of precautionary measures to protect the Rosario-Naranjo Archaeological Center. In view of this, the Commission requested that the Government of Guatemala adopt the measures necessary to protect the Rosario-Naranjo Archaeological Center. The Commission is monitoring the beneficiaries' situation.

Oscar Rodolfo Castañeda Rosales et al.

32. On August 30, 2006, the IACHR granted precautionary measures in favor of the journalists and workers of "Radio 10", Oscar Rodolfo Castañeda Rosales, Vinicio Aguilar Mancilla, Liza María Castañeda Acuña, Juan Rodolfo Sánchez Sub, Marvin Alexis Ponce Salazar, Abel Oswaldo Orellana, Víctor Eduardo Escobar Orellana, Juan Francisco Sacor Gómez, Estela Damaris Noj Tumaz, Edgar Antonio Hernández Zamora, Xeyli Magali Alfaro Hernández, Iris Ibeth Pérez Herrera Wily Maldonado Rabanales, Anamaría Rosales, Doblas Castañeda Rosales, Esther Castañeda Rosales, Luís Quiñones Esquivel, Liza María Castañeda Acuña, and Nelly Stephanie Castañeda Cestony. The information available states that the workers are victims of reprisals and intimidation as a consequence of claims of corruption made by the radio. Specifically, on August 23, 2006, driver Vinicio Aguilar was wounded in a firearm attack and the journalist Rodolfo Castañeda received a death threat during his radio program. In addition, interference on the radio frequencies increased, and broadcasting equipment stolen. In view of this, the Commission requested that the Government of Guatemala adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures. The Commission is monitoring the beneficiaries' situation.

HAITI

Evel Fan Fan

33. On November 8, 2006, the IACHR granted precautionary measures in favor of the human rights activist Evel Fan Fan, president of AUMOHD (the Association of University Students in Favor of a Haiti with Rights), and the members of the association. AUMOHD provides legal support for low-income persons and works on behalf of victims of human rights violations in Port-au-Prince. The information available states that Mr. Fan Fan received numerous death threats and was subjected to acts of intimidation because of public denunciations he made regarding the activity of armed groups and mass murders of civilians in the communities of Grand Ravine and Martissant. In particular, members of AUMOHD actively denounced the impunity of the gangs responsible for acts of violence and many of the deaths of civilians in the community. In view of this situation, the IACHR requested that the Government of Haiti adopt the measures necessary to protect the life and

physical integrity of Mr. Fan Fan, and the members of AUMOHD, as well as inform the IACHR on the measures taken. The IACHR was informed by the petitioner that following the lodging of this request, national police officers are protecting Mr. Fan Fan. The IACHR is monitoring the beneficiaries' situation.

HONDURAS

The Community of Garifuna Triunfo de la Cruz

34. On April 28, 2006, the IACHR granted precautionary measures in favor of the Garifuna Triunfo de la Cruz Community in Honduras. The situation of this indigenous community *vis-à-vis* the conflicts over ownership of their ancestral land is the subject of a complaint No. 12.548 under study by the IACHR. While processing the precautionary measures, the Commission requested that the Government of Honduras adopt the measures necessary to protect the right of ownership over the above mentioned lands, prevent or suspend the execution of any judicial or administrative action that might affect the ancestral ownership of the beneficiary community until the organs of the inter-American system arrive at a final decision on case No. 12.548. The IACHR is monitoring the beneficiaries' situation.

San Juan Garifuna Community

35. On July 7, 2006, the IACHR granted precautionary measures in favor of the San Juan Garifuna Community in Honduras. The situation of this indigenous community *vis-à-vis* the conflicts related to ownership of its ancestral lands is the subject of a petition being processed by the IACHR under number P-674-06. Within the context of the precautionary measures, the Commission requested that the government of Honduras adopt the measures necessary to protect the life and personal integrity of the community leaders, especially of Jessica García, Wilfredo Guerrero and Ellis Marín; to protect the right to ownership of said lands; and to avoid or suspend the execution of any judicial or administrative action that could affect the rights attached to the ancestral land of the beneficiary community, until the organs of the Inter-American system adopt a definitive decision regarding petition 674-06. The IACHR continues to monitor the situation of the beneficiaries.

Dina Meza et al.

36. On December 20, 2006, the IACHR granted precautionary measures in favor of Dina Metabel Meza Elvir, Robert Marín García Martínez, Claudia Dinora Mendoza, Carlos Alberto Hernández Martínez, and Mirtha Yanina Romero, members of ASJ (the Association for a Fairer Society). The available information states that members of ASJ have been subjected to threats against their lives and physical integrity, and that on December 4, 2006, their legal representative in several cases defending labour rights, Dionisio Díaz García, was murdered. In view of this background, the Commission requested that the Government of Honduras adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on steps taken to investigate judicially the events that have given rise to the precautionary measures. The IACHR is monitoring the beneficiaries' situation.

Father Andrés Tamayo et al.

37. On December 22, 2006, the IACHR granted precautionary measures in favor of Father Andrés Tamayo, Elvin Noe Lanza, Santos Efraín Paguada, Víctor Manuel Ochoa, René Wilfredo Gradiz, Macario Zelaya, and Pedro Amado Acosta, who are members of MAO (the Olancho Environmental Movement). Members of this organization are affected by the threatening atmosphere surrounding environmental activists in Honduras. On June 9, 2006, the IACHR requested

information from the State regarding the situation of these persons in order to evaluate the need to activate the precautionary measures mechanism. Although the State's responses of June 16, August 3, and October 12, 2006 refer to certain protective measures activated on behalf of Father Tamayo, no information was provided regarding any steps taken to provide effective protection to the members of MAO. On December 20, 2006, Mr. Heraldo Zúñiga was murdered, for whom, and for his companion, Roger Murillo, precautionary measures had also been requested. In view of this, the Commission requested that the Government of Honduras adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures. The IACHR is monitoring the beneficiaries' situation.

JAMAICA

Kimberly Adamou

38. On October 30, 2006, the IACHR granted precautionary measures in favor of Kimberly Adamou in Jamaica. The available information states that Mrs. Adamou has been subjected to threats and other forms of harassment from an individual who is presumed to belong to a band of delinquents called *One Order Gang*, and against whom a case is underway in which Mrs. Adamou is a witness. By a communication of October 6, 2006, the Commission requested information from the State regarding Mrs. Adamou's situation, prior to granting precautionary measures and in order to evaluate the need to the same mechanism of precautionary measures. In view of the response from the State and of the urgency of the situation, the Commission proceeded to grant precautionary measures and to request that the State adopt urgent measures to protect the life and physical integrity of Mrs. Adamou and report on the judicial investigation of the events that gave rise to the precautionary measures. The IACHR is monitoring the beneficiary's situation.

MEXICO

Martín Amaru Barrios Hernández et al.

39. On February 21, 2006, the IACHR granted precautionary measures in favor of Martín Amaru Barrios Hernández and other members of CDHLVT (the Commission for Human and Labor Rights in the Tehuacán Valley) in Mexico. The available information states that Martín Amaru Barrios, Chairman of CDHLVT was spied upon and threatened. In addition, information has circulated indicating that a hired assassin has been employed to murder him. In view of the fact, the Commission requested that the Government of Mexico adopt the measures necessary to protect the lives and personal integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures. The IACHR is monitoring the beneficiaries' situation.

Arabella del Carmen Jiménez Sánchez et al. (La Voladora Radio)

40. On September 19, 2006, the IACHR granted precautionary measures in favor of Arabella del Carmen Jiménez Sánchez, Daniel Iván García Manrique, Verónica Galicia Castro, Esperanza Aurora Rascón Córdova, and Oscar Reséndiz Galván, all journalists or workers at the "La Voladora" radio station. The available information states that the journalists and workers at "La Voladora" have been subjected to threats and attacks because of their work as journalists. In view of the information, the Commission requested that the Government of Mexico adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures. The IACHR is monitoring the beneficiaries' situation.

Alejandro Cerezo Contreras and other members of the Cerezo Committee

41. On October 30, 2006, the IACHR granted precautionary measures in favor of Alejandro, Francisco, and Emiliana Cerezo Contreras, all members of the Cerezo Committee in Mexico. The available information states that these human rights activists were subjected to email death threats, were followed and spied upon. In view of this, the Commission requested that the Government of Mexico adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures. The IACHR is monitoring the beneficiaries' situation.

Andrés Quintana Roo Community

42. On December 11, 2006, the IACHR granted precautionary measures in favor of eleven families of the Andrés Quintana Roo community, in Municipio Sabanillas, Chiapas. The information available indicates that members of the so-called Peace and Justice group had caused the forced displacement of more than 3,000 people from Chiapas. In July 2005, six families of the Andrés Quintana Roo community were displaced to Tabasco. In February 2006 the number of displaced families increased to eleven, and by the middle of 2006 that number grew to twenty. On their return to the Andrés Quintana Roo community, the eleven beneficiary families were forced to work and live covertly due to the continued threats and harassment against them by the members of Peace and Justice, and they were also excluded from religious and community activities. On October 16, 2006, members of Peace and Justice burned and destroyed the house of Rogelio Sánchez, who then had to leave the area. Likewise, the information available indicates that the reports filed for threats against the returning families did not generate any results. In view of the situation of danger to the beneficiaries, the IACHR asked the State of Mexico to adopt the measures necessary to protect the lives and personal integrity of the eleven families that have returned to the Andrés Quintana Roo community in Municipio Sabanillas, Chiapas, and that the State inform the Commission of the steps taken to investigate the incidents that led to the adoption of the precautionary measures. The Commission continues to monitor the situation of the beneficiaries.

PERU

Margarita Pérez Anchiraico et al. (San Mateo de Huanchor Community)

43. On August 11, 2006, the IACHR granted precautionary measures in favor of Margarita Pérez Anchiraico, Chair of the Committee for those Affected by Mining in Mayoc, Peru. The available information states that Mrs. Pérez Anchiraico has been the target of harassment because of her activism concerning the situation in the San Mateo de Huanchor Community, a matter that is the subject of a petition awaiting final judgment by the IACHR. It is stated that on the night of July 16, 2006, Margarita Pérez was threatened with death: she was told that she would be blown up if she continued to oppose the re-opening of the mine. In view of the information, the Commission requested that the Government of Peru adopt the measures necessary to protect the life and physical integrity of the beneficiaries and report on action taken to investigate judicially the events that gave rise to the precautionary measures.

UNITED STATES

Omar Khadr

44. On March 21, 2006, the IACHR granted precautionary measures in favor of Omar Khadr, a Canadian citizen aged 19 who was detained in Guantánamo. The information received during a hearing held during the 124th regular session of the IACHR states that the beneficiary is on trial before a military commission in Guantánamo for a crime allegedly committed in Afghanistan

when he was 15 years old, and that during his detention and interrogation by military personnel he was denied medical attention; his feet and hands were handcuffed for long periods of time, and he was kept in a cell with fierce dogs; he was threatened with sexual abuse; and his head was covered with a plastic bag. The petitioners allege that the statements taken from him under these circumstances may be admitted as evidence and used against him. During the hearing, the State indicated that the military court could admit all reasonable evidence without clarifying whether statements obtained by torture or cruel, inhumane, or degrading treatment may be used in the trial. The Commission requested that the State, *inter alia*, adopt the measures necessary to ensure that the beneficiary is not subjected to torture or cruel, inhumane, or degrading treatment and to protect his right to physical, mental, and moral integrity, including measures to prevent him being kept incommunicado for long periods or subjected to forms of interrogation that infringe international standards of humane treatment. The Commission also requested that the State respect the prohibition on the use of any statement obtained by means of torture or cruel, inhumane, or degrading treatment against the beneficiary, and investigate the events and bring to justice those responsible, including those implicated when the doctrine of "management accountability" is applied.

Angel Maturino Resendiz

45. On May 1, 2006, the IACHR granted precautionary measures in favor of the Mexican citizen Ángel Maturino Resendiz, who was a prisoner in a detention center in the state of Texas, United States, under sentence of death. The precautionary measures were presented along with a petition alleging the violation of Articles I, XXV, and XXVI of the American Declaration, which is being processed as No. P360-06. The information available states that since his youth, Mr. Resendiz suffered serious symptoms of mental instability and schizophrenia and these worsened during his seven year stay in prison awaiting the death sentence. It is alleged that he suffered hallucinations and frequent self-inflicted injuries. The petition also alleges, *inter alia*, serious failings in his legal representation during his trial; the incompatibility of the procedure for clemency under Texan law with the standards of due process defined in Article XXVI of the American Declaration; that the use of the lethal injection as the method of execution causes extreme and unnecessary suffering. In view of these antecedents, the IACHR requested that the Government of the United States adopt the measures necessary to protect the life and physical integrity of the beneficiary and not impede the processing of the above-mentioned claim lodged before the inter-American system. The Commission notes that although precautionary measures were in effect, the beneficiary was executed on June 27, 2006.

Guy LeGrande

46. On November 27, 2006, the IACHR granted precautionary measures in favor of Guy LeGrande who was a prisoner in a detention center in the State of North Carolina, United States, under sentence of death. The precautionary measures were presented along with a petition concerning the alleged violation of Articles I, II, XVII, and XXVI of the American Declaration, which is being processed as No. P1282-06. The information available states that Mr. LeGrande suffers from mental disability in spite of which he was allowed by the authorities to conduct his own defense during a trial which concluded in the application of the death penalty. The petition also questions the impartiality of those who took part in the trial, particularly from the point of view of the accused's racial origin, to the extent that is incompatible with the provisions of Article II of the American Declaration. In view of these antecedents, the IACHR requested that the Government of the United States adopt the measures necessary to protect the life and physical integrity of the beneficiary and not impede the processing of the above-mentioned claim lodged before the inter-American system.

José Ernesto Medellín

47. On December 6, 2006, the IACHR granted precautionary measures in favor of the Mexican citizen José Ernesto Medellín, who was a prisoner in a detention center in the State of Texas, United States, under sentence of death. The precautionary measures were presented along with a petition concerning the alleged violation of Articles I, XVII, and XXVI of the American Declaration, which is being processed as No. P1232-06. The information available states that Mr. Medellín had no consular assistance during his arrest, detention, or trial; the incompatibility of the procedure for clemency under Texan law with the standards of due process defined in Article XXVI of the American Declaration; and that the use of the lethal injection as the method of execution causes extreme and unnecessary suffering. In view of these antecedents, the IACHR requested that the Government of the United States adopted the measures necessary to protect the life and physical integrity of the beneficiary and not impede the processing of the above-mentioned claim presented before the inter-American system.

2. Petitions declared admissible

What follows is a list of petitions declared admissible by the Commission during 2006. The complete text of these decisions is found on the CD that accompanies this publication, and at the website of the IACHR at the following address: <http://www.cidh.org>.

- Report N° 14/06 Raquel Natalia Lagunas and Sergio Antonio Sorbellini
Petition 617-01 (Argentina)
- Report N° 15/06 María Emilia González, Paula Micaela González and
María Verónica Villar
Petition 618-01 (Argentina)
- Report N° 16/06 Eugenio Sandoval
Petition 619-01 (Argentina)
- Report N° 17/06 Sebastián Claus Furlán *et al.*
Petition 531-01 (Argentina)
- Report N° 78/06 Aboriginal Community of Lhaka Honhat ("Our Land")
Petition 12.094 (Argentina)
- Report N° 117/06 Milagros Fornerón and Leonardo Aníbal Javier Fornerón
Petition 1070-04 (Argentina)
- Report N° 18/06 Arley José Escher *et al.*
Petition 12.353 (Brazil)
- Report N° 80/06 Members of the Indigenous Community of Ananas *et al.*
Petition 62-02 (Brazil)
- Report N° 81/006 Persons deprived of freedom at Urso Branco Prison
Petition 394-02 (Brazil)
- Report N° 82/06 Communities in Alcântara
Petition 555-01 (Brazil)
- Report N° 83/06 Manoel Luiz Da Silva
Petition 641-03 (Brazil)
- Report N° 84/06 Neusa Dos Santos Nascimento *et al.*
Petition 1068-03 (Brazil)
- Report N° 85/06 James Demers
Petition 225-04 (Canada)
- Report N° 121/06 John Doe
Petition 554-04 (Canada)
- Report N° 89/06 Aniceto Norín Catriman and Pascual Picún Paillalao
Petition 61-03 (Chile)

- Report N° 20/06 Omar Zúñiga Vásquez and Amira Isabel Vásquez de Zúñiga
Petition 458-04 (Colombia)
- Report N° 55/06 Members of José Alvéar Restrepo Lawyers' Collective
Petition 12.380 (Colombia)
- Report N° 86/06 Marino López *et al.* (Genesis Operation)
Petition 499-04 (Colombia)
- Report N° 87/06 Carlos Alberto Valbuena Castro *et al.*
Petition 668-05 (Colombia)
- Report N° 88/06 Nueva Venecia Massacre
Petition 1306-05 (Colombia)
- Report N° 21/06 Association of Fertilizer Workers of
Fertilizantes de Centroamérica (FERTICA)
Petition 2893-02 (Costa Rica)
- Report N° 48/06 Israel Gerardo Paredes Costa
Petition 12.174 (Dominican Republic)
- Report N° 22/06 Xavier Alejandro León Vega
Petition 278-02 (Ecuador)
- Report N° 23/06 Union of the Ministry of Education Workers (ATRAMEC)
Petition 71-03 (El Salvador)
- Report N° 24/06 El Mozote Massacre
Petition 10.720 (El Salvador)
- Report N° 25/06 Eduardo Benjamín Colindres
Petition 12.311 (El Salvador)
- Report N° 90/06 José Adrián Rochac Hernández
Petition 731-03 (El Salvador)
- Report N° 27/06 Jacobo Arbenz Guzmán
Petition 569-99 (Guatemala)
- Report N° 58/06 Edwin Haroldo Ochoa López *et al.*
Petition 1083-05 (Guatemala)
- Report N° 91/06 Edgar Fernando García
Petition 12.343 (Guatemala)
- Report N° 92/06 María Isabel Véliz Franco
Petition 95-04 (Guatemala)
- Report N° 65/06 Jimmy Charles
Petition 81-06 (Haiti)
- Report N° 28/06 Rigoberto Cacho Reyes
Petition 721-00 (Honduras)
- Report N° 29/06 Garífuna Community of Puerto de la Cruz
Petition 906-03 (Honduras)
- Report N° 30/06 Nasry Javier Ictech Guifarro
Petition 2570-02 (Honduras)
- Report Report N° 118/06 Angel Pacheco León
Petition 848-04 (Honduras)
- Report N° 31/06 Silvia Arce *et al.*
Petition 1176-03 (Mexico)
- Report N° 32/06 Paloma Angélica Escobar Ledezma *et al.*
Petition 1175-03 (Mexico)
- Report N° 93/06 Valentina Rosendo Cantú *et al.*
Petition 972-03 (Mexico)
- Report N° 94/06 Inés Fernández Ortega *et al.*
Petition 540-04 (Mexico)

- Report N° 59/06 Alejandro Fiallos Navarro
Petition 799-04 (Nicaragua)
- Report N° 34/06 Rita Irene Wald Jaramillo *et al.*
Petition 875-03 (Panama)
- Report N° 95/06 Jesús Tranquilino Vélez Loor
Petition 92-04 (Panama)
- Report N° 26/06 Isamu Carlos Shibayama *et al.*
Petition 434-03 (United States)
- Report N° 33/06 Philip Workman
Petition 12.261 (United States)
- Report N° 56/06 Wayne Smith
Petition 8-03 (United States)
- Report N° 57/06 Hugo Armendariz
Petition 526-03 (United States)
- Report N° 35/06 Jorge, José and Dante Peirano Basso
Petition 1109-04 (Uruguay)
- Report N° 23/06 Alicia Barbani Duarte *et al.*
Petition 997-03 (Uruguay)
- Report N° 36/06 Francisco Usón Ramírez
Petition 577-05 (Venezuela)
- Report N° 37/06 Sebastián Echaniz Alcorta and Juan Víctor Galarza Mendiola
Petition 562-03 (Venezuela)
- Report N° 38/06 Mercedes Chocrón Chocrón
Petition 549-05 (Venezuela)
- Report N° 39/06 Carlos Rafael Alfonso Martínez
Petition 73-03 (Venezuela)
- Report N° 60/06 María Cristina Reverón
Petition 406-05 (Venezuela)
- Report N° 96/06 Jesús Mohamad Capote *et al.*
Petition 4348-02 (Venezuela)
- Report N° 97/06 José Gerson Revanales
Petition 2611-02 (Venezuela)

3. Petitions declared inadmissible

What follows is a list of petitions declared inadmissible by the Commission during 2006. The complete text of these decisions is found on the CD that accompanies this publication, and at the website of the IACHR at the following address: <http://www.cidh.org>.

- Report N° 40/06 Pedro Velásquez Ibarra
Petition 11.214 (Argentina)
- Report N° 98/06 Rita Ortiz
Petition 45-99 (Argentina)
- Report N° 99/06 Diego Rafael Jorroto Bonilla
Petition 180-01 (Chile)
- Report N° 100/06 Gaybor Tapia and Colón Eloy Muñoz
Petition 943-04 (Ecuador)
- Report N° 41/06 Luis Arturo Ventura Rivas
Petition 12.081 (El Salvador)
- Report N° 101/06 Arturo García Bran *et al.*
Petition 298-05 (Guatemala)

- Report N° 102/06 Miguel Ricardo de Arriba Escolá
Petition 97-04 (Honduras)
- Report N° 103/06 José Luis Valdez Pineda
Petition 162-04 (Mexico)
- Report N° 104/06 Peter Anthony Byrne
Petition 4593-02 (Panama)
- Report N° 42/06 Santiago Luis Chávez Córdova
Petition 12.215 (Peru)
- Report N° 105/06 Guillermo Jaulis Cancho
Petition 32-01 (Peru)
- Report N° 106/06 Alvaro Vidal Rivadeneyra
Petition 12.176 (Peru)
- Report N° 107/06 Jorge Teobaldo Pinzás Salazar
Petition 12.318 (Peru)
- Report N° 108/06 Miguel Alberto Villanueva Sánchez
Petition 4680-02 (Peru)

4. Friendly Settlements

What follows is a list of reports on friendly settlement approved by the Commission during 2006. The complete text of these decisions is found on the CD that accompanies this publication, and at the website of the IACHR at the following address: <http://www.cidh.org>.

- Report N° 43/06 Emasculated children of Maranhao
Petitions 12.426 and 12.427 (Brazil)
- Report N° 53/06 Germán Enrique Guerra Achuri
Petition 10.205 (Colombia)
- Report N° 44/06 José René Castro Galarza
Petition 12.205 (Ecuador)
- Report N° 45/06 Lisandro Ramiro Montero Masache
Petition 12.207 (Ecuador)
- Report N° 46/06 Myriam Larrea Pintado
Petition 12.238 (Ecuador)
- Report N° 47/06 Fausto Mendoza Giler and Diógenes Mendoza Bravo
Petition 533-01 (Ecuador)
- Report N° 49/06 Rómulo Torres Ventocilla
Petition 12.033 (Peru)
- Report N° 50/06 Miguel Grimaldo Castañeda Sánchez *et al.*
Petition 711-01 *et al.* (Peru)
- Report N° 109/06 Alejandro Espino Méndez *et al.*
Petition 33/03 *et al.* (Peru)
- Report N° 110/06 Sebastián Echaniz Alcorta and Juan Víctor Galarza Mendiola
Petition 12.555 (Venezuela)

5. Reports on the merits

What follows is a list of reports on the merits approved by the Commission during 2006. The complete text of these decisions is found on the CD that accompanies this publication, and at the website of the IACHR at the following address: <http://www.cidh.org>.

- Report N° 66/06 Simone André Diniz
Case 12.001 (Brazil)

- Report N° 67/06 Oscar Elías Biscet *et al.*
Case 12.476 (Cuba)
- Report N° 68/06 Lorenzo Enrique Copello Castillo *et al.*
Case 12.477 (Cuba)
- Report N° 69/06 Tomás Lares Cipriano
Case 11.171 (Guatemala)
- Report N° 1/06 Franz Britton
Case 12.264 (Guyana)
- Report N° 61/06 Derrick Tracey
Case 12.447 (Jamaica)
- Report N° 2/06 Miguel Orlando Muñoz Guzmán
Case 12.130 (Mexico)
- Report N° 124/06 Tomás Eduardo Cirio
Case 11.500 (Uruguay)

D. Status of compliance with the recommendations of the IACHR

48. Complete compliance with the decisions of the Inter-American Commission is essential for ensuring that human rights have full force in the OAS member states, and for helping strengthen the Inter-American system for the protection of human rights. With that in mind, the IACHR, in this section, analyzes the status of compliance with the recommendations in the reports adopted by the Commission in the last six years.

49. In this regard, the OAS General Assembly, in its resolution AG/RES. 2227 (XXXVI-O/06), "Observations and Recommendations on the Annual Report of the Inter-American Commission on Human Rights," urged the member states to follow up on the recommendations of the Inter-American Commission on Human Rights (operative paragraph 3.b) and to continue to take appropriate action in connection with the annual reports of the Commission, in the context of the Permanent Council and the General Assembly of the Organization (operative paragraph 3.c). Likewise, in its resolution AG/RES. 2220 (XXXVI-O/06), "Strengthening of Human Rights Systems pursuant to the Plan of Action of the Third Summit of the Americas," it reaffirmed the intent of the OAS to continue taking concrete measures aimed at implementing the mandates of the Third Summit of the Americas, including follow-up of the recommendations of the Inter-American Commission on Human Rights (operative paragraph 2.b), and instructed the Permanent Council to hold a meeting of the Committee on Juridical and Political Affairs to consider means of promoting follow-up on the recommendations of the Commission by the Organization's member states (operative paragraph 3.e).

50. Both the Convention (Article 41) and the Statute of the Commission (Article 18) explicitly grant the IACHR the authority to request information from the member states and to produce such reports and recommendations as it considers advisable. Specifically, Article 46 of the IACHR Rules of Procedure, which took effect on May 1, 2001, provides the following:

1. Once the Commission has published a report on a friendly settlement or on the merits in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties and holding hearings in order to verify compliance with friendly settlement agreements and its recommendations.
2. The Commission shall report on progress in complying with those agreements and recommendations as it deems appropriate.

51. In compliance with its powers under the Convention and the Statute and with the above-cited resolutions, and pursuant to Article 46 of its Rules of Procedure, the IACHR requested

information from the States on compliance with the recommendations made in the reports published on individual cases included in its annual reports from 2000 through 2005. The Commission also decided to include on its web page (www.cidh.org) a copy of the responses from the member states in cases where they expressly requested that this be done.

52. The table the Commission is presenting includes the status of compliance with the recommendations made by the IACHR in the cases that have been decided and published in the last six years. The IACHR notes that compliance with different recommendations is meant to be successive and not immediate and that some recommendations require a reasonable time to be fully implemented. The table, therefore, presents the current status of compliance, which the Commission acknowledges as being a dynamic process that may evolve continuously. From that perspective, the Commission evaluates whether or not compliance with its recommendations is complete and not whether it has been started. In this section, the IACHR has tried to assemble the comments made by the representatives of different member states upon presentation of the Annual Report for 2002.

53. The three categories included in the table are the following:

- total compliance (those cases in which the state has fully complied with all the recommendations made by the IACHR. Having regard to the principles of effectiveness and fully observed those recommendations where the state has begun and satisfactorily completed the procedures for compliance);
- partial compliance (those cases in which the state has partially observed the recommendations made by the IACHR either by having complied with only one or some of them or through incomplete compliance with all of them);
- compliance pending (those cases in which the IACHR considers that there has been no compliance with the recommendations because no steps have been taken in that direction; because the state has explicitly indicated that it will not comply with the recommendations made; or because the state has not reported to the IACHR and the Commission has no information from other sources that would suggest otherwise).

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Report N° 91/03 Juan Ángel Greco Case 11.804 (Argentina)		X	
Report N° 102/05 Sergio Schiaviani and María Teresa Schnack de Schiavini Case 12.080 (Argentina)		X	
Report N° 48/01 Case 12.067 Michael Edwards Case 12.068 Omar Hall Case 12.086 Brian Schroeter and Jeronimo Bowleg (Bahamas)			X
Report N° 40/04 Maya indigenous communities of the Toledo District Case 12.053 (Belize)			X
Report N° 97/05 Alfredo Díaz Bustos Petition 14/04/Case 12.515 (Bolivia)		X	
Report N° 98/05 Raúl Zavala Málaga and Jorge Pacheco Rondón Petition 241/04/Case 12.516 (Bolivia)	X		

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Report N° 54/01 Maria da Penha Case 12.051 (Brazil)		X	
Report N° 55/01 Aluisio Cavalcante <i>et al.</i> Case 11.286 (Brazil)			X
Report N° 23/02 Diniz Bento Da Silva Case 11.517 (Brazil)			X
Report N° 40/03 Parque São Lucas Case 10.301 (Brazil)		X	
Report N° 95/03 José Pereira Case 11.289 (Brazil)		X	
Report N° 32/04 Corumbiara Massacre Case 11.556 (Brazil)			X
Report N° 33/04 Jailton Neri Da Fonseca Case 11.634 (Brazil)			X
Report N° 43/06 Case 12.426 Ranie Silva Cruz and Case 12.427 Eduardo Rocha da Silva and Raimundo Nonato Conceiao Filho (Brazil)		X	
Report N° 61/01 Samuel Alfonso Catalán Lincoleo Case 11.771 (Chile)		X	
Report N° 19/03 Carmelo Soria Espinoza Case 11.725 (Chile)			X
Report N° 30/04 Mercedes Julia Huenteao Beroiza <i>et al.</i> Petition 4617/02 (Chile)		X	
Report N° 90/05 Alejandra Marcela Matus Acuña <i>et al.</i> Case 12.142 (Chile)			X
Report N° 62/01 Riofrío Massacre Case 11.654 (Colombia)		X	
Report N° 63/01 Carlos Manuel Prada González and Evelio Antonio Bolaño Castro Case 11.710 (Colombia)			X
Report N° 64/01 Leonel de Jesús Isaza Echeverry Case 11.712 (Colombia)			X
Report N° 93/00 Edison Patricio Quishpe Alcívar Case 11.421 (Ecuador)		X	
Report N° 94/00 Byron Roberto Cañaveral Case 11.439 (Ecuador)		X	
Report N° 96/00 Manuel Inocencio Lalvay Guamán Case 11.466 (Ecuador)		X	
Report N° 97/00 Carlos Juela Molina Case 11.584 (Ecuador)		X	
Report N° 98/00 Marcia Irene Clavijo Tapia Case 11.783 (Ecuador)		X	

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Report N° 99/00 Carlos Santiago and Pedro Andrés Restrepo Case 11.868 (Ecuador)		X	
Report N° 100/00 Kelvin Vicente Torres Cueva Case 11.991 (Ecuador)		X	
Report N° 19/01 Juan Clímaco Cuellar <i>et al.</i> Case 11.478 (Ecuador)		X	
Report N° 20/01 Lida Angela Riera Rodríguez Case 11.512 (Ecuador)		X	
Report N° 21/01 René Gonzalo Cruz Pazmiño Case 11.605 (Ecuador)		X	
Report N° 22/01 José Patricio Reascos Case 11.779 (Ecuador)		X	
Report N° 66/01 Dayra María Levoyer Jiménez Case 11.992 (Ecuador)		X	
Report N° 104/01 Rodrigo Elicio Muñoz Arcos <i>et al.</i> Case 11.441 (Ecuador)		X	
Report N° 105/01 Washington Ayora Rodríguez Case 11.443 (Ecuador)		X	
Report N° 106/01 Marco Vinicio Almeida Calispa Case 11.450 (Ecuador)		X	
Report N° 107/01 Angel Reiniero Vega Jiménez Case 11.542 (Ecuador)		X	
Report N° 108/01 Wilberto Samuel Manzano Case 11.574 (Ecuador)		X	
Report N° 109/01 Vidal Segura Hurtado Case 11.632 (Ecuador)		X	
Report N° 110/01 Pompeyo Carlos Andrade Benítez Case 12.007 (Ecuador)		X	
Report N° 63/03 Bolívar Franco Camacho Arboleda Case 11.515 (Ecuador)		X	
Report N° 64/03 Joffre José Valencia Mero, Priscila fierro, Zoreida Valencia Sánchez, Rocio Valencia Sánchez Case 12.188 (Ecuador)		X	
Report N° 65/03 Joaquín Hernández Alvarado, Marlon Loor Argote and Hugo Lara Pinos Case 12.394 (Ecuador)		X	
Report N° 47/01 Donnason Knights Case 12.028 (Grenada)			X

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Report N° 55/02 Paul Lallion Case 11.765 (Grenada)			X
Report N° 56/02 Benedit Jacob Case 12.158 (Grenada)			X
Report N° 4/01 María Eugenia Morales de Sierra Case 11.625 (Guatemala)		X	
Report N° 58/01 Oscar Manuel Gramajo López Case 9207 (Guatemala)		X	
Report N° 59/01 Remigio Domingo Morales <i>et al.</i> Cases 10.626 <i>et al.</i> (Guatemala)		X	
Report N° 60/01 Ileana del Rosario Solares Castillo <i>et al.</i> Case 9111 (Guatemala)		X	
Report N° 57/02 Finca La Exacta Case 11.382 (Guatemala)		X	
Report N° 66/03 Emilio Tec Pop Petition 11.312 (Guatemala)		X	
Report N° 67/03 Irma Flaquer Petition 11.766 (Guatemala)		X	
Report N° 68/03 San Vicente de Los Cimientos Community Petition 11.197 (Guatemala)		X	
Report N° 29/04 Jorge Alberto Rosal Paz Petition 9168 (Guatemala)		X	
Report N° 99/05 José Miguel Merida Escobar Petition 133/04 (Guatemala)		X	
Report N° 100/05 Pedro García Chuc Petition 10.855 (Guatemala)		X	
Report N° 78/02 Guy Malari Case 11.335 (Haiti)			X
Report N° 49/01 Leroy Lamey Case 11.826 <i>et al.</i> (Jamaica)		X	
Report N° 50/01 Damion Thomas Case 12.069 (Jamaica)			X
Report N° 127/01 Joseph Thomas Case 12.183 (Jamaica)			X
Report N° 58/02 Denton Aiken Case 12.275 (Jamaica)		X	
Report N° 59/02 Dave Sewell Case 12.347 (Jamaica)		X	
Report N° 41/04 Whitley Myrie Case 12.417 (Jamaica)			X
Report N° 92/05 Michael Gayle Case 12.418 (Jamaica)		X	

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Report N° 53/01 Ana, Beatriz and Celia González Pérez Case 11.565 (Mexico)			X
Report N° 69/03 José Alberto Guadarrama García Case 11.807 (Mexico)		X	
Report N° 100/01 Milton García Fajardo <i>et al.</i> Case 11.381 (Nicaragua)			X
Report N° 77/02 Waldemar Jerónimo Pinheiro and José Víctor Dos Santos Case 11.506 (Paraguay)			X
Report N° 110/00 César Cabrejos Bernuy Case 11.800 (Peru)		X	
Report N° 111/00 Pedro Pablo López González <i>et al.</i> Case 11.031 (Peru)		X	
Report N° 112/00 Yone Cruz Ocalio Case 11.099 (Peru)		X	
Report N° 101/01 Luis Miguel Pasache <i>et al.</i> Case 10.247 (Peru)		X	
Report N° 71/03 María Mamérita Mestanza Chávez Petition 12.191 (Peru)		X	
Report N° 31/04 Ricardo Manuel Semoza Di Carlo Petition 12.078 (Peru)		X	
Report N° 51/01 Rafael Ferrer-Mazorra <i>et al.</i> Case 9903 (United States)			X
Report N° 52/01 Juan Raul Garza Case 12.243 (United States)			X
Report N° 52/02 Ramon Martinez Villareal Case 11.753 (United States)		X	
Report N° 75/02 Mary and Carrie Dann Case 11.140 (United States)			X
Report N° 97/03 Shaka Sankofa Case 11.193 (United States)		X	
Report N° 98/03 Statehood Solidarity Committee Case 11.204 (United States)			X
Report N° 99/03 Cesar Fierro Case 11.331 (United States)			X
Report N° 100/03 Douglas Christopher Thomas Case 12.240 (United States)		X	
Report N° 101/03 Napoleon Beazley Case 12.412 (United States)		X	

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Report N° 1/05 Roberto Moreno Ramos Case 12.430 (United States)			X
Report N° 25/05 Toronto Markkey Patterson Case 12.439 (United States)		X	
Report N° 91/05 Javier Suárez Medina Case 12.421 (United States)			X

CASE 11.804, Report N° 91/03 Juan Ángel Greco (Argentina)

Background

54. On October 22, 2003, the Commission approved a friendly settlement agreement in the case of Juan Ángel Greco. In summary, the petitioners contended that, on June 25, 1990, Mr. Greco, then 24 years of age, was illegally detained and mistreated while trying to seek police assistance to denounce an assault. They indicated that while Mr. Greco was detained in the Comisaría [police station] of Puerto de Vilelas, Chaco Province, a fire broke out in his cell under unexplained circumstances, causing the victim to sustain severe burns. The petitioners alleged police responsibility in the setting of the fire, and in delaying the transfer of the victim to the hospital for a period of several hours. Mr. Greco remained hospitalized until his death on July 4, 1990. The petitioners further alleged that the State failed to carry out an adequate investigation to clarify the facts alleged, thereby denying the family their right to justice and to seek compensation.

In this agreement the State agreed to the following:

[....] II.- Non-monetary measures of reparation:

[....]

"Within the framework of the republican division of powers, the Government of the Province of Chaco has requested that the Provincial Attorney General's Office reexamine the criminal case titled: "COMISARIA PUERTO VILELAS S/ELEVA ACTUACIONES," File N° 1975/90, Year 1990, of the judicial case titled "BASTIANINI DE GRECO ZULMA S/SOLICITA INTERVENCION ALTO TRIBUNAL A EFECTOS ESCLARECER DENEGACION DE JUSTICIA EN CAUSA QUE FUERA VICTIMA SU HIJO." File N° 38.730, Folio 345, Year 1995, and according to the request submitted to the Judge for the matter, that Office has pronounced in terms favorable to its reopening. In this sense, the Government of the Province of Chaco undertakes to send, through the Office for Human Rights of the Foreign Ministry, a legalized and certified copy thereof to the petitioners and the Inter-American Commission on Human Rights. Within the framework of its competences, the Government of the Province of Chaco undertakes to encourage the reopening of the criminal case and the corresponding investigations.

"In attention to the measures adopted by the Provincial Attorney General's Office and the Admissibility Report N° 72/01 adopted by the Inter-American Commission on Human Rights, the Government of Chaco commits itself -- once the criminal case has been reopened -- to direct the reopening of the administrative case N° 130/91-250690-1401.

"The Government of the Province of Chaco, in the framework of its competences, commits itself to ensuring that the family members have access to the judicial and administrative investigations."

III.- Economic reparation:

[....]

2. Indemnity: The Government of the Province of Chaco undertakes to provide economic reparation to the family members of Juan Ángel Greco in the sum of three hundred thousand pesos (\$300,000) that shall be paid to Mrs. Zulma Bastianini de Greco in the amount of thirty thousand per month in the time period specified in point 3 of the present item, that amount comprising material damages, moral damages, lost wages, costs, fees and any other classification that would arise from the responsibility assumed by the Province of Chaco.

[....]

IV.- Other reparation:

[....]

"The Government of the Province of Chaco commits itself to the publication of this agreement in the principle written press sources of the nation and the Province of Chaco."

[....]

"The Government of the Province of Chaco commits itself to continue pursuing legislative and administrative measures for the improved protection of Human Rights. Specifically, it is placed on record that a draft law creating a Criminal Prosecutor's Office for Human Rights has been developed and transmitted to the Provincial Chamber of Deputies for its study and approval. Further, the work of the Permanent Commission for Control of Detention Centers, created by Resolution No. 119, of February 24, 2003, of the Ministry of Government, Justice and Labor of the Province of Chaco, will be strengthened. In this same regard, further emphasis will be placed on the work of the Organ of Institutional Control (O.C.I) created by Article 35 of the Organic Police Law of the Province of Chaco N° 4.987, directing it toward the more effective protection of human rights on the part of the Provincial Police. At the initiative of the Executive, the Provincial Council for Education and Promotion of Human Rights created by Law N° 4.912 was constituted in the sphere of the Chamber of Deputies. The representatives of the distinct intervening organs and powers have already been designated and convoked."

[....]

55. In a working meeting held on March 5, 2004, the Commission received information from the parties on measures taken in compliance with the points agreed upon. On November 8, 2004, the Commission asked the parties to submit updated information on progress in complying with the accord. The petitioners submitted a brief note on the matter on November 19, 2004. Additional working meetings were held, the most recent on October 20, 2006, and further requests for additional information were sent to both parties, the latest in December 2006. The petitioners presented updated information in a note dated December 16, 2006.

The current situation

56. Based on the information the Commission has for this case, it considers that the State has fully complied with the monetary settlement provisions of the agreement. It has also complied with the aspects concerning publication of the agreement, and the establishment of a Criminal Prosecutor's Office for Human Rights. The petitioners and the Commission both view these measures as important contributions to the process of compliance in this case.

57. However, according to available information, the aspects concerning the duty to investigate and punish those responsible for the violation of Juan Ángel Greco's human rights, in other words, effective progress in the criminal case and administrative proceeding, remains pending.

As for the criminal case, the parties report that in October 2003 the prosecutor opened a formal case against the police agents of the Comisaría who were on duty at the time of the actions that caused the victim's death, requesting several evidentiary investigations. The petitioners have said that these steps were not ordered until June 2004, and to the best of their knowledge have not been taken.

58. On December 31, 2005, the State notified the petitioners of the opening of the administrative proceeding at the police headquarters, and supplied information on the case pending in the Tribunal de Cuentas [Accounts Tribunal] of the Province of Chaco. However, the petitioners report they have received no information about substantive progress in the administrative proceeding.

59. The petitioners state they have not had effective access to developments in the criminal and administrative proceedings. They say that although the Province had promised to send them copies of various files, they have not received copies of the pertinent files nor information on the progress of the investigations.

60. Finally, as regards the undertaking to adopt other legislative and administrative measures to expand the protection of human rights, the petitioners have reported that the State has not yet fulfilled its commitment to strengthen the work of the Permanent Commission for Control of Detention Centers and to establish the Council for Education and Promotion of Human Rights.

61. In view of the foregoing, the Commission considers that the State has partially complied with the points of the agreement and the recommendations made.

CASE 12.080, Report N° 102/05, Sergio Schiavini and María Teresa Schnack (Argentina)

Background

62. On October 27, 2005, in Report N° 102/05, the Commission approved a friendly settlement agreement in the case of Sergio Schiavini and María Teresa Schnack. In summary, the petitioners claimed that the State was responsible for the death of Sergio Andrés Schiavini on May 29, 1991, during a clash between members of the Buenos Aires Provincial Police and a gang of thieves who had taken a number of people hostage, among them the young Schiavini. The petition also denounced as aggravating elements by the State the use of excessive force during the shootout, the denial of judicial protection and due process guarantees, and the persecution that María Teresa Schnack suffered since the death of her son, Sergio Schiavini, as a result of her actions to press for investigation.

63. In the friendly settlement the State recognized its responsibility for "the facts of what transpired...and the attendant violation of the rights and guarantees recognized by the American Convention on Human Rights as described in Admissibility Report N° 5/02, adopted by the IACHR during its 114th regular session." Under the terms of the settlement, the State undertook the following:

II. Measures to be adopted

A. Economic reparation

1. The parties agree to set up an "ad-hoc" Arbitration Tribunal to determine the amount of economic reparation due Sergio Andrés Schiavini's heirs, in keeping with the rights acknowledged to have been violated and the applicable international standards.

2. The Tribunal shall be made up of three independent experts, with recognized expertise in human rights and of the highest moral caliber. The petitioners will designate one expert, the national State shall propose a second, and the third shall be proposed by the two experts designated by the parties. The Tribunal shall be formed no later than 30 days following the approval of this agreement by Decree of the Executive Branch of the Nation.

3. The procedure to be followed shall be determined by common agreement among the parties, and set forth in writing, a copy of which shall be submitted to the Inter-American Commission on Human Rights. To this end, the parties shall designate a representative to participate in the discussions of the procedure. In representation of the national State, the Ministry of Foreign Affairs, International Trade, and Worship and the Ministry of Justice and Human Rights shall be charged with designating an official in the area with competence in human rights matters in both Ministries.

4. The arbitration tribunal's award shall be final and not subject to appeal. It shall contain the amount and type of monetary reparation agreed upon, the beneficiaries thereof, and a calculation of any applicable costs and fees incurred in the international proceeding and by the arbitration entity. These shall be submitted to the Inter-American Commission on Human Rights for evaluation in the framework of the process to follow up on compliance with the agreement, in order to verify whether the latter is consistent with the applicable international parameters. The payments set forth in the award shall be immune from seizure and shall not be subject to currently applicable taxes, contributions, or fees, or any that may be imposed in the future.

5. The petitioners relinquish, definitively and irrevocably, the ability to initiate any other claim of a monetary nature against the national State associated with the instant case. In addition, they cede and transfer to the national State all litigation rights they may have in the framework of the civil suit brought against the government of the Province of Buenos Aires, currently in process before the courts of the Province of Buenos Aires. To this effect, they shall sign the respective instrument before a national Notary Public within ten working days following the effective delivery of the payment resulting from the arbitration award.

6. Without prejudice to the foregoing transfer in its favor, the national State declares that it reserves its right to recover the amounts actually paid out to the petitioners as determined by the Arbitration Tribunal from the Government of the Province of Buenos Aires by subtracting those amounts from the totals that might correspond to that province under the federal sharing law [*ley de coparticipación*], and/or any other lawful means.

B. Measures of non-monetary reparation

1. The parties agree to form a technical working group, in which the Government of the Province of Buenos Aires shall be invited to participate, to carry out the studies and take such other steps as may be necessary to submit for the consideration of the Legislature and, where appropriate, the competent federal authorities, the following initiatives, aimed at implementing the necessary measures to bring existing law into harmony with international standards, in accordance with point 2 of the Act dated November 11, 2004:

a) Draft legislative reform bill making it mandatory, with no exceptions, to perform an autopsy in all cases of violent or criminally suspicious deaths. It will also prohibit members of the security forces from being involved in this process with respect to facts in which they have participated;

b) Draft reform of the Criminal Procedures Code of the Nation granting a victim's relatives the right to choose to designate their own expert before the autopsy is performed;

c) Analysis of the legislation in force on the procedures followed by the forensic medical office to evaluate possible modifications that could contribute to ensuring transparency and effectiveness in its performance;

d) *Draft reform of the Criminal Procedures Code of the Nation to incorporate the violation of human rights as grounds for review;*

e) *Draft reform of the Criminal Procedures Code of the Nation incorporating the violation of human rights as grounds for the immediate suspension or interruption of the statute of limitations;*

f) *Evaluation of domestic law concerning hostage-taking and the use of force to bring it into harmony with international standards in accordance with principle N° 3 of UN Resolution 1989/65;*

g) *Proposal that, in the event that the appeal for review in the Schiavini case filed by the Provincial Office of the General Prosecutor before Chamber 111 of the Criminal Court of Cassation of Buenos Aires Province is unsuccessful, a "Truth Commission" is established at the federal level to help effectively safeguard that right;*

h) *Development of draft reforms setting forth the procedures for processing and responding to petitions under study by the Commission and before the Inter-American Court of Human Rights, that include the establishment of a specific entity with jurisdiction in the decision-making process—including the institution of "friendly settlement"—and a mechanism to ensure compliance with the recommendations and/or judgments of the Commission and/or the Inter-American Court of Human Rights.*

2. The Government of the Argentine Republic pledges to facilitate the activities of the working group and make available the technical support and facilities it requires in order to perform its task. It also pledges to periodically inform the Inter-American Commission on Human Rights regarding the outcomes of the task entrusted to the technical group and invites the Commission to participate actively in evaluating the draft reforms, as well as the follow-up and evolution of these initiatives.

3. The Government of the Argentine Republic pledges to publish this agreement in the Official Gazette of the Argentine Republic, in the newspapers "La Unión" of Lomas de Zamora, "Clarín", "La Nación," and "Página/12", once it has been approved by the Inter-American Commission on Human Rights in accordance with the provisions of Article 49 of the American Convention on Human Rights.

64. The Ad Hoc Arbitration Tribunal to Determine Monetary Reparations in the Case of Schiavini v. the State of the Argentine Republic, established in the framework of the friendly settlement reflected in Report N° 102/05, and composed of arbiters Víctor Manuel Rodríguez Rescia, Marcelo López Alfonsín, and Fabián Omar Salvioli, handed down its decision on December 4, 2006, and read its arbitral award in a public hearing held in the City of Buenos Aires on the same date. Under the terms of the settlement, the award was submitted to the Inter-American Commission on Human Rights for evaluation in the framework of the process to follow up on compliance with the agreement, in order to verify whether it is consistent with the applicable international parameters.

65. The Commission has evaluated the procedure used to reach the arbitral decision, as well as the award for monetary reparations in the case:

1. The State shall pay the total sum of US\$ 130,000.00 U.S. dollars or the equivalent in Argentine currency as compensation for material damages, broken down as follows:

General damages: US\$ 5,000.00

Lost earnings: US\$ 100,000.00

Family damages: US\$ 25,000.00;

Which shall be disbursed and paid to the beneficiaries in the manner set forth in paragraphs 83, 84, 85, 103, and 104 of this award.

2. The State shall pay the total sum of US\$ 205,000.00 (two hundred five thousand U.S. dollars) or the equivalent in Argentine currency for moral damages to the beneficiaries as stipulated in paragraphs 120 to 123 of this award.

3. The State shall pay the total sum of US\$ 33,000.00 (thirty-three thousand U.S. dollars) or the equivalent in Argentine currency for costs and fees, pursuant to paragraphs 132 *in fine*, and 133, 134, and 135 of this award.

4. El State shall pay the compensation for damages and reimbursement of costs and fees ordered in this award within three months of notification of the award.

5. The payments set forth in the award for material and moral damages, costs, and fees shall be immune from seizure and shall not be subject to currently applicable taxes, contributions, or fees, or any that may be imposed in the future.

6. If the State fails to make payment within the prescribed time, it shall pay interest on the amount due in accordance with the legal interest rate commonly used in proceedings for execution of judgments against the State in the Argentine Republic.

7. The Inter-American Commission on Human Rights shall be notified of this award for the purposes set forth in the framework of the friendly settlement reached by the Argentine Republic and the petitioners in the Commission's Case No. 12.080, reflected in its Report No. 102/05 of October 27, 2005 during its 123rd regular session.

8. Since this award is part of the friendly settlement approved by the Inter-American Commission on Human Rights, that organ shall supervise compliance with the instrument.

66. In addition, the Commission takes note of the Resolution of January 26, 2007 on Interpretation of the Award, concerning the State's request for interpretation of the manner for computing the three-month deadline set by the Arbitral Tribunal for payment of compensation and reimbursement of costs and fees, which as ordered by the award should be calculated from the date of notification. The pertinent part of the Arbitral Tribunal's decision said:

when this arbitration procedure is concluded with the issuance of this interpretation, the arbitral award of December 4, 2006 and this resolution will be transmitted to the Inter-American Commission on Human Rights so that it may take appropriate action thereon. The transmittal marks the start of the three-month period for the State of the Argentine Republic to comply fully with operative paragraph 4.

67. By means of this follow-up report, the Commission notes that it has reviewed the arbitral award and considers that it is consistent with applicable international parameters. The Commission wishes to express its appreciation to the Ad Hoc Arbitral Tribunal for its careful work in the arbitral process and the decision rendered, and wishes to recognize once again the good faith and willingness of the parties in this case, whose commitment has made it possible to achieve significant progress. The Commission receives the award as an important contribution to the settlement of the instant case, and trusts it will receive periodic reports from both parties on effective compliance with the terms of monetary reparation established in the award, as well as the non-monetary reparation measures established in the friendly settlement agreement.

CASES 12.067, 12.068 and 12.086, Report N° 48/01, Michael Edwards, Omar Hall, Brian Schroeter and Jeronimo Bowleg (Bahamas)

68. In Report N° 48/01 dated April 4, 2001, the Commission recommended that the State:

- Grant Messrs. Edwards, Hall, Schroeter and Bowleg, an effective remedy which includes commutation of sentence and compensation;
- Adopt such legislative or other measures as may be necessary to ensure that the death penalty is imposed in compliance with the rights and freedoms guaranteed under the American Declaration, including and in particular Articles I, XXV, and XXVI, and to ensure that no person is sentenced to death pursuant to a mandatory sentencing law.
- Adopt such legislative or other measures as may be necessary to ensure that the right under Article XXIV of the American Declaration to petition for amnesty, pardon or commutation of sentence is given effect in The Bahamas.
- Adopt such legislative or other measures as may be necessary to ensure that the right to an impartial hearing under Article XXVI of the American Declaration and the right to judicial protection under Article XVIII of American Declaration are given effect in The Bahamas in relation to recourse to Constitutional Motions.
- Adopt such legislative or other measures as may be necessary to ensure that the right under Article XXV of the American Declaration to be tried without undue delay is given effect in The Bahamas.
- Adopt such legislative or other measures as may be necessary to ensure that the rights under Articles XXV and XXVI of the American Declaration to humane treatment and the right not to receive cruel, infamous, or unusual punishment are given effect in The Bahamas.

69. On November 8, 2002, the Commission wrote to both the State and the Petitioners and requested up-dated information concerning compliance with the Commission's Recommendations in Report N° 48/01. The State has not reported the Commission as to its compliance with the Commission's recommendations in Report N° 48/01. On December 18, 2002, the Petitioners in Case 12.067, Michael Edwards, wrote to the Commission and reported it that they had written to the Attorney General of The Bahamas asking what steps the State would be taking in response to the Commission's findings and recommendations. To date they are still awaiting a response from the Attorney General of The Bahamas concerning the same. On December 18, 2002, the Petitioner in Case 12.062, Omar Hall, wrote to the Commission and reported it that despite enquiries made to the Bahamian Government, she has not received any information concerning what steps the State has taken to commute Mr. Hall's death sentence or otherwise put into effect the Commission's recommendations made in Report N° 48/01. With regard to Case 12.086, Brian Schroeter and Jeronimo Bowleg, the Petitioners wrote to the Commission and reported it that they were currently attempting to verify which, if any, of the recommendations contained in Report N° 48/01, has been complied with by the State. Based on these considerations, the IACHR presumes that the Government of The Bahamas has not complied with the Commission's recommendations.

70. By communications of July 2, 2004 and November 9, 2004, the Commission requested information from the State about compliance with the recommendations set forth in Report N° 48/01, pursuant to Article 46.1 of the Commission's Rules of Procedure. To date, the Commission has not received any responses from the State to these communications.

CASE 12.053, Report N° 40/04, Maya indigenous communities of the Toledo District (Belize)

71. In Report N° 40/04 dated October 12, 2004, the Commission recommended that the State:

1. Adopt in its domestic law, and through fully reported consultations with the Maya people, the legislative, administrative, and any other measures necessary to delimit, demarcate and title or otherwise clarify and protect the territory in which the Maya people have a communal property right, in accordance with their customary land use practices, and without detriment to other indigenous communities.
2. Carry out the measures to delimit, demarcate and title or otherwise clarify and protect the corresponding lands of the Maya people without detriment to other indigenous communities and, until those measures have been carried out, abstain from any acts that might lead the agents of the State itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the property located in the geographic area occupied and used by the Maya people.
3. Repair the environmental damage resulting from the logging concessions granted by the State in respect of the territory traditionally occupied and used by the Maya people.

72. On February 1, 2006, the Commission wrote to both the State and the Petitioners and requested up-dated information concerning compliance with the Commission's Recommendations in Report N° 40/04. The Petitioners responded to the Commission by letter of March 01, 2006, stating that the State of Belize had so far failed to comply with the Commission's recommendations. The Petitioners also requested the Commission to grant precautionary measures aimed at enforcing compliance of the recommendations. In July 2006, the Commission considered the Petitioners' request and declined to grant precautionary measures. The State has so far not responded to the Commission's request for up-dated information concerning compliance with the Commission's recommendations in Report N° 40/04.

CASE 12.515, Report N° 97/05, Alfredo Díaz Bustos (Bolivia)

73. On October 27, 2005, the Commission approved an amicable settlement agreement in the case of Alfredo Díaz Bustos. Under this agreement, the State undertakes to:

AMICABLE SETTLEMENT

This document, which can become a public document upon certification of the signatures and seals, consists of the following agreement signed by the parties as contained in these clauses:

One. Parties- The parties to this agreement are:

Gonzalo Méndez Gutiérrez, Minister of National Defense, representing the Bolivian State, and

Alfredo Díaz Bustos, Bolivian citizen with identity card CI 3483469 LP of legal standing and domiciled in the City of La Paz.

Two. Background. - On December 30, 2003, after exhausting domestic remedies, Alfredo Díaz Bustos, under the auspices of the Ombudsman, lodged a petition with the Inter-American Commission on Human Rights (IACHR) in which he accused the Bolivian State of refusing to

recognize his status as a conscientious objector to compulsory military service, thereby violating his rights guaranteed in Articles 12, 24, and 25 of the American Convention on Human Rights.

On October 13, 2004, the IACHR issued Report No. 52/04 on Case 12.475 (petition P-14/04) Alfredo Díaz Bustos v. Bolivia, in which it declared the admissibility of the case for the purpose of determining, in its examination of the merits, whether the Bolivian State violated Articles 1(1), 2, 12, 13(1), 22, 23, 24, and 25 of the American Convention on Human Rights to the detriment of Alfredo Díaz Bustos.

In June 2005 The Bolivian government inquired if the Ombudsman Alfredo Díaz Bustos would be willing to resolve the case with a friendly settlement. That initiative led to this agreement that will resolve the matter presented to the Inter-American Commission.

Three. Agreement.-

I. The Bolivian State, represented by the Ministry of Defense, agrees:

- a) to give Alfredo Díaz Bustos his document of completed military service within thirty (30) working days after he submits all the required documentation to the Ministry of Defense;
- b) to present the service document free of charge, without requiring for its delivery payment of the military tax stipulated in the National Defense Service Act, or the payment of any other amount for any reason or considerations of any other nature, whether monetary or not;
- c) at the time of presentation of the service record, to issue a Ministerial Resolution stipulating that in the event of an armed conflict Alfredo Díaz Bustos, as a conscientious objector, shall not be sent to the battlefield nor called as an aide;
- d) in accordance with international human rights law, to include the right to conscientious objection to military service in the preliminary draft of the amended regulations for military law currently under consideration by the Ministry of Defense and the armed forces;
- e) together with the Deputy Ministry of Justice, to encourage congressional approval of military legislation that would include the right to conscientious objection to military service;
- f) upon signature of this document, the Ministry of Foreign Affairs will immediately inform the IACHR of the agreement reached so that the Commission can recognize it and process Case 12.475 in accordance with the procedure for friendly settlement established in Articles 48.1.f and 49 of the American Convention on Human Rights and Article 41 of the Rules of Procedure of the IACHR.

II. For his part, Alfredo Díaz Bustos agrees:

- a) for internal administrative purposes of the Ministry of Defense, to present a statement sworn before a competent judge in accordance with Article 78 of the National Defense Service Act;
- b) once he has received the record of completed military service and the Ministerial Resolution is issued by the Ministry of Defense in the terms stipulated in Clause Three I of this document, to request through the Ombudsman that the IACHR assign Case 12.475 to the status of friendly settlement as provided in Articles 48.1.f and 49 of the Convention on Human Rights and Article 41 of the Rules of Procedure of the IACHR;
- c) once the record of completed military service and Ministerial Resolution of the Ministry of Defense are delivered to the interested party, he will renounce all costs and damages arising from the processing of the case and agree not to lodge a new administrative or legal action in a domestic or international jurisdiction concerning the same facts that gave rise to the petition to the IACHR, provided that the Bolivian State fully carries out all its agreements assumed in this document in Clause I a, b, c, and f.

Four. Compliance in good faith and acceptance.- The parties freely accept the agreed points for strict compliance in good faith, in token whereof they hereto affix their signatures in the City of La Paz on the fourth day of July, two thousand five.

74. On January 12, 2007, the Commission requested updated information from the parties on the status of the agreement's execution. On January 15, 2007, the petitioner submitted a brief communication wherein he reported that "thus far, the Bolivian State has not complied with the commitments undertaken in paragraphs (d) and (e) of Section Three (I) of the Amicable Settlement" signed on July 4, 2005. The State, for its part, did not respond to this communication. Nevertheless, in a report presented by the State and received at the Commission on June 19, 2006, and in a report delivered to the IACHR during its visit to Bolivia on November 17, 2006, the State presented information concerning compliance with the agreement. In connection with the commitment undertaken in subsection d), namely *"in accordance with international human rights law, to include the right to conscientious objection to military service in the preliminary draft of the amended regulations for military law currently under consideration by the Ministry of Defense and the armed forces"*, the State reported the following:

By Ministerial Decision No. 0044, dated January 9, 2006, the Ministry of Defense formed a committee to adapt the National Defense Service Act to include "conscientious objection" as one of its chapters. It also instructed the Chief Command of the Armed Forces of the Nation to commission the General Command of each branch of the military service to study the inclusion of conscientious objection in the National Defense Service Act. That work is now in progress (the State's communication of June 19, 2006).

However, because of the sensitive nature of the wording of such a rule, no deadline has been set for this project (the State's communication of June 19, 2006).

75. As to the commitment undertaken in paragraph e), *"together with the Deputy Ministry of Justice, to encourage congressional approval of military legislation that would include the right to conscientious objection to military service,"* the State reported that:

[...] once the preliminary draft of the new National Defense Service Act is ready, it will be coordinated with the Ministry of Justice. [...] Section Three does not set a specific deadline for inclusion of "conscientious objection" in military law. However, the Ministry of Defense is moving that study forward through the Commission of Experts in Military Law so as to update and prepare the final proposed draft of the NATIONAL DEFENSE SERVICE ACT.

[...] The final proposal of the draft National Defense Service Act that sets out the principles, rules and procedures governing CONSCIENTIOUS OBJECTION has already been drafted by the Supreme Council of National Defense, based on a paper prepared by the Armed Forces Modernization Commission.

Conscientious Objection is addressed in two documents prepared by that Secretariat: the "Defense Sector Proposal for the Constitutional Assembly" and the "National Security and Defense Bill," which will be officially published in the near future (communication from the State delivered to the Commission during its visit on November 17, 2006).

76. On July 31, 2006, the IACHR received a reply from the petitioner concerning the State's report. There, the petitioner observed the following:

[...] thus far, no proposal has been forthcoming, either in the form of a preliminary draft or draft regulation concerning conscientious objection to compulsory military service [...] 8. Unlike the other commitments undertaken by the State in paragraphs (a), (b) and (c) of Clause Three I of the Amicable Settlement, the commitments in paragraphs (d) and (e) do not set a deadline for compliance. However, this is not to say that the Bolivian State can postpone compliance indefinitely. Were it to do so, the human rights of other conscientious objectors

would be violated, specifically their rights to freedom of conscience, thought, religion and equality before the law, as happened in the case of Alfredo Díaz Bustos.

77. Based on these considerations, the IACHR concludes that the measures spelled out in the Amicable Settlement Agreement have been partially carried out. As stated in Report N° 97/05, the Commission will continue to follow up and monitor each and every point of the amicable settlement.

CASE 12.516, Report N° 98/05, Raúl Zavala Málaga and Jorge Pacheco Rondón (Bolivia)

78. On October 27, 2005, the Commission approved a friendly settlement agreement in the case of Raúl Zavala Málaga and Jorge Pacheco Rondón. Under the terms of the agreement the State undertook to:

FRIENDLY SETTLEMENT

The present private document, which may be raised to the category of public document solely upon recognition of the signatures and markings, signed between the parties, contains the following clauses:

FIRST.- Regarding the parties: Parties of the first part, Fernando Antezana Aranibar, representing the Ministry of Health and Sports, Félix Sandoval, Deputy Minister of Sports, Federico Álvarez Plata, Administrative Representative of the Deputy Ministry of Sports, Javier Terán, National Coordinator of ODESUR 2006 Games; parties of the other part, Jorge Pacheco Rondón with Cl. 188393 LP, domiciled at calle N° 16 #100, Obrajes Zone, an architect by profession, and Raúl Zavala Málaga with Cl. 098169 LP., domiciled at Avenida 14 de Septiembre # 5256, Obrajes Zone, an engineer by profession.

SECOND.- Background

Administrative Resolution SSC/IRJ/139/2003 of August 28, 2003, issued by the Civil Service Superintendent, which decided on the appeal to a higher authority, determining: First.- To revoke the administrative order by which the public officials were dismissed and to immediately reinstate them in the posts they held at the same rank and salary and to pay these public servants their salaries for the months of April and May of this year.

Second.- To instruct the Minister of Health and Sports to execute the Administrative Resolution, by ordering the Deputy Minister of Sports to reinstate Jorge Pacheco Rondón and Raúl Zavala Málaga to the posts they held with this public entity.

Third.- To report to the Superintendency of the Civil Service on compliance with the Resolution, so that it can determine whether or not to submit information to the Accounts Office [Contraloría]. **Resolution N° 45/03-SSA-I of November 20, 2003** issued by the First Social and Administrative Chamber of the Superior Court of the Judicial District of La Paz, which declares the constitutional *amparo* petition to have merit and admonishes the appellee authorities to comply with Administrative Resolution No. 139103; in addition, each of the appellees is fined Bs. 500. **Constitutional Judgment 0156/2004-R of February 4, 2004**, in the operative section, APPROVES Resolution N° 45/03SSA-I of November 20, 2003 issued by the First Social and Administrative Chamber of the Superior Court of the Judicial District of La Paz.

According to the report of the prosecutor of the General Department of Legal Affairs dated September 7, 2004, there is a **criminal proceeding against the Minister of Health in the Fifth Court for Preliminary Criminal Proceedings [Juzgado 5to de Instrucción en lo Penal Cautelar]** under case number 2204/07654, for noncompliance with judicial decisions.

Complaint lodged with the Inter-American Commission on Human Rights. In a communication, Ref. D.P.4074/2004, dated September 6, the National Public Defender communicated to the Minister of Health that he had lodged a complaint with the Inter-American Commission on Human Rights against the Bolivian State for violation of political rights, judicial protection, and fair remuneration.

THIRD. - Agreements reached. - The parties have arrived at the following agreements:

3.1 The impossibility of reinstating Mr. Pacheco and Mr. Zavala in their previous places of work.

3.2 Because of budgetary restrictions and the issuance by the Executive Branch of new austerity measures, it is impossible to continue maintaining the salary levels they enjoyed in their previous posts.

3.3 The Ministry of Health and Sports, through the Deputy Ministry of Sports has entered into the following agreement with Jorge Pacheco Rondón:

a) That he will be contracted for the ODESUR Project to work as Professional Sports Infrastructure Controller [*Profesional de Fiscalización de Infraestructura Deportiva*] at a monthly salary of Bs. 8,000 (eight thousand bolivianos); this salary shall be charged against budget item 25200, using resources of the Deputy Ministry of Sports, Source 10 TGN;

b) That the amount of Bs. 125,964 (one hundred twenty-five thousand, nine hundred sixty-four bolivianos) shall be paid out of the budget of the Deputy Ministry of Sports for past wages accrued during the 2003 and 2004 fiscal years.

3.4 The Ministry of Health and Sports, through the Deputy Ministry of Sports, has entered into the following agreement with Raúl Zavala Málaga:

a) That he shall be instated as the head of sports infrastructure, with rank [*/item*] No. 13, as of January 3, 2005, for which the monthly salary is Bs. 6,000 (six thousand bolivianos), to be paid out of the budget of the FID Sports Investment Fund, and his government service shall be recognized as continuous as of his appointment.

b) That the amount of Bs. 54,036 (fifty-four thousand thirty-six bolivianos) shall be paid out of the budget of the Deputy Ministry of Sports, for past wages accrued during the 2003 and 2004 fiscal years.

FOURTH.- Discontinuance.- Jorge Pacheco Rondón and Raúl Zavala Málaga shall formally and expressly discontinue all legal action taken, on a national level, with the Fifth Court for Preliminary Criminal Proceedings, and internationally, with the Inter-American Commission on Human Rights.

Jorge Pacheco Rondón and Raúl Zavala Málaga shall formally and expressly refrain from undertaking any future judicial or extrajudicial action pertaining to compliance with Administrative Resolution SSC/IRJ/139/2003 of August 28, 2003, by virtue of the fact that their petition has been fully resolved.

FIFTH.- Acceptance.- The parties, by mutual consent, without any pressure or fraud involved, indicate their full agreement with each and every one of the clauses of the Compromise Agreement, in witness whereof it is signed in two equally authentic copies on the second day of February, two thousand and five [...].

79. On January 12, 2007, the Commission requested up-to-date information from the parties concerning compliance with the friendly settlement agreement. On January 15, 2007, the petitioner submitted a brief communication reporting that "both the Bolivian State and citizens Raúl

Zavala and Jorge Pacheco fully complied with each and every one of the points agreed upon in the Settlement signed on February 2, 2005.” The Commission received no response from the State.

80. Based on the information provided, the Commission concludes that the State has fully complied with the points of the agreement that the parties signed.

CASE 12.051, Report N° 54/01, Maria da Penha Maia Fernandes (Brazil)

81. In Report N° 54/01 of April 16, 2001, the IACHR conveyed the following recommendations to the Brazilian state:

1. Complete, rapidly and effectively, criminal proceedings against the person responsible for the assault and attempted murder of Mrs. Maria da Penha Fernandes Maia.
2. In addition, conduct a serious, impartial, and exhaustive investigation to determine responsibility for the irregularities or unwarranted delays that prevented rapid and effective prosecution of the perpetrator, and implement the appropriate administrative, legislative, and judicial measures.
3. Adopt, without prejudice to possible civil proceedings against the perpetrator, the measures necessary for the State to grant the victim appropriate symbolic and actual compensation for the violence established herein, in particular for its failure to provide rapid and effective remedies, for the impunity that has surrounded the case for more than 15 years, and for making it impossible, as a result of that delay, to institute timely proceedings for redress and compensation in the civil sphere.
4. Continue and expand the reform process that will put an end to the condoning by the State of domestic violence against women in Brazil and discrimination in the handling thereof. In particular, the Commission recommends:
 - a. Measures to train and raise the awareness of officials of the judiciary and specialized police so that they may understand the importance of not condoning domestic violence.
 - b. The simplification of criminal judicial proceedings so that the time taken for proceedings can be reduced, without affecting the rights and guarantees related to due process.
 - c. The establishment of mechanisms that serve as alternatives to judicial mechanisms, which resolve domestic conflict in a prompt and effective manner and create awareness regarding its serious nature and associated criminal consequences.
 - d. An increase in the number of special police stations to address the rights of women and to provide them with the special resources needed for the effective processing and investigation of all complaints related to domestic violence, as well as resources and assistance from the Office of the Public Prosecutor in preparing their judicial reports.
 - e. The inclusion in teaching curriculums of units aimed at providing an understanding of the importance of respecting women and their rights

recognized in the Convention of Belém do Pará, as well as the handling of domestic conflict.

- f. The provision of information to the Inter-American Commission on Human Rights within sixty days of transmission of this report to the State, and of a report on steps taken to implement these recommendations, for the purposes set forth in Article 51(1) of the American Convention.

82. The State did not submit information regarding its compliance with the aforementioned IACHR recommendations.

83. The petitioners have affirmed, firstly, that a meeting was held on January 30, 2007 at the headquarters of the Office of the Special Secretary for Human Rights of the Office of the President of the Republic, in Brasilia. Participants included both representatives of the State and of the petitioners. The renewal of these negotiations was reinforced, they state, by the presence of a new actor, the representative of the government of the State of Ceara; the negotiations showed a common intention to find paths pointing towards compliance with the recommendations given, despite the differences that arose in the meeting.

84. With respect to recommendation No. 1 (*supra*), they state that the situation has not changed from the one reported the year before: the judiciary had finished its criminal prosecution, a verdict of guilty was handed down to the responsible party, who, however, is serving his sentence in *régimen abierto* [work release program].

85. Regarding recommendation No. 2 (*supra*), they have asserted that up to date there is no visible progress in the investigation and establishment of responsibility of those who promoted the irregularities and unwarranted delays in the proceedings; this is what led them to bring the matter before the Commission. Although the State has provided information stating that administrative proceedings were underway regarding the issue being heard by the judiciary of the State of Ceara, to date no copy of it has been submitted, and hence there is no evidence of its existence. With respect to an alleged lack of impartiality in the investigation, they affirm that it is evident from the fact that it was carried out by the subjects of the investigation's own peers. They argue that to date the State has not managed to clarify the origins of nor find those responsible for obstructions within domestic proceedings; the statute of limitations is about to expire for these crimes, which in turn will prevent the effective establishment of the facts. These points were emphatically defended in the meeting that took place.

86. Regarding recommendation No. 3 (*supra*), they have stated that in connection with the symbolic reparations given to the victim, the Federal Senate, following her nomination by the Office of the Secretary of Policy for Women (SPM for its acronym in Portuguese), bestowed upon her the Citizen Bertha-Lutz prize. The president of the Republic signed Law 11.340 on August 7, 2006, which established mechanisms to curb domestic and family violence against women. The law received the "unofficial" name of the victim, although this was not publicly acknowledged, which they do expect to occur. They also state that a dialog with authorities has begun towards a holding a public ceremony of recognition in which an official statement shall be delivered about the recommended reparation.

87. With respect to this legislative implementation, the Rapporteurship on the Rights of Women of the IACHR issued Press Release No. 30/06 on August 11, 2006, expressing its pleasure regarding the aforementioned measure, signifying the acknowledgement that this constituted a step of fundamental importance to achieve full compliance with the recommendations issued to the Brazilian state both in the decision that this organ took with respect to the case and with the principles established by the Inter-American Convention on the Prevention, Punishment, and

Eradication of Violence against Women (Convention of Belém do Pará). The Rapporteurship recognized the participatory process that led to the development of this law, including the essential role of civil society organizations working to defend and protect women's rights. The Rapporteurship urged the Brazilian state to continue to adopt measures to facilitate its effective application, including the design of multisectoral, preventive government policies, appropriate enacting legislation, allocation of the resources needed to translate their content into reality, and measures to train and create awareness among government employees.

88. Regarding pecuniary reparations, the petitioners state that, six years after the recommendations were issued, the victims have not yet received any pecuniary compensation.

89. With respect to recommendation No. 4(a) (*supra*), the petitioners affirmed that the training and awareness-raising measures gained validity with the entry into force of the aforementioned Law 11.340/06, which created mechanisms to prevent domestic and family violence against women. Now, they stated, mechanisms to evaluate the results of the efforts towards implementation of this recommendation should be adopted. Regarding measures oriented towards police officers and the Judiciary in this topic, they argued that the State has limited itself to provide certain projects in a general manner.

90. Concerning recommendations Nos. 4(b) and 4(c) (*supra*), the petitioners noted that with the entry into force of the above-mentioned law, although specialized courts in this area have not been created, article 14 has made their eventual creation possible, by opening a window towards the simplification of criminal procedures related to situations of violence against women. In addition, at the time of submitting their information, they highlighted that the draft bill of this law was written by an inter-ministerial work group, in turn based on a proposal submitted by feminist organizations, seeking to prevent, punish, and eradicate this type of violence; this, as said above, was also borne in mind by the Commission. They affirmed that this legislative measure is an important legal advance, because it modifies both the Criminal Code and the Code of Criminal Procedure, making it possible for attackers to be arrested *in flagrante delicto* or held in custody as a precautionary measure, something not possible before; prison sentences for this kind of crime were also increased. However, they continue, this law does not solve the problem of domestic and family violence against women, because it requires a change in the idiosyncrasy of both the state and civil society; this change must be achieved through active measures.

91. Although the law authorizes an autonomous budget for its implementation, the petitioners note that it has suffered from an important cut in the 2007 budget; moreover, an amendment introduced in the 2007 Budget Law (LDO in its Spanish acronym) that protected the funds destined to fight violence against women was vetoed by the president of the Republic. Available resources for this purpose are now insufficient. The *Consejo Nacional de Derechos de la Mujer* (CNDM) [National Council on the Rights of Women] approved the establishment of an Observatory to monitor the implementation of this law, as well as the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women (Convention of Belém do Pará) in the entire territory of the state. According to the petitioners, acting on this initiative would be essential to make the adopted legislative measures effective.

92. Regarding recommendations Nos. 4(d) and 4(e) (*supra*), the petitioners state that there have not been any significant changes in the number of specialized police stations, given that their resource allocation continues to be extremely small. With respect to aspects related to teaching, there have been no significant advances.

93. Based on the information received, the Commission concludes that there is partial compliance with the aforementioned recommendations.

CASES 11.286, Aluísio Cavalcante *et al.*, 11.407, Clarival Xavier Coutrim, 11.406, Celso Bonfim de Lima, 11.416, Marcos Almeida Ferreira, 11.413, Delton Gomes da Mota, 11.417, Marcos de Assis Ruben, 11.412, Wanderlei Galati, and 11.415 Carlos Eduardo Gomes Ribeiro, Report N° 55/01 (Brazil)

94. In its April 16, 2001 Report N° 55/01, the IACHR issued the following recommendations to the Brazilian state:

1. That it carry out a serious, impartial, and effective investigation into the facts and circumstances of the deaths of Aluísio Cavalcanti, Clarival Xavier Coutrim, Delton Gomes da Mota, Marcos de Assis Ruben, and Wanderlei Galati, and of the assaults on and attempted homicides of Cláudio Aparecido de Moraes, Celso Bonfim de Lima, Marcos Almeida Ferreira, and Carlos Eduardo Gomes Ribeiro, and that it duly prosecute and punish the persons responsible.
2. That such investigation include the possible omissions, negligence, and obstructions of justice that may have resulted from the failure to convict the persons responsible in a final judgment, including the possible negligence and mistakes of the Public Prosecutor's Office and of the members of the judiciary who may have decided to waive or reduce the corresponding sentences.
3. That the necessary measures be taken to conclude, as soon as possible and in the most absolute legality, the judicial and administrative proceedings regarding the persons involved in the above-noted violations.
4. That the Brazilian State makes reparation for the consequences of the violations of the rights of the victims and their families or those who hold the right for the harm suffered, described in this report.
5. That the necessary measures be taken to abolish the jurisdiction of the military justice system over criminal offenses committed by police against civilians, as proposed by the original bill, introduced in due course, to repeal Article 9(f) of the Military Criminal Code, and to approve, to take its place, the single paragraph proposed in that bill 27.
6. That the Brazilian State take measures to establish a system of external and internal supervision of the military police of São Paulo that is independent, impartial, and effective.
7. That the Brazilian State present the Commission, within 60 days of transmittal of this report, a report on compliance with the recommendations, for the purpose of applying the provision at Article 51(1) of the American Convention.

95. The State has not submitted information regarding its compliance with the aforementioned IACHR recommendations. The petitioners, for their part, have presented information regarding these cases, which can be summarized as follows:

- Case 11.286 (Aluísio Cavalcante): They affirm that only three military policemen have been tried, on June 12, 2003, and they were acquitted. The office of the prosecutor appealed the decision and the result of the appeal may take more than three years more.

- Case 11.407 (Clarival Xavier Coutrim): The petitioners inform that the defendants were acquitted by the military court that tried them. It was also decided, they add, that compensation was out of order, and that said decision was appealed but has not yet been decided.
- Case 11.413 (Delton Gomes da Mota): The petitioners inform that the military policemen charged in this proceeding appealed the decision finding them guilty. The court accepted their arguments and decided they should receive a new trial, with no date set for it. They are waiting for the judgment in order to file action for compensation.
- Case 11.417 (Marcos de Assis Ruben): the petitioners inform that a judgment was handed down deciding not to try the accused (*sentencia de improcedencia* [judgment of out of order]). This judgment was appealed by the Office of the Attorney General, but to date no decision has been handed down.
- Case 11.412 (Wanderlei Galati): the petitioners inform that the military policeman who shot the victim was tried and convicted, and sentenced to such a short sentence that it was affected by the statute of limitations, so he was not imprisoned at all. They add that the suit for damages was declared out of order, and that the mother of the victim was compensated.
- Case 11.406 (Celso Bonfim de Lima): The petitioners stated that the military police officer who shot the victim was convicted but not expelled from the force. Indeed, he never served any time either, because the sentence he was given was so light that the statute of limitations had already expired. The petitioners added that the ruling on the suit for damages was in the petitioners' favor and called for payment of a monthly allowance. While the monthly allowance is being paid, the amount owed for the period from the time the events occurred to the date on which payment of the allowance began is still due and payable.
- Case 11.416 (Marcos Almeida Ferreira): The petitioners noted that the military policeman who shot the victim was convicted, but served no time because the statute of limitations had expired. Nor was he expelled from the police force. They added that the suit seeking damages was declared admissible and a monthly allowance was ordered. The amount owed for the period from the date of the events to the date on which payment of the monthly compensatory allowance began took place in the year 2005.
- Case 11.415 (Carlos Eduardo Gomes Ribeiro): The petitioners observed that the military police officer who shot the victim was not convicted, as the statute of limitations had expired. His only punishment was an administrative sanction from the Police. They added that the suit seeking compensation is moving forward: the Treasury has issued a statement in agreement with the accountant's estimates of the amount by which the victim should be compensated. The amount was received by the victim in the year 2006.

96. The Commission, therefore, concludes that compliance with the aforementioned recommendations remains pending.

CASE 11.517, Report N° 23/02, Diniz Bento Da Silva (Brazil)

97. In Report N° 23/02 dated February 28, 2002, the IACHR made the following recommendations to the Brazilian state:

1. Conduct a serious, effective, and impartial investigation through the ordinary justice system to determine and punish those responsible for the death of Diniz Bento da Silva, punish those responsible for the irregularities in the investigation by the military police, as well as those responsible for the unjustifiable delay in conducting the civil investigation, in accordance with Brazilian law.
2. Take the necessary steps to ensure that the victim's family receives adequate compensation for the violations established herein.
3. Take steps to prevent a repetition of such events and, in particular, to prevent confrontations with rural workers over land disputes, and to negotiate the peaceful settlement of these disputes.

98. The State failed to submit any information on compliance with the aforementioned recommendations of the IACHR. The petitioners, for their part, said, with respect to recommendation 1 (*supra*), that more than 12 years after the demise of Diniz Bento da Silva, the police investigation is still under evaluation by the Public Prosecutor's Office, and that no progress has been made. The petitioners say that under the Brazilian Code of Criminal Procedure the maximum time limit for the conclusion of a police investigation is 30 days.

99. As regards recommendation 2 (*supra*), the petitioners mentioned that in May of 2005 the State of Paraná lodged a special appeal against the court decision ordering the state to pay compensation to the next-of-kin of the victims. This appeal was found to be untimely and consequently was not admitted. However, the State of Paraná lodged another appeal, *agravo de instrumento*, against the latter decision, to obtain a better examination of the admission of the Special Appeal. The *agravo de instrumento* appeal was admitted by the Superior Court of Justice in October of 2006, and the proceeding is now under examination in said venue. This proceeding may take years, which would entail that the next-of-kin of the victim would not receive any compensation for the duration of the procedure. They note that the son of the victim, Marcos Antonio da Silva, died on June 19, 2006, in a traffic accident.

100. With respect to recommendation 3 (*supra*), the petitioners said that the problem of violence in rural parts of Brazil is becoming increasingly serious. They mentioned that the *Comissão Pastoral da Terra* (CPT) recorded 1,881 conflicts in rural areas, of which 49 took place in the State of Paraná. They involved approximately 1,021,355 people and produced the alarming figures of 38 fatalities. They added that during this period there were 56 murder attempts, 266 death threats (5 in the State of Paraná, 33 persons were tortured, 63 were physically assaulted, 261 were imprisoned (35 in the State of Paraná) and 166 were injured (8 in the State of Paraná). In addition, 4,366 families were expelled by private parties from the lands they were occupying (100 in the State of Paraná), 25,618 families were evicted following court orders (3,599 in the State of Paraná) and 16,995 families were victims of intimidation on the part of gunmen (620 in the State of Paraná). They added that the creation of private militias in rural zones has been on the rise, and impunity continues to be a contributing factor to violence in rural parts.

101. Based on the information provided by the petitioners, the Commission concludes that compliance with the aforementioned recommendations remains pending.

CASE 10.301, Report N° 40/03, Parque São Lucas (Brazil)

102. In Report N° 40/03 of October 8, 2003, the IACHR recommended the following to the Brazilian Government:

1. that it adopt the legislative measures needed to transfer to the regular criminal courts the trial of common crimes committed by military police officers in the performance of their public order functions.
2. that use of the cells designed for solitary confinement (*celas fortes*) be discontinued.
3. that it punish, in keeping with the gravity of the crimes committed, the civilian and military police officers involved in the facts that gave rise to the instant case.
4. in those cases in which it has not done so, that it pay fair and adequate compensation to the victims' next-of-kin for the harm caused as a result of the breaches of the above-mentioned provisions.

103. In the same report, the Commission examined the degree of compliance of such recommendations, as follows:

[T]he Commission considers that the recommendation that Brazil "adopt the legislative measures needed to transfer to the regular criminal courts the trial of common crimes committed by military police in the performance of their public order functions" has met with partial compliance. In effect, the IACHR reiterates that although Law No. 9,299/96 represents major progress in this respect, it is insufficient, as it merely transfers to the regular courts crimes against life committed by military police in the performance of their functions, and keeps jurisdiction over all other crimes committed by members of the Military Police under the Military Police.

104. With respect to the recommendation that "use of the cells designed for solitary confinement (*celas fortes*) should be discontinued," the Commission reiterates that this recommendation has not yet met with compliance.

105. As regards the recommendation that the state "punish, in keeping with the gravity of the crimes committed, the civilian and military police officers involved in the facts that gave rise to the instant case," the Commission observes that according to the information provided by Brazil on March 10, 2003, a criminal proceeding was begun in 1989 against 32 people in relation to the facts of the present case: José Ribeiro (jailer); Celso José da Cruz (police investigator); Carlos Eduardo de Vasconcelos (police officer); and 29 military police officers.

106. From that information, it also appears that José Ribeiro was convicted through a final and firm judgment, and sentenced to a prison term of 45 years and six months, and that he is serving the sentence in a São Paulo prison. Celso José da Cruz and Carlos Eduardo de Vasconcelos were acquitted, and the respective decisions were appealed, and are now awaiting a decision by the Court of Justice (Tribunal de Justiça) of São Paulo. Both are free. Finally, and with respect to the 29 military police officers who were also accused of participating in the facts, it was decided not to try them, in a decision that was appealed by the Public Ministry, yet to date there has been no decision on that appeal. Accordingly, this recommendation has not met with full compliance.

107. As regards the recommendation that the Brazilian state, "in those cases in which it has not done so ... pay fair and adequate compensation to the victims' next-of-kin," the

Commission observes that the government of the state of São Paulo published Decree 42,788 on January 8, 1998, authorizing the payment of compensation to the next-of-kin of the victims who died, for personal injury, and for an amount equivalent to 300 minimum salaries per dependent. In this respect, a working group was created within the Office of the Attorney General, to identify the beneficiaries and the amount of compensation. The IACHR was informed that at the end of the work of that working group, the result was that compensation was paid to the next-of-kin of seven victims; next-of-kin were not found for another seven victims; it was determined that there were no beneficiaries with respect to two victims; and, finally, that the next-of-kin of two of the victims had pursued judicial actions against the state for pecuniary and non-pecuniary damages, and the state was awaiting the results of those proceedings before paying compensation.

108. The Commission recognizes the importance of the payment of compensation through the adoption of administrative measures, but must note that there are still victims and next-of-kin who have not received compensation, and whose rights need to be protected.

109. The petitioners said with respect to recommendation No. 1 (*supra*) that unfortunately there has been no change in the information to report since last year. After enacting Law 9.299/96, no other legislation has been proposed by the administration, and the existing bills related to this issue have not made headway in Congress. They added that in accordance with the aforementioned law, bodily injury, manslaughter, illegal imprisonment, torture, extortion and other crimes committed by the military police remain under the jurisdiction of military courts. They state that in the hearing before the Commission on the competence of Brazilian military justice, the Brazilian state undertook the commitment of organizing a national seminar to promote debate on the topic, as well as possible legal reform. On May 6, 2005, there was a meeting in Brasilia with representatives of the petitioners to establish a strategy for the seminar. The initiative, after almost 12 months since the hearing, has not materialized.

110. Regarding recommendation No. 2 (*supra*), the petitioners stated that on December 15, 2005, the State informed that the project to dismantle solitary confinement cells in the offices of chiefs of police of the City of São Paulo was nearly finalized, and that only some special jails remained working, such as 13th, 89th, 18th and 8th DPs [Police Precincts]. The petitioners argued that, according to information they submitted on January 17, 2006, it was on official data records offered by the Department of Police Investigations (DIPO, according to its acronym), that on January 9 of that same year, there were 387 people detained in the precincts of the capital city of the State of São Paulo. They said that this number of people under arrest is worrisome, because it is high relative to the population capacity that these facilities have. The conditions to which these detainees are subjected, the petitioners said, is similar to those found in the 42nd DP, Parque São Lucas. They gave a list of facilities in the State of São Paulo that still use the aforementioned kind of detention units. They also described the so-called "special jails," specifically eight: one of them is used for former policemen or their relatives (8th DP, Belem), another for women with university education (89th DP, Morumbi), another for men with university education (13th DP), yet another for child-support and/or alimony debtors (18th DP), and one for persons under a regime of temporary imprisonment (77th DP).

111. The petitioners stated that the process of dismantling the detention centers began in 1995. Of 93 facilities in the city of São Paulo, 77 were dismantled. This process did not cover the entire State of São Paulo, and hence the petitioners ask that the Commission request the Federal State to submit evidence proving that the solitary confinement cells have been indeed dismantled in the aforementioned zone.

112. As to recommendation No. 3 (*supra*), the petitioners noted that, concerning the criminal trial against José Ribeiro, he was convicted and sentenced. With respect to Celso José da Cruz, they said that he was convicted by the court of first instance, and acquitted in the second

instance. The Office of the Attorney General filed an appeal which, after more than five years have passed, has yet to be decided. The individual is free. Carlos Eduardo Vasconcelos was acquitted in both instances; the judgment became final in 2003. With respect to the 29 military policemen involved, the court decided not to prosecute them; hence they will not be judged by a collegiate court for the crime of homicide, but by a single judge for the crime of bodily injury. The Office of the Public Prosecutor filed an appeal against the decision, and this appeal, in turn, has not yet been decided.

113. Finally, regarding recommendation No. 4 (*supra*), the petitioners emphasized that they have not had access to the final results of the Work Group created in the Office of the Attorney General of the State. They also requested that the IACHR recommend to the Brazilian state that it submit both information and documentary evidence on the ends results of the work, in order to identify the beneficiaries and determine the amount of compensation.

114. The State, for its part, has not, to date, submitted any information related to the foregoing.

115. The Commission concludes that the State complied partially with the aforementioned recommendations.

CASE 11.289, Report N° 95/03, José Pereira (Brazil)

116. On October 24, 2003, the IACHR published Report N° 95/03, detailing the points contained in the friendly settlement agreement signed by both parties on September 18, 2003. This agreement set the following commitments for the State:

I. Recognition of Responsibility

1. The Brazilian State recognizes its international responsibility in relation to case 11.289, even though the perpetration of the violations is not attributed to state agents, since the state organs were not capable of preventing the occurrence of the grave practice of slave labor, nor of punishing the individual actors involved in the violations alleged.

2. The public recognition of the responsibility of the Brazilian State in relation to the violation of human rights will take place with the solemn act of creating the National Commission for the Eradication of Slave Labor – CONATRAE (created by Presidential Decree of July 31, 2003), which will take place on September 18, 2003.

3. The parties assume the commitment to keep under reserve the identity of the victim at the moment of the solemn act recognizing State responsibility and in public declarations about the case.

II. Trial and punishment of the individuals responsible

4. The Brazilian State assumes the commitment to continue with the efforts to carry out the arrest warrants issued against the persons accused of the crimes committed against José Pereira. To this end, the Friendly Settlement Agreement will be forwarded to the Director-General of the Department of the Federal Police.

III. Pecuniary reparations

5. In order to compensate José Pereira for the material damages and personal injury suffered, the Brazilian State forwarded draft legislation to the National Congress. Law No. 10,706 of July 30, 2003 (copy attached), which was adopted urgently, and which provided for the payment of R\$ 52,000 (fifty-two thousands reais) to the victim. The amount was paid to José Pereira by a bank order (No. 030B000027) on August 25, 2003.

6. The payment of the compensation described in the previous paragraph releases the Brazilian State of any further duty of reparation for José Pereira.

IV. Preventive measures

IV.1 Legislative changes

7. In order to improve the National Legislation aimed at prohibiting the practice of slave labor in Brazil, the Brazilian State undertakes to implement the actions and proposals for legislative changes contained in the National Plan for the Eradication of Slave Labor, drawn up by the Special Commission of the Council for the Defense of Human Rights, and initiated by the Government of Brazil on March 11, 2003.

8. The Brazilian State undertakes to make every effort to secure the legislative approval (i) of Proposed Law No. 2130-A, of 1996, which includes among the violations of the economic order the use of "unlawful means of reducing production costs such as the non-payment of labor and social taxes, exploitation of child, slave, or semi-slave labor"; and (ii) the version presented by the Deputy Zulaiê Cobra to take the place of proposed law No. 5,693 of Deputy Nelson Pellegrino, which amends Article 149 of the Brazilian Criminal Code.

9. Finally, the Brazilian State undertook to defend the establishment of federal jurisdiction over the crime of reduction to conditions analogous to slavery, for the purpose of preventing impunity.

IV.2 Measures to Monitor and Repress Slave Labor

10. Considering that the legislative proposals will demand considerable time to be implemented insofar as they depend on the action of the National Congress, and that the gravity of the problem of the practice of slave labor requires that immediate measures be taken, the State undertakes from this moment to: (i) strengthen the Public Ministry of Labor; (ii) ensure immediate compliance with the existing legislation, by collecting administrative and judicial fines, investigating and pressing charges against the perpetrators of the practice of slave labor; (iii) strengthen the Mobile Group of the MTE; (iv) take steps along with the Judiciary and its representative entities to guarantee that the perpetrators of the crimes of slave labor are punished.

11. The Government undertakes to revoke, by the end of the year, by means of the appropriate administrative acts, the Cooperation Agreement signed between the owners of estates and authorities of the Ministry of Labor and Public Ministry of Labor, signed in February 2001, and which was denounced in this proceeding on February 28, 2001.

12. The Brazilian State undertakes to strengthen gradually the Division of Repression of Slave Labor and Security of Dignitaries (STESD), established under the Department of the Federal Police by means of Administrative Ruling (Portaria)-MJ No. 1,016, of September 4, 2002, so as to give the Division adequate funds and human resources for the proper performance of the functions of the Federal Police in the actions to investigate reports of slave labor.

13. The Brazilian State undertakes to take initiatives *vis-a-vis* the Federal Public Ministry to highlight the importance of having Federal Prosecutors attach priority to participating in and monitoring investigations on slave labor.

IV.3. Measures to raise awareness of and opposition to slave labor

14. The Brazilian State will undertake a national campaign to raise awareness of and oppose slave labor, in October 2003, with a particular focus on the state of Pará. On this occasion, through the presence of the petitioners, publicity will be given to the terms of this Friendly Settlement Agreement. The campaign will be based on a communication plan that

will include the preparation of informational materials geared to workers, inserting the issue in the media through the written press, and through radio and TV spots. In addition, various authorities are to make visits to the targeted areas.

15. The Brazilian State undertakes to evaluate the possibility of holding seminars on the eradication of slave labor in the state of Pará no later than the first half of 2004, with the presence of the Federal Public Ministry, ensuring that the petitioners are invited to participate.

117. The State did not submit information on compliance with the friendly settlement commitments.

118. Regarding the trial and punishment of the responsible parties, according to point II (*supra*), the petitioners stated that the State, from the time it undertook to ensure that the arrest warrants issued were executed, to date, has not made any effort in this connection, and the accused remain as fugitives.

119. The Commission considers that the obligation agreed to in point III (*supra*) has been fully complied with.

120. With respect to point IV (*supra*), the petitioners underscored that legislative bills have still not been passed identifying as heinous crimes those of subjecting a person to a condition analogous to slavery, or of attracting a person to said condition; nor have bills been passed attaching penalties for slave labor, amending provisions of the Criminal Code and of Law 5.889/1973, which regulates rural labor. Congressional bill No. 108/2005, regarding the disqualification from financing and contracts of individuals on the "dirty list," the petitioners contended, was withdrawn on November 21, 2006. It is now listed under No. 207/2006, under consideration in the Senate Committee for Human Rights and Participatory Legislation, since December 28, 2006.

121. Regarding the proposed amendment to article 243 of the Federal Constitution, mandating the expropriation of land wherever workers are found subjected to conditions analogous to slavery, the petitioners stated that it has remained in the House of Deputies for over eleven years.

122. With respect to passage of legislative bill No. 2.022/1996, banning businesses that directly or indirectly employ slave labor in the production of goods and services from entering into contracts with the government, and participating in government bidding processes, the petitioners stated that it remains pending in Congress. Along these same lines, they affirmed that a law entered into force on December 29, 2006, prohibiting federal public banks from offering or renewing loans to any institution with a director convicted of crimes connected with slave labor.

123. Regarding the obligation to classify as strategic the program of eradication of slave labor in the Multi-Year Plan [*Plan Plurianual – PPA*] 2004/2007, as well as to endow with sufficient resources for the implementation of the identified courses of action, the petitioners stated that workers who had been victims of a condition analogous to slave labor were included in the Agrarian Reform. The eradication of slave labor, they went on to say, is contemplated in the aforementioned bill, under No. 0107, with eleven different objectives. The budget proposal submitted by the executive branch to Congress for 2007 anticipates expenditures in this area in the order of 11,192,453 *reales*.

124. The petitioners stated that there has been no news or progress with respect to: 1) advancing the legislative bill creating the Labor Inspector [*Auditor Fiscal del Trabajo*] positions, 2) advancing the legislative bill creating the positions of Officer [*Agente*] and Commissioner [*Delegado*]

of the Federal Police for the implementation of the actions included in the respective agreement, and 3) passage of the bill creating several positions in the Career of Administrative Technical Support for the Federal Office of the Attorney General [*Carrera de Apoyo Técnico Administrativo del Ministerio Público de la Unión*].

125. The petitioners stated that, regarding the undertaking to create 183 Federal Courts, and Labor Law Courts, both legislative bills were passed and became Laws No. 10.772/2003 and No. 10.770/2003, respectively. The Labor Court of the city of Redenção began its functions in 2004, as part of a plan to increase the number of courts in the rural areas of the country. The establishing of courts in Xinguara and Sao Felix do Xingu is foreseen.

126. With respect to the commitment to make every effort to obtain passage of the legislative bill classifying as economic crimes the use of unlawful methods of cost reduction, such as non-payment of labor and social taxes, and the exploitation of child labor, and slave and semi-slave labor, the petitioners stated that the bill is still under the consideration of the Commission on the Constitution, Justice, and the Citizens of the House of Deputies, with no progress made since April 2004.

127. The petitioners maintained that, regarding the commitment on the part of the Brazilian state to defend the jurisdiction of the federal courts to try crimes of reduction to slavery-like conditions, there has been some jurisprudential progress, considering the judgments handed down in this area of the law.

128. The petitioners also recognized, regarding the commitment listed in point IV.2 (*supra*), the determination of the Mobile Team of the Ministry of Labor and Employment (MTE) to intensify inspections, while at the same time observed a tendency towards the decrease in the rate of responses to reports filed by civil society in this area. The petitioners maintained that, although the friendly settlement agreement established a series of measures on the inspection and repression of slave labor to be implemented by the State, in the meantime, given that the federal government has not published much of the data, they have been prevented from monitoring compliance with the agreement in this respect.

129. The petitioners stated that when the new anti-slavery propaganda campaign was launched on December 13, 2005, in the Planalto Palace, it was announced that measures would be adopted to reinforce the effectiveness of the norms prohibiting financing of land owners on the "dirty list." Banks announced their support of the campaign. Later, they said, the Ministry for Development and Agriculture executed a decree of expropriation/sanction in the case of an estate located in Marabá, in the south of the State of Pará, for non-compliance with the social function of this property.

130. Regarding the obligation also undertaken in point IV. 2 (*supra*), of revoking before year's end the February 2001 Cooperation Agreement [*Término de Cooperación*] between the owners of the estates and the authorities of the Ministry of Labor and the Public Ministry of Labor, the petitioners informed that the agreement has not yet been revoked, which in turn makes it easier for land owners to be punished timidly and ineffectively.

131. The petitioners stated, with respect to the commitment undertaken by the Brazilian state of gradually strengthening the Division for the Repression of Slave Labor and Security of Dignitaries (DTESD), established under the Department of the Federal Police by means of Administrative Ruling [Portaria]-MJ No. 1,016, of September 4, 2002, so as to give the Division adequate funds and human resources for the proper performance of the functions of the Federal Police in the actions to investigate reports of slave labor, also agreed upon in point IV.2 [*supra*], that there is no accessible information on the DTESD, nor on the support that it is allegedly given by the

federal government. They contended that human resources fell short from the level proposed by the government plan; budget appropriations for travel expenses and transportation of Federal Police officers, in order to ensure their participation in inspections, were not made either.

132. The petitioners informed, regarding the agreement with the Brazilian state to take initiatives *vis-a-vis* the Federal Public Ministry to highlight the importance of having Federal Prosecutors attach priority to participating in and monitoring investigations on slave labor, that Federal Prosecutors who form part of the Theme Group [*Grupo Temático*] on Slave Labor in Brazil, created in 2001 under the Federal Office of the Attorney General, continue to participate intermittently in the Mobile Team's operations.

133. Regarding the commitment undertaken by the State in point IV.3 (*supra*) of carrying out a national campaign to raise awareness of and oppose slave labor, planned for October 2003, and with a particular focus on the state of Pará, the petitioners stated that they do not know if the terms of the Friendly Settlement Agreement were publicized at the launching, on September 22, 2003, of the campaign "Slave Labor. Let Us Abolish this Disgrace Once and for All,"

134. The petitioners maintain, with respect to the commitment agreed upon with the State to evaluate the possibility of holding seminars on the eradication of slave labor in the state of Pará no later than the first half of 2004, with the presence of the Federal Public Ministry, and ensuring that the petitioners are invited to participate, that seminars and debates took place, and fora were created in the State of Pará on the subject of slave labor, including the participation of representatives of the Public Ministry of Labor, the Regional Head for Labor and rural producers' unions. Measures were also taken towards a specific plan to fight slave labor by the Ministry of Agriculture and Development, a literacy reader was prepared – almanac of the literacy teacher – "Slave: no way," [*"Eslavo ni pensarlo"*], plans to eradicate slave labor by the States of Matto Grosso and Tocantins.

135. Based on these considerations, the IACHR concludes that there is partial compliance with the actions listed in the Friendly Settlement Agreement and, in accordance with what was established by report 95/03, it will continue to monitor and supervise the points of this agreement.

CASE 11.556, Report N° 32/04, Corumbiara Massacre (Brazil)

136. In Report N° 32/04 of March 11, 2004, the IACHR made the following recommendations to the Brazilian State:

1. Conduct a complete, impartial, and effective investigation into the events, by nonmilitary organs, to determine responsibility for the deaths, personal injuries, and other acts that occurred at Santa Elina ranch on August 9, 1995, and to punish all the material and intellectual authors, whether civilian or military.
2. Make adequate reparations to the victims specified in this report or to their next-of-kin, as appropriate, for the human rights violations determined in this report.
3. Adopt the necessary measures to prevent similar events from occurring in the future.
4. Amend Article 9 of the Military Criminal Code, Article 82 of the Code of Military Criminal Procedure, and any other domestic legal provisions that need to be amended in order to abolish the competence of the military police to investigate human rights violations committed by the military, and to transfer that competence to the civilian police.

137. The State failed to submit any information on compliance with the aforementioned recommendations of the IACHR.

138. The petitioners stated that in 2006 the State manifested its disposition to carry out negotiations regarding compliance with the Commission's recommendations. As a result, three meetings of the petitioners and representatives of the State took place, with the purpose of establishing consensus on the implementation of the recommendations made. The first meeting was held in the Office of the Attorney General of the State of Rondonia, on March 16, 2006. The second meeting took place on November 10, 2006, in Porto Velho, State of Rondonia. The third meeting was held in the offices of the National Agrarian Auditor [*Ouvidoria Agraria Nacional*], on August 3, 2006. In these meetings the way to implement the recommendations in question was discussed; however, to date the proposals made by the State have not yet become part of a formal agreement.

139. With respect to recommendation No. 1 (*supra*), the petitioners stated that there has been no progress in judicial proceedings, and that compliance with this recommendation has largely been non-existent. All investigations carried out with respect to this matter suffered from irregularities and delays. Regarding recommendation No. 2 (*supra*), they affirmed that to date no victim or next-of-kin has received any compensation from the State. At this point in time, after the aforementioned meetings took place, the victims' expectation of receiving the compensation they deserve has grown greatly.

140. The petitioners asserted, with respect to recommendation No. 3 (*supra*), that, although there is no recent record of new conflicts with the military police in the region where the facts of the instant case occurred, the problem of violence in the rural areas of Brazil is becoming ever more serious. They stated that the Comisao Pastoral da Terra (CPT) recorded, in 2005, 1,881 conflicts in rural areas (27 in the State of Rondonia), involving approximately 1,021,355 people, with the alarming figure of 38 fatalities (one in the State of Rondonia). Also recorded were 56 murder attempts, 266 death threats, of which 96 occurred in the State of Rondonia, 33 cases of torture, 63 persons were physically assaulted, 261 persons were imprisoned, 11 of these in the State of Rondonia, and 166 were injured. In addition, 4,366 families were expelled by private parties from the lands they were occupying (100 in the State of Paraná), 25,618 families were evicted following court orders, 750 of them in the State of Rondonia, and, finally, among the 16,995 families that were victims of intimidation on the part of gunmen 158 were in the State of Rondonia. They added that impunity continues to be a contributing factor to violence in rural areas.

141. Concerning recommendation No. 4 (*supra*), the petitioners stated that, after passage of Law 9.299/96, no other bill has been submitted by the administration, and the existing bills on the matter have not made any headway in the Congress. Pursuant to said law, bodily harm, manslaughter, illegal imprisonment, torture, extortion, and other crimes committed by military policemen continue to be under the jurisdiction of military courts. A thematic hearing was held on February 28, 2006 on the status of military justice in Brazil; in it a request was made to hold a seminar to discuss the possibility of a reform to adapt legislation regulating military justice to conformity with international standards of protection of human rights. The Brazilian state has not taken any steps towards this end.

142. Based on the information provided by the petitioners, the Commission concludes that compliance with the aforementioned recommendations is still pending.

CASE 11.634, Report N° 33/04, Jailton Neri Da Fonseca (Brazil)

143. In Report N° 33/04 of March 11, 2004, the IACHR made the following recommendations to the Brazilian State:

1. That it make full reparations, in consideration of both moral and material damages, to the next-of-kin of Jailton Neri da Fonseca, for the human rights violations determined in this report, and, more specifically, that it do the following:
2. Ensure a full, impartial, and effective investigation into the crime conducted by nonmilitary organs, with a view to establishing responsibility for the acts related to the detention and murder of Jailton Neri da Fonseca and punishing the responsible parties.
3. Pay the next-of-kin of Jailton Neri da Fonseca compensation computed in accordance with international standards, in an amount sufficient to make up for both the material damages and the moral damages suffered on the occasion of his murder. Such compensation, to be paid by the Brazilian State, should be computed in accordance with international standards, and should be in an amount sufficient to make up for both the material damages and the moral damages suffered by the next-of-kin of Jailton Neri da Fonseca on the occasion of his murder and other violations of his human rights referred to in this report.
4. Amend Article 9 of the Military Criminal Code and Article 82 of the Code of Military Criminal Procedure, in addition to any other domestic legal provisions that need to be amended to abolish the competence of the military police to investigate human rights violations committed by members of the military police, and transfer that competence to the civilian police.
5. Adopt and implement measures to educate officers of the justice system and members of the police to prevent acts involving racial discrimination in police operations, and in criminal investigations, proceedings, or sentencing.
6. Adopt and implement immediate measures to ensure observance of the rights established in the American Convention, the Convention on the Rights of the Child, and the other national and international standards on the matter, in order to ensure that the right to special protection of children is enforced in Brazil.

144. The State failed to submit any information on compliance with the aforementioned recommendations of the IACHR.

145. The petitioners stated that a process of negotiation between them and the Brazilian State was begun in 2006, regarding compliance with the recommendations made in the instant case by the Commission. The process is at a standstill since September 2006, due to a lack of response on the part of the State. The petitioners since then have been waiting for the State to provide information regarding the additional information they have presented.

146. They contend that on June 2, 2006, the Commission forwarded to the petitioners a statement by the State manifesting its intention to resolve the issue through a friendly and negotiated procedure. On July 5, 2006, the petitioners received a request from the Commission for them to submit their observations on the information provided by the State. They responded to the

request on August 25, 2005, submitting a proposal on the points that the aforementioned agreement should include, as follows:

1. Payment of pecuniary damages to Ms. Maria Santos Silva in the sum of 50,000 reales.
2. Symbolic reparations.
3. Effectively pressed charges against the policemen involved in the homicide of Jailton.
4. An amendment to Law 9.299/9, transferring jurisdiction over criminal homicide investigations by members of the military police to the civilian police, and excluding from the evidentiary record the results of investigations carried out by military police.
5. The creation of a Permanent Special Committee for the Reduction of Lethality in Police Actions, whose purpose would be to monitor and examine cases of lethal actions in which civil and military police officers are involved, with the aim of crafting public policies that will tend towards the elimination of the causes of lethal action, by learning about the circumstances in which it takes place, and identifying the recurring mistakes that continue to generate these occurrences.

147. The petitioners noted that the brief containing the proposal was forwarded by the Commission to the State on September 8, 2006, but to date there has been no response, leading them to infer that the State has not complied with the recommendations.

148. Based on the information provided by the petitioners, the Commission concludes that compliance with the aforementioned recommendations is still pending.

CASE 12.426, Ranie Silva Cruz; CASE 12.427, Eduardo Rocha da Silva and Raimundo Nonato Conceicao Filho, Report N° 43/06 (Brazil)

149. The petitioners submitted information on compliance by the Brazilian state with the Friendly Settlement Agreement that was signed on December 15, 2005, in the State of Sao Luis de Maranhao.

150. The commitments undertaken by the Brazilian state in the agreement include the following:

- 1) Recognition of its international responsibility in the instant case.
- 2) Trial and punishment of those responsible.
- 3) Symbolic reparations
- 4) Pecuniary compensation
- 5) Measures to avoid recurrence.

151. The agreement provides, as follow-up mechanisms, the holding of quarterly monitoring meetings by the Council for the Defense of Human Rights, the State Council for the Rights of the Child and the Adolescent, and the petitioners; in addition, the submission of half-yearly reports by the petitioners and representatives of the State on the implementation of the signed commitments.

152. Regarding the monitoring of the agreement, the petitioners maintained that up until September, 2006, there have been three joint meetings of the State Council for the Defense of Human Rights and the State Council for the Rights of the Child and the Adolescent. The first meeting was held on April 25, 2006, with the attendance of state councilmen for the rights of the

child and the adolescent, representatives of governmental organs involved in the agreement, next-of-kin of the victims, and the petitioners. It was agreed in this meeting that each government organization would report on administrative actions taken to comply with the commitments undertaken, in order that questions may be offered regarding the report's information by the other members of civil society.

153. The second meeting for monitoring the agreement was held on June 26, 2006, with the attendance of the aforementioned individuals, and the president and vice-president of the National Council for the Rights of the Child and the Adolescent. It was agreed in this meeting that the petitioners would submit an evaluation on compliance with the agreement to date. After the evaluation was presented, the State representatives made their questions and requested clarification regarding the information submitted. The third meeting took place on September 11, 2006, and it followed the same method. In addition to these three meetings for monitoring, two more were held to specifically address the implementation of the Center of Official Criminal Experts [*Centro de Pericias Oficiales*], which was a commitment included in clause 15.6 of the agreement.

154. Regarding international responsibility, the State acknowledged it, in accordance with clauses 4 and 5 of the agreement. This was done on the occasion of the signing ceremony of the agreement, where the Special Secretary for Human Rights of the Federal Government, and the Governor of the State of Maranhao publicly retracted themselves.

155. With respect to the trial and punishment of those responsible, on the 23rd, 24th, and 25th of October of 2006, a session of the Tribunal del Jurado Popular was held, in which Francisco das Chagas Rodrigues de Brito was the defendant, suspected by police investigations as the perpetrator of all the homicides in the instant case, in the State of Maranhao. The trial was for the murder of only one of the victims, Jonathan Silva Vieira. The defendant was found guilty and sentenced to 20 years and six months of imprisonment. Existing information indicates that the other proceedings related to the case will be tried soon.

156. Regarding symbolic reparations included in clause 7 of the agreement, the State affixed a plaque in honor of all the identified victims in the Protection of the Child and the Adolescent Complex, in San Luís, on the day the agreement was signed.

157. Regarding pecuniary reparations, the State only complied partially with item III.2 of the agreement. With respect to clause 8, to date none of the next-of-kin has received their houses. Up until May 2006, the State had only prepared the cadastre of the next-of-kin. With respect to clause 9, on the inclusion of the next-of-kin in existing social programs at the federal and state levels, according to the petitioners not all the next-of-kin of the victims were included in existing social programs. The only clause fully complied with was No. 10, which refers to the granting of an allowance to the next-of-kin of the victims; 26 families are now receiving this stipend. Regarding the other two families, it was not until the end of the month of October of 2006 that the mother of Joandelvanes Macedo Escocio, who was in another state, could come to Maranhao, and obtain authorization to receive the allowance and other agreed upon benefits. The next-of-kin of Alexandre Dos Santos Goncalves have not yet been found.

158. Regarding measures for non-recurrence, only clause 17, dealing with the reactivation of the chapter of the Public Defender in the Municipality of Paco de Lumiar, was complied with. Clauses 12 and 14 were not complied with, and clauses 15.4, 15.5, 15.6 and 16 were only partially complied with.

159. The Commission concludes that the points of the agreement reached by the parties have met with partial compliance.

CASE 11.771, Report N° 61/01, Samuel Alfonso Catalán Lincoleo (Chile)

160. On April 16, 2001, the IACHR presented the following recommendations to the Chilean State:

1. Establish the parties responsible for the murder of Samuel Alfonso Catalán Lincoleo through due judicial process, so that the guilty parties may be effectively punished.
2. Adapt its domestic legislation to the American Convention, for which purpose it must declare Decree-Law No. 2191 of 1978 null and void.
3. Adopt the necessary measures to ensure that the victim's next-of-kin receive adequate, timely reparations, including full satisfaction for the violations of the human rights established herein, as well as payment of fair compensation for material and nonmaterial damages caused, including pain and suffering.

161. The Commission requested the parties to provide information on the status of compliance with these recommendations. It did not receive a reply from either of them within the time fixed. Therefore, the Inter-American Commission considers that compliance with the recommendations on determination of responsibility for the murder of Mr. Catalán Lincoleo and derogation of Decree-Law 2191 continue pending. As regards reparations, although it has not been possible to verify compliance with the next-of-kin of the victim, the IACHR is of the opinion that the State has made progress through various general and specific measures that were mentioned in the 2005 Annual Report. The IACHR concludes that the Chilean State has partially complied with the recommendations of Report N° 61/01.

CASE 11.725, Report N° 139/99, Carmelo Soria Espinoza (Chile)

162. On November 19, 1999, the Inter-American Commission made the following recommendations to the State of Chile:

1. Establish the liability of the persons identified as guilty of murdering Carmelo Soria Espinoza through a due judicial proceeding, so that the responsible parties are duly punished and the next-of-kin of the victim are effectively guaranteed the right to justice enshrined in Articles 8 and 25 of the American Convention.
2. Comply with the provisions of the Convention on Prevention and Punishment of Crimes Against Internationally Protected Persons, to ensure that violations of the human rights of international officials subject to international protection, such as the murder of Carmelo Soria Espinoza in his capacity as an official of ECLAC, are duly investigated and the guilty parties are effectively punished. In the event that the Chilean State considers that is unable to comply with its obligation to punish the responsible parties, it must then accept the authority of the universal jurisdiction for that purpose.
3. Adapt its domestic legislation to the American Convention on Human Rights, by abrogating Decree Law No. 2191 issued in 1978, so that the human rights violations of the *de facto* military government against Carmelo Soria Espinoza may be investigated and punished.
4. Adopt the necessary measures to ensure that the next-of-kin of the victim receive adequate and timely reparations, that include full satisfaction for the

violations of the human rights established herein, as well as payment of a fair compensation for material and nonmaterial damages, including pain and suffering.

163. On March 6, 2003, the IACHR published Report N° 19/03 which contains the compliance agreement reached by the parties in respect of Case 11.725. The relevant parts of that agreement are transcribed below:

To comply with the recommendations formulated by the Inter-American Commission on Human Rights (IACHR) in its Report 133/99 in the referenced case (Case No. 11.725), the Government of Chile submits the following proposal for compliance based on the criteria accepted by the Commission.

The proposal includes material and token measures that reflect the spirit and the actual capabilities of the Government to provide a satisfactory settlement to the affected party.

(...)

For its part, the family of Carmelo Soria Espinoza, has indicated its interest in considering as concluded the judicial proceedings initiated with a Chilean court against the State, for its extra-contractual liability in this case.

Objectives and scope of the proposal by the Government of Chile for compliance with the recommendations:

The proposal submitted by the Government of Chile to the Inter-American Commission on Human Rights is an agreement between the parties (government and petitioners) which has the following objectives:

- Bring international procedures to a definitive end, and specifically the measures adopted by the Commission to follow up on the recommendations contained in Report 133/99.
- Serve as a basis to put an end to the judicial complaint against the State for extra-contractual liability in the death of Carmelo Soria, known as "*Soria con Fisco*," which was filed with the Fourth Civil Court of Santiago, as Case N° C-2219-2000.
- Prevent future legal action from being brought against the Chilean State for State responsibility linked to action by its agents or for material or nonmaterial damages, including pain and suffering.

Elements of the proposal for compliance:

a) The family of Carmelo Soria Espinoza (hereinafter the petitioner) shall put a final end to the steps it has taken with the Inter-American Commission on Human Rights and it specifically states that all the recommendations contained in Report 133/99 of the Inter-American Commission on Human Rights are considered as fulfilled.

b) The petitioner accepts the token reparations offered by the State of Chile, consisting in the following:

- A public declaration by the government of Chile recognizing the responsibility of the State for the action of its agents in the death of Carmelo Soria Espinoza;
- In the same declaration, it offers to erect a structure in memory of Carmelo Soria Espinoza, at a location in Santiago designated by his family.

c) The petitioner shall abandon the action filed with the Fourth Civil Court of Santiago against the State for its extra-contractual liability in the case "*Soria con Fisco*," Case Record

N° C-2219-2000, indicating essentially that it agrees to put an end to the judicial proceedings initiated and that the reparations agreed before the Inter-American Commission on Human Rights will be the only ones demanded of the State and that, consequently, it will not pursue future judicial action against the State for its responsibility, either linked to the action of its agents or for material or nonmaterial damages, including pain and suffering. An authentic copy of the judicial decision providing for abandonment of the action shall be submitted to the Commission by the petitioner, in order to vouch for compliance with the agreed terms.

d) The Chilean State pledges to make a single payment of a total of one million five hundred thousand United States dollars, as compensation to the family of Carmelo Soria Espinoza; it will be made by means of an *exgratia* payment through the United Nations General Secretariat, by virtue of an Agreement to be concluded between the Government of Chile and the United Nations Organization.

e) The Government of Chile declares that Carmelo Soria Espinoza was an international official of the United Nations, assigned to the Economic Commission for Latin America, ECLA, as a high-ranking staff member of the Commission, in the capacity of superior international staff functionary.

f) The Government of Chile shall present a request to the Chilean Courts to reopen criminal proceedings to prosecute the persons responsible for causing the death of Carmelo Soria Espinoza.

The purpose of the proposals presented by the Government of Chile to comply with the recommendations of the Inter-American Commission on Human Rights is to put an end to the current dispute between the Chilean State and the family of Carmelo Soria Espinoza, as expressed in Case N° 11725.

The commitment signed by the petitioner, and addressed to the IACHR states as follows:

(...)

We are cognizant of the proposal for compliance with the recommendations of Report 133/99 submitted by the Government of Chile to this Commission, and we declare that we have read it in its entirety. The elements of the text are as follows:

a) The family of Carmelo Soria Espinoza (hereinafter the petitioner) shall terminate the action brought before the Inter-American Commission on Human Rights and expressly states that it considers that the recommendations contained in Report 133/99 of the Inter-American Commission on Human Rights have been complied with.

b) The petitioner accepts the token reparations offered by the State of Chile, consisting in the following:

- A public declaration by the government of Chile recognizing the responsibility of the State for the action of its agents in the death of Carmelo Soria Espinoza;

- In the same declaration, it offers to erect a structure in memory of Carmelo Soria Espinoza, at a location in Santiago designated by his family.

c) The petitioner shall abandon the action filed with the Fourth Civil Court of Santiago against the State for its extra-contractual liability in the case "*Soria con Fisco*," Case Record N° C-2219-2000, indicating essentially that it agrees to put an end to the judicial proceedings initiated and that the reparations agreed before the Inter-American Commission on Human Rights will be the only ones demanded of the State and that, consequently, it will not pursue future judicial action against the State for its responsibility, either linked to the action of its agents or for material or nonmaterial damages, including pain and suffering. An authentic copy of the judicial decision providing for abandonment of the action shall be submitted to the Commission by the petitioner, in order to vouch for compliance with the agreed terms.

d) The Chilean State pledges to make a single payment of a total of one million five hundred thousand United States dollars, as compensation to the family of Carmelo Soria Espinoza; it will be made by means of an *exgratia* payment through the United Nations General Secretariat, by virtue of an Agreement to be concluded between the Government of Chile and the United Nations Organization.

e) The Government of Chile declares that Carmelo Soria Espinoza was an international official of the United Nations, assigned to the Economic Commission for Latin America, ECLA, as a high-ranking staff member of the Commission, in the capacity of superior international staff functionary.

f) The Government of Chile shall present a request to the Chilean Courts to reopen criminal proceedings to prosecute the persons responsible for causing the death of Carmelo Soria Espinoza.

With regard to this proposal, we declare our complete conformity with it and acceptance of it, since it complies with the recommendations of the Commission's Report 133-99.

164. The Inter-American Commission pursued the exchange of information between the parties on compliance with the recommendations of Report N° 133/99, within the framework of the agreement cited above. The petitioners sent a communication dated January 22, 2007, in which they requested that the IACHR designate "a Commissioner or Special Reporter to travel to Chile and verify the status of compliance with the Agreement concluded between Chile and the UN on June 19, 2003, in accordance with the recommendations of Reports 133/99 and 19/03 of this Commission, since that agreement has been pending approval in the Senate since December 2005. Therefore, the State of Chile has not complied with its commitments to that organization as of this date."

165. In response to the latest request for information from the IACHR, dated February 21, 2007, the State of Chile sent a communication in which it stated that "the relevant measures have been adopted to expedite compilation of the information requested by the government agencies with competence in this area." The State adds:

Despite the foregoing, we would draw your attention to the fact that parliament is in its summer recess at the present time, and this is also true of a large part of the civil service, since the most important posts are under legal subrogation, which obviously entails an involuntary delay in receipt of the communications requested. The Commission is respectfully requested to bear this in mind, with respect to the 30 days granted to respond to its request.

166. Based on the available information, the Inter-American Commission takes note of the good will shown by the State, but it concludes that compliance with the recommendations contained in Report N° 133/99 is still pending.

PETITION 4617/02, Report N° 30/04, Mercedes Julia Huenteao Beroiza *et al.* (Chile)

167. On March 11, 2004, the Commission approved a friendly settlement procedure for the instant petition, in which the State pledged to adopt the following measures:

1. Measures to improve the institutionality providing for legal protection for the rights of indigenous peoples and their communities.
 - a) Constitutional recognition for the indigenous peoples in Chile, who have preserved their own ethnic and cultural manifestations that enrich their national identity, with a view to incorporating into the constitution principles that Chile adheres to in national and international spheres.

- b) Ratification of ILO Convention No. 169 by Chile.
 - c) Strengthening of indigenous participation in the Indigenous Development Area of the Alto Bío Bío.
 - d) Establishment of mechanisms that ensure the participation of indigenous communities in management of the Ralco Forest Reserve.
2. Measures to strengthen the territorial and cultural Mapuche Pehuenche identity and mechanisms for participation in their own development.
- a) Creation of a commune in the sector of the Alto Bío Bío.
 - b) Development of mechanisms that will make it possible to solve land disputes that affect indigenous communities in the sector of the Alto Bío Bío.
 - c) Strengthening of indigenous participation in the Indigenous Development Area of the Alto Bío Bío.
 - d) Agreement on mechanisms to ensure the participation of indigenous communities in management of the Ralco Forest Reserve.
3. Measures to ensure the environmental conservation and development of the Alto Bío Bío sector.
- a) Agreement on mechanisms to ensure that the indigenous communities are informed, heard, and given consideration in the monitoring and control of environmental obligations under the Ralco Hydro-electric Power Project.
 - b) Strengthening of the economic development of the Alto Bío Bío sector, to the benefit of the indigenous communities, through mechanisms that are acceptable for the complainants.
 - c) Agreement on mechanisms to facilitate and improve tourist development of the watersheds of the Alto Bío Bío, to the benefit of the indigenous communities.
 - d) Agreement on binding mechanisms for all government agencies to ensure that future mega-projects, and particularly hydro-electric power plants, are not developed on the indigenous lands of the Alto Bío Bío.
4. Agreement in a brief, immediate period of time, on measures pertaining to the court cases affecting indigenous leaders that have been heard in proceedings related to construction of the Ralco Hydro-Electric Power Plant.
5. Measures to meet the specific demands of the Mapuche Pehuenche families involved.

168. The IACHR requested information from both parties regarding the status of compliance with the aforesaid agreement. Within the established period, the Chilean State responded that it had adopted the necessary measures to obtain the information requested, and that it would be sent to the Inter-American Commission as soon as it had received it. No information was received from the petitioners.

169. The information available to the IACHR leads it to consider that the referenced agreement has been partially complied with, and it again urges both parties to continue a

constructive dialogue with a view to ensuring adoption of the measures needed for full compliance with the agreement.

CASE 12.142, Report N° 90/05, Alejandra Marcela Matus Acuña *et al.* (Chile)

170. On October 24, 2005, the IACHR adopted Report N° 90/05 on the merits of the referenced case and issued the following recommendation to the Chilean State:

Provide for adequate reparations to Alejandra Marcela Matus Acuña for the consequences of the violations of the right to freedom of expression and the right to property, to the detriment of the journalist Alejandra Matus Acuña.

171. The Inter-American Commission has not received information on compliance with this recommendation from either the Chilean State or the petitioners, as a result of which it considers it as pending.

CASE 11.654, Report N° 62/01, Río Frío Massacre (Colombia)

172. On April 6, 2001, the IACHR adopted Report N° 62/01 in case 11.654, dealing with the massacre of Riofrío. On that occasion the Commission issued three recommendations. First of all, the IACHR recommended that the State “conduct an impartial and effective investigation in ordinary jurisdiction with a view to prosecuting and punishing those materially and intellectually responsible.” In connection with that, in Note DDH/GOI 65055/3031 from the Directorate of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, dated December 28, 2006, the State reiterated the information already furnished, indicating that the Criminal Cassation Chamber of the Supreme Court of Justice, in a judgment dated March 6, 2003, had ordered the annulment of all the proceedings before the military courts and had ordered the case sent to the regular justice system. It also reported that the Unit for Human Rights and International Humanitarian Law of the Office of the Prosecutor General had ordered, in a resolution dated September 2, 2005, that the investigation be conducted in tandem with the investigation being pursued by the Human Rights Sub-Unit of the city of Cali into the murders of Miguel Enrique Ladino Largo *et al.* It also reported that in a resolution of August 14, 2006, the head of the Central Criminal Analysis Unit had ordered the support of analysts in organizing the information gathered and in concluding the investigation of the incident that took place on October 5, 1993, in the municipality of Riofrío, Valle.

173. Secondly, the IACHR recommended taking “such steps as are necessary to ensure that the families of the victims are duly compensated.” Information provided by the State indicates that the compensation payment provided for under the mechanism set out in Law 288/96 was made and therefore that this recommendation has been effectively met.

174. Thirdly, it recommended taking the steps necessary to prevent any future occurrence of similar events in accordance with its duty to prevent and guarantee the basic rights recognized in the American Convention, as well as adopting the measures necessary to give full force and effect to the doctrine developed by the Constitutional Court of Colombia and by the Inter-American Commission in investigating and prosecuting similar cases through the ordinary criminal justice system. The measures adopted by the State have been and will continue to be assessed in the IACHR’s general reports, and in the exercise of the Commission’s various conventional and statutory functions. The Commission concludes that the recommendations have been partially implemented.

CASE 11.710, Report N° 63/01, Carlos Manuel Prada González and Evelio Antonio Bolaño Castro (Colombia)

175. On April 6, 2001, the IACHR adopted Report N° 63/01 in case 11.710, dealing with the extrajudicial killing of Carlos Manuel Prada González and Evelio Antonio Bolaño Castro. On that occasion the Commission issued three recommendations. In first place, the IACHR recommended that the state “carry out a full, impartial, and effective investigation within the ordinary jurisdiction with a view to judging and punishing those responsible for the extrajudicial execution of Carlos Manuel Prada and Evelio Antonio Bolaño Castro.” On December 21, 2006, in Note DDH/GOI 64988/3026 from the Directorate of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, the State reported that the applicant’s lawyer had lodged an appeal for annulment with the Criminal Chamber of the Supreme Court of Justice against the decision of the Military Criminal Court of March 22, 2002, that had acquitted the state agents involved in the case, and that the Criminal Cassation Chamber of the Supreme Court of Justice had ruled on September 13, 2006, that the proceedings be annulled as of the deed of October 11, 1996, whereby the first-instance judge of the military justice system had ordered the committal hearing closed. It also reported that on that date, the proceedings were taken on by the office of the 11th Prosecutor of the Medellín Brigade, with which the case would remain before the military courts.

176. Secondly, the IACHR recommended adopting “the measures necessary to ensure that the victims’ next-of-kin receive adequate and timely reparations for the violations determined in the Report.” The State repeated the information already submitted, indicating that the Committee of Ministers had determined, in resolution No. 2 of May 3, 2002, to issue a favorable decision for awarding compensation for damages to the victims’ relatives under the terms of Law 288/96, and that the resolution in question had been attached to the administrative proceedings being pursued by the Administrative Court of Antioquia, during which proceedings the National Army was declared administratively responsible for the facts of the instant case in a judgment dated November 16, 2004. The information indicates that judgment is currently before the appeals court and that a request has been made for the decision to be given precedence. The information made available to the IACHR does not indicate that the corresponding indemnification payments have been made.

177. Thirdly, it recommended taking the steps necessary to prevent any future occurrence of similar events in accordance with its duty to prevent and guarantee the basic rights recognized in the American Convention, as well as adopting the measures necessary to give full force and effect to the doctrine developed by the Constitutional Court of Colombia and by the Inter-American Commission in investigating and prosecuting similar cases through the ordinary criminal justice system. The measures adopted by the State have been and will continue to be assessed in the IACHR’s general reports, and in the exercise of the Commission’s various conventional and statutory functions. The Commission concludes that the recommendations are pending implementation.

CASE 11.712, Report N° 64/01, Leonel de Jesús Isaza Echeverry (Colombia)

178. On April 6, 2001, the IACHR adopted Report N° 64/01 in case 11.712, dealing with the extrajudicial killing of Leonel de Jesús Isaza Echeverry and others. On that occasion the Commission issued three recommendations. The first of these was to “conduct an impartial and effective investigation before ordinary jurisdiction for the purpose of judging and sanctioning those responsible for the extrajudicial execution of Mr. Leonel de Jesús Isaza Echeverry.” On December 21, 2006, in Note DDH/GO No. 65084/3044 from the Directorate of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs, the State again informed that on November 23, 2004, the Second Division Court of the National Army had resolved to acquit Maj. Hernán Bonilla Carrera Sanabria and the retired volunteer soldiers Manuel Bonilla Collazos and José Armando Cruz González of the crimes of homicide and attempted homicide. Later, the Superior

Military Court resolved the appeal filed by the Judicial Attorney and military prosecutor, upholding the acquittal judgment in full. The Assistant Attorney General of the Nation was later asked to file review proceedings against the acquittal, but this suit was dismissed on the ground that “no overwhelming noncompliance of the Colombian State’s obligation to conduct a serious and impartial investigation” had been detected. The Commission notes that the proceedings were not transferred to the regular courts and that the trial concluded with the military courts’ acquittal of the members of the National Army. Consequently, it must conclude that this recommendation has not been implemented.

179. Secondly, the IACHR recommended adopting the measures necessary to redress the consequences of the violations committed against María Fredesvinda Echeverry and Lady Andrea Isaza Pinzón, as well as providing due indemnity for the relatives of Leonel de Jesús Isaza Echeverry. The information submitted by the State indicates that in a judgment dated October 29, 2004, the Relief Chamber for the Administrative Court of Norte de Santander and Cesar ruled that the Colombian State was administratively responsible for the death of Leonel de Jesús Isaza Echeverry and for the injuries inflicted on María Fredesvinda Echeverry de Isaza and Lady Andrea Isaza Pinzón, and ordered that the victims and their next-of-kin be paid moral and material damages. The information furnished further indicates that this judgment was expanded on January 31, 2005, to include other charges upheld against the State, but the applicant had filed an appeal, which is still pending resolution. In addition, the State again reported that the Committee of Ministers had decided, in resolution No. 3 of May 3, 2002, to issue a favorable decision for awarding the corresponding compensation for damages to the victims and their next-of-kin. The State also reported that the conciliation hearing was held on September 28, 2006, and that the conciliation agreement is still pending the approval of the Council of State. The information made available to the IACHR does not indicate that the corresponding indemnification payments have been made.

180. Thirdly, it recommended taking the steps necessary to prevent any future occurrence of similar events in accordance with its duty to prevent and guarantee the basic rights recognized in the American Convention, as well as adopting the measures necessary to give full force and effect to the doctrine developed by the Constitutional Court of Colombia and by the Inter-American Commission in investigating and prosecuting similar cases through the ordinary criminal justice system. The measures adopted by the State have been and will continue to be assessed in the IACHR’s general reports, and in the exercise of the Commission’s various conventional and statutory functions. The Commission concludes that the recommendations have been partially implemented.

CASE 11.421, Report N° 93/00, Edison Patricio Quishpe Alcívar (Ecuador)

181. In Report N° 93/00 of October 5, 2000, the IACHR decided:

1. To recognize that the State has made payment of US\$30,000 in compensation, and has failed to carry out its commitment to punish the persons responsible for the violation alleged and to pay interest for the delinquency in paying the compensation.
2. To urge the State to take the necessary measures to carry out the commitment to pursue civil and criminal proceedings and to seek to impose punishment on those persons who, in the performance of government functions or under the color of public authority, are considered to have participated in the alleged violation, and the payment of interest for the delinquency in payment of the compensation.

3. To continue to monitor and supervise implementation of the friendly settlement, and in that context to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months as to performance of the obligations assumed by the State under this friendly settlement.

182. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. Within the set deadline, the petitioners replied that "the State has implemented only the economic portion of the agreement as signed, and to date has carried out no judicial investigations or imposed any sort of punishment on those directly responsible for the violations committed by state agents." No reply was received from the Ecuadorian State.

183. Based on the information available, the Inter-American Commission concludes that the friendly settlement agreement has been partially implemented.

CASE 11.439, Report N° 94/00, Byron Roberto Cañaveral (Ecuador)

184. In Report N° 94/00 of October 5, 2000, the IACHR decided:

1. To recognize that the State has made payment of US\$7,000.00 as compensation, and that it has failed to carry out its commitment to punish the persons responsible for the violation alleged, or to pay interest for the delinquency in payment of the compensation.

2. To urge the State to take the measures needed to carry out the pending commitment to bring civil, criminal, and administrative proceedings against those persons who, in the performance of state functions, participated in the alleged violations, and to pay interest for the delinquency in payment of the compensation.

3. To continue to monitor and supervise implementation of the friendly settlement agreement, and in this context to remind the Ecuadorian State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on progress in carrying out the obligations assumed by the State under this friendly settlement.

185. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. Within the set deadline, the petitioners replied that "the State has implemented only the economic portion of the agreement as signed, and to date has carried out no judicial investigations or imposed any sort of punishment on those directly responsible for the violations committed by state agents." No reply was received from the Ecuadorian State.

186. Based on the information available, the Inter-American Commission concludes that the friendly settlement agreement has been partially implemented.

CASE 11.466, Report N° 96/00, Manuel Inocencio Lalvay Guamán (Ecuador)

187. In Report N° 96/00 of October 5, 2000, the IACHR decided:

1. To recognize that the State has made payment of US\$25,000 as compensation, and has failed to carry out its commitment to punish the persons responsible for the violation alleged.

2. To urge the State to take the measures needed for carrying out the commitments still pending with respect to bringing to trial the persons considered responsible for the facts alleged.

3. To continue to monitor and supervise compliance with each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR, every three months, as to the performance of the obligations assumed by the State under this friendly settlement agreement.

188. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the friendly settlement agreement has been partially implemented.

CASE 11.584, Report N° 97/00, Carlos Juela Molina (Ecuador)

189. In Report N° 97/00 of October 5, 2000, the IACHR decided:

1. To recognize that the State has made payment of US\$15,000 as compensation, and that it has failed to carry out its commitment to punish the persons responsible for the violation alleged.

2. To urge the State to take the measures needed to comply with the pending commitments to punish the persons responsible for the violation alleged.

3. To continue to monitor and supervise compliance with each and every point of the friendly settlement agreement, and in this context to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months regarding performance of the obligations assumed by the State under this friendly settlement agreement.

190. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No reply was received from the Ecuadorian State. In contrast, the petitioners replied that "the State has implemented only the economic portion of the agreement as signed, and to date has carried out no judicial investigations or imposed any sort of punishment on those directly responsible for the violations committed by state agents." The petitioners added:

The State issued a deed ruling that the criminal action against the accused had expired. In fact, the deed of statutory limitations issued by the police courts during the prosecution of the perpetrators of the violations committed against Carlos Juela Molina allowed the State to accept the filing lodged with the IACHR and, later, to sign the agreement.

191. Based on the information available, the Inter-American Commission concludes that the friendly settlement agreement has been partially implemented.

CASE 11.783, Report N° 98/00, Marcia Irene Clavijo Tapia (Ecuador)

192. In Report N° 98/00 of October 5, 2000, the IACHR decided:

1. To recognize that the State has made payment of US\$63,000 as compensation, and to note its failure to carry out its commitments to punish the persons responsible for the violations alleged and to pay interest for the delinquency in payment of the compensation.

2. To urge the State to take the measures necessary to carry out the commitments pending with respect to bringing to trial and punishing the persons responsible for the violations alleged, and to paying interest for the delinquency in payment of the compensation.

3. To continue to monitor and supervise each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months regarding performance of the obligations assumed by the State under this friendly settlement agreement.

193. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. Within the set deadline, the petitioners replied that “the State has implemented only the economic portion of the agreement as signed, and to date has carried out no judicial investigations or imposed any sort of punishment on those directly responsible for the violations committed by state agents.” No reply was received from the Ecuadorian State.

194. Based on the information available, the Inter-American Commission concludes that the friendly settlement agreement has been partially implemented.

CASE 11.868, Report N° 99/00, Carlos Santiago and Pedro Andrés Restrepo (Ecuador)

195. The case was submitted to the friendly settlement procedure at the request of the parties. In the agreement clauses contained in the friendly settlement report, the Ecuadorian State undertook to:

SEVENTH. FREEDOM OF ACTION

... not to interfere in the constitutional and statutory rights of freedom of expression and freedom of assembly of the Restrepo family, their sympathizers, and human rights organizations that join this cause for the purpose of commemorating the death of Carlos and Pedro Andrés Restrepo Arismendy or for other purposes related to this event. The National Police and Armed Forces shall guarantee these natural and juridical persons the free exercise of these guarantees, in keeping with Ecuadorian law.

196. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No reply was received from the Ecuadorian State. In contrast, the petitioners replied that problems with the implementation of this clause still remain, and that “the family and their supporters continue their peaceful public demonstrations in Quito and that, on occasions (albeit not always), the police has tried to interrupt them.” The family told the petitioners that they had complained to the police about that situation, and that Mr. Pedro Restrepo had sent letters to President Rafael Correa and, while he was still in office, to former president Alfredo Palacio. They also said:

We would like to use this opportunity to inform the Inter-American Commission about the State’s failure to meet two additional provisions of the friendly settlement agreement that the family believes are essential: (1) a new search for the bodies of the Restrepo brothers in Lake Yambo (“Sixth: New Search for the Restrepo brothers”), and (2) full disclosure regarding the facts related to the arbitrary arrest, torture, and murder of the Restrepo brothers, and about how those violations were covered up, and the full legal prosecution of all the parties involved (“Ninth: Punishment of Persons not Placed on Trial”).

197. Based on the information available, the Inter-American Commission concludes that the friendly settlement agreement has been partially implemented.

CASE 11.991, Report N° 100/00, Kelvin Vicente Torres Cueva (Ecuador)

198. In Report N° 100/00 of October 5, 2000, the IACHR decided:

1. To recognize that the State has made payment of the US\$50,000 in compensation, and to note its failure to carry out its commitments to punish the persons responsible for the violation alleged, and to pay interest for the delinquency in payment of the compensation.
2. To urge the State to make the decisions needed to carry out the pending commitments to bring to trial the persons considered responsible for the facts alleged, and to pay interest for the delinquency in payment of the compensation.
3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in that context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on performance of the obligations assumed by the State under this friendly settlement agreement.

199. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. Within the set deadline, the petitioners replied that "the State has implemented only the economic portion of the agreement as signed, and to date has carried out no judicial investigations or imposed any sort of punishment on those directly responsible for the violations committed by state agents." No reply was received from the Ecuadorian State.

200. Based on the information available, the Inter-American Commission concludes that the friendly settlement agreement has been partially implemented.

CASE 11.478, Report N° 19/01, Juan Clímaco Cuellar *et al.* (Ecuador)

201. In Report N° 19/01 of February 20, 2001, the IACHR decided:

1. To acknowledge that the State has made payment of US\$100,000 as compensation to each of the victims of the situations alleged, and to note the lack of compliance with respect to the punishment of the persons responsible for the violation alleged, and with respect to the payment of interest for the delay in payment of the above-noted sum.
2. To urge the State to adopt the measures needed to comply with the commitments pending with respect to the trial of the persons presumed to be responsible for the facts alleged.
3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR every three months of compliance with the obligations assumed by the State under this friendly settlement.

202. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the friendly settlement agreement has been partially implemented.

CASE 11.512, Report N° 20/01, Lida Angela Riera Rodriguez (Ecuador)

203. In Report N° 20/01 of February 20, 2001, the IACHR decided:

1. To acknowledge that the State has made payment of US\$20,000 as compensation, and has initiated the judicial proceedings with respect to the sanction of the persons implicated in the facts alleged.
2. To urge the State to adopt the necessary measures to conclude implementation of the commitment regarding the trial of persons implicated in the facts alleged.
3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR, every three months, of its compliance with the obligations assumed by the State under this friendly settlement agreement.

204. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the friendly settlement agreement has been partially implemented.

CASE 11.605, Report N° 21/01, René Gonzalo Cruz Pazmiño (Ecuador)

205. In Report N° 21/01 of February 20, 2001, the IACHR decided:

1. To recognize that the State has made payment of US\$30,000 in compensation, and has initiated the judicial proceeding to punish the persons implicated in the alleged violation.
2. To urge the State to adopt the necessary measures to conclude implementation of the commitment to prosecute the persons implicated in the facts alleged.
3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR every three months of compliance with the obligations assumed by the State under this friendly settlement.

206. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 11.779, Report N° 22/01, José Patricio Reascos (Ecuador)

207. In Report N° 22/01 of February 20, 2001, the IACHR decided:

1. To acknowledge that the State has made payment of US\$20,000 as compensation, and the beginning of judicial proceedings to punish the persons implicated in the facts alleged.
2. To urge the State to adopt the measures needed to comply with the commitments pending with respect to the trial of the persons presumed to be responsible for the facts alleged.
3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR every three months of compliance with the obligations assumed by the State under this friendly settlement.

208. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 11.992, Report N° 66/01, Dayra Maria Levoyer Jiménez (Ecuador)

209. In Report N° 66/01 of June 14, 2001, the IACHR extended the following recommendations to the Ecuadorian State:

1. Proceed to grant full reparations, which involves granting adequate compensation to Mrs. Dayra Maria Levoyer Jiménez.
2. Order an investigation to determine responsibility for the violations detected by the Commission and eventually to punish the individuals responsible.
3. Take such steps as are necessary to reform *habeas corpus* legislation as indicated in the present report, as well as to enact such reforms with immediate effect.

210. The IACHR requested both parties to report on the steps taken in compliance with these recommendations. No replies were received from either within the set deadline. The conclusion is that the aforesaid recommendations have been partially implemented.

CASE 11.441, Report N° 104/01, Rodrigo Elicio Muñoz Arcos *et al.* (Ecuador)

211. In Report N° 104/01 of October 11, 2001, the IACHR decided:

1. To certify that the State has complied with the commitment to pay US\$10,000 to each victim in this case, as compensation.
2. To remind the State that it must comply fully with the friendly settlement agreement by instituting judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR every three months of compliance with the obligations assumed by the State under this friendly settlement.

212. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 11.443, Report N° 105/01, Washington Ayora Rodriguez (Ecuador)

213. In Report N° 105/01 of October 11, 2001, the IACHR decided:

1. To certify compliance by the State with the payment of US\$30,000 to the petitioner in this case, as compensation.

2. To remind the State that it should fully implement the friendly settlement by beginning judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR, every three months, on the implementation of the obligations assumed by the State under this friendly settlement agreement.

214. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 11.450, Report N° 106/01, Marco Vinicio Almeida Calispa (Ecuador)

215. In Report N° 106/01 of October 11, 2001, the IACHR decided:

1. To certify compliance by the State with the payment of US\$30,000 to the petitioner in this case as compensation.

2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

216. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 11.542, Report N° 107/01, Angel Reiniero Vega Jiménez (Ecuador)

217. In Report N° 107/01 of October 11, 2001, the IACHR decided:

1. To certify compliance by the State with the payment of US\$30,000 to the petitioner in this case as compensation.
2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.
3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

218. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 11.574, Report N° 108/01, Wilberto Samuel Manzanos (Ecuador)

219. In Report N° 108/01 of October 11, 2001, the IACHR decided:

1. To certify compliance by the State with the payment of US\$30,000 to the petitioner in this case as compensation.
2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.
3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

220. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 11.632, Report N° 109/01, Vidal Segura Hurtado (Ecuador)

221. In Report N° 109/01 of October 11, 2001, the IACHR decided:

1. To certify compliance by the State with the payment of US\$30,000 to the petitioner in this case as compensation.
2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

222. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 12.007, Report N° 110/01, Pompeyo Carlos Andrade Benítez (Ecuador)

223. In Report N° 110/01 of October 11, 2001, the IACHR decided:

1. To certify compliance by the State with the payment of US\$20,000 to the petitioner in this case as compensation.

2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

224. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 11.515, Report N° 63/03, Bolívar Franco Camacho Arboleda (Ecuador)

225. In Report N° 63/03, the IACHR decided:

1. To certify the State's compliance with its commitment to pay US \$30,000 dollars to the victim by way of compensation.

2. To remind the State that it must comply fully with the friendly settlement agreement by initiating judicial proceedings against the persons involved in the alleged violations.

3. To continue with its monitoring and supervision of compliance with each and every point in the friendly settlement, and in this context to remind the State, through the Attorney General, of its commitment to report every three months to the IACHR on compliance with the obligations assumed by the State under this friendly settlement.

226. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 12.188, Report N° 64/03, Joffre José Valencia Mero, Priscila Zoreida Valencia Sánchez, Rocío Valencia Sánchez (Ecuador)

227. In Report N° 64/03, the IACHR decided:

1. To certify the State's compliance with its commitment to make compensation payments in the amount of USD \$25,000 to each of the three victims in this case.
2. To remind the State that it must comply fully with the Friendly Settlement Agreement by initiating judicial proceedings against the persons involved in the alleged violations.
3. To continue with its monitoring and supervision of compliance with each and every point in the friendly settlement; and, in this context, to remind the State, through the Attorney General, of its commitment to report every three months to the IACHR on compliance with the obligations assumed by the State under these friendly settlements.

228. The IACHR requested both parties to report on the steps taken in compliance with the friendly settlement agreement. No replies were received from either within the set deadline. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 12.394, Report N° 65/03, Joaquín Hernández Alvarado, Marlon Loor Argote and Hugo Lara Pinos (Ecuador)

229. In Report N° 65/03, the IACHR decided:

1. To certify the State's compliance with its commitment to make compensation payments in the amounts of US \$100,000.00 to Mr. Hernández, US \$300,000.00 to Mr. Loor, and US \$50,000.00 to Mr. Lara.
2. To remind the State that it must comply fully with the friendly settlement agreements by initiating judicial proceedings against the persons involved in the alleged violations.
3. To continue with its monitoring and supervision of compliance with each and every point in the friendly settlements; and, in this context, to remind the State, through the Attorney General, of its commitment to report every three months to the Commission on compliance with the obligations assumed by the State under these friendly settlements.

230. To date, neither the Ecuadorian State nor the petitioners have submitted reports on compliance with the friendly settlement agreement. The conclusion is that the aforesaid agreement has been partially implemented.

CASE 12.028, Report N° 47/01, Donnason Knights (Grenada)

231. In Report N° 47/01 dated April 4, 2001, the Commission recommended that the State:

1. Grant Mr. Knights an effective remedy which includes commutation of sentence and compensation.

2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in violation of the rights and freedoms guaranteed under the Convention, including Articles 4, 5, and 8, and in particular, to ensure that no person is sentenced to death pursuant to a mandatory sentencing law.

3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the American Convention to apply for amnesty, pardon or commutation of sentence is given effect in Grenada.

4. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the American Convention and the right to judicial protection under Article 25 of the American Convention are given effect in Grenada in relation to recourse to Constitutional Motions.

5. Adopt such legislative or other measures as may be necessary to ensure that the right to humane treatment under Article 5(1) and Article 5(2) of the American Convention in respect of the victim's conditions of detention is given effect in Grenada.

232. The State has not reported the Commission as to its compliance with the Commission's recommendations in Report N° 47/01. On December 23, 2002, the Petitioner wrote to the Commission and reported of the following: On May 2001, Anslem B. Clouden, Attorney-at-Law had written to the Attorney General of Grenada requesting adoption of the necessary measures in compliance with the Commission's recommendations. To date, as far as we are aware, there has been no response from the Attorney General, and Mr. Knights remains on death row, and we are unaware of any legislative measures, or any measures being adopted in relation to conditions of detention. In March 2002, the Judicial Committee of the Privy Council delivered landmark decisions in 3 cases, Patrick Reyes, Peter Hughes & Bertil Fox. They declared that the mandatory death penalty imposed on all those convicted of murder in the Eastern Caribbean and Belize is unconstitutional. The effect of this decision means that Mr. Knights' sentence will have to be reviewed as he was automatically sentenced to death upon conviction. Mr. Knights will now have an opportunity to place before the courts mitigating circumstances as to why the death penalty may not be appropriate in his case. Whilst the adoption of new legislative measures were as a result of the appeal to the Privy Council in the trilogy of cases mentioned above, and, not as a result of the Commission's recommendations in this case, the views of the Commission in relation to the mandatory issue were an important aspect of the arguments before the courts. The Commission's recommendations, and its decisions have played an instrumental role in these decisions." Based on these considerations, the IACHR presumes that the Government of Grenada has not complied with the Commission's recommendations.

233. By communications of November 9, 2004, the Commission requested information from the parties about compliance with the recommendations set forth in Report N° 47/01, pursuant to Article 46.1 of the Commission's Rules of Procedure. To date, the Commission has not received any response from the State.

234. By letters of January 10, 2005, the Petitioners in Case 12.028 (Donnason Knights), reported the Commission that the Judicial Committee of the Privy Council ruled in March 2002, that the mandatory death penalty was unconstitutional for certain Caribbean countries, including Grenada. The Petitioners added that all of the alleged victims remain on death row, awaiting judicial hearings to allow the Grenadian courts to re-sentence the alleged victims after hearing submission in mitigation of sentence.

235. The Petitioners state that it is unlikely that any of the alleged victims will be re-sentenced to death, they have all been on death row for a period in excess of five years. According to the Petitioners, execution of the alleged victims would, in these circumstances, be unconstitutional.

236. Finally, the Petitioners submit that apart from the judicial abolition of the mandatory death penalty, Grenada has not taken any steps to comply with the recommendations of the Commission. To date the Commission has not received any information from the State.

CASE 11.765, Report N° 55/02, Paul Lallion (Grenada)

237. In Report N° 55/02 dated October 21, 2003, the IACHR recommended that the State:

1. Grant Mr. Lallion an effective remedy which includes commutation of sentence and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in violation of the rights and freedoms guaranteed under the Convention, including Articles 4, 5, and 8, and in particular, to ensure that no person is sentenced to death pursuant to a mandatory sentencing law in Grenada.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the American Convention to apply for amnesty, pardon or commutation of sentence is given effect in Grenada.
4. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the American Convention and the right to judicial protection under Article 25 of the American Convention are given effect in Grenada in relation to recourse to Constitutional Motions.
5. Adopt such legislative or other measures as may be necessary to ensure that the right to humane treatment under Article 5(1) of the American Convention in respect of Mr. Lallion's conditions of detention is given effect in Grenada.
6. Adopt such legislative or other measures as may be necessary to ensure that the right to personal liberty under Article 7(2), Article 7(4), and 7(5) of the American Convention in respect of Mr. Lallion is given effect in Grenada.

238. The Commission lacks up-to-date information from the State and the petitioners on compliance with the recommendations. As such, the Commission presumes that the recommendations are pending compliance.

239. By communications of November 9, 2004, the Commission requested information from the parties about compliance with the recommendations set forth in Report No. 55/02, pursuant to Article 46.1 of the Commission's Rules of Procedure. To date, the Commission has not received any response from the State.

240. By letters of January 10, 2005, the Petitioners in Case 11.765 (Paul Lallion), reported the Commission that the Judicial Committee of the Privy Council ruled in March 2002, that the mandatory death penalty was unconstitutional for certain Caribbean countries, including Grenada. The Petitioners added that all of the alleged victims remain on death row, awaiting judicial

hearings to allow the Grenadian courts to re-sentence the alleged victims after hearing submission in mitigation of sentence.

241. The Petitioners state that it is unlikely that any of the alleged victims will be re-sentenced to death, they have all been on death row for a period in excess of five years. According to the Petitioners, execution of the alleged victims would, in these circumstances, be unconstitutional.

242. Finally, the Petitioners submit that apart from the judicial abolition of the mandatory death penalty, Grenada has not taken any steps to comply with the recommendations of the Commission. To date the Commission has not received any information from the State.

CASE 12.158, Report N° 56/02 Benedict Jacob (Grenada)

243. In Report N° 56/02 dated October 21, 2003, the Commission recommended that the State:

1. Grant Mr. Jacob an effective remedy which includes commutation of sentence and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in violation of the rights and freedoms guaranteed under the Convention, including Articles 4, 5, and 8, and in particular, to ensure that no person is sentenced to death pursuant to a mandatory sentencing law in Grenada.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the American Convention to apply for amnesty, pardon or commutation of sentence is given effect in Grenada.
4. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the American Convention and the right to judicial protection under Article 25 of the American Convention are given effect in Grenada in relation to recourse to Constitutional Motions.
5. Adopt such legislative or other measures as may be necessary to ensure that the right to humane treatment under Article 5(1) of the American Convention in respect of Mr. Jacob's conditions of detention is given effect in Grenada.

244. The Commission lacks up-to-date information from the State and the petitioners on compliance with the recommendations. As such, the Commission presumes that the recommendations are pending compliance.

245. By communications of November 9, 2004, the Commission requested information from the parties about compliance with the recommendations set forth in Report No. 56/02, pursuant to Article 46.1 of the Commission's Rules of Procedure. To date, the Commission has not received any response from the State.

246. By letters of January 10, 2005, the Petitioners in Case 12.158 (Benedict Jacob) reported the Commission that the Judicial Committee of the Privy Council ruled in March 2002, that the mandatory death penalty was unconstitutional for certain Caribbean countries, including Grenada. The Petitioners added that all of the alleged victims remain on death row, awaiting judicial hearings to allow the Grenadian courts to re-sentence the alleged victims after hearing submission in mitigation of sentence.

247. The Petitioners state that it is unlikely that any of the alleged victims will be re-sentenced to death, they have all been on death row for a period in excess of five years. According to the Petitioners, execution of the alleged victims would, in these circumstances, be unconstitutional.

248. Finally, the Petitioners submit that apart from the judicial abolition of the mandatory death penalty, Grenada has not taken any steps to comply with the recommendations of the Commission. To date the Commission has not received any information from the State.

CASE 11.625, Report N° 4/01, María Eugenia Morales de Sierra (Guatemala)

249. In Report N° 4/01, dated January 19, 2001, the Commission made the following recommendations to the Guatemalan State:

1. Adapt the pertinent provisions of the Civil Code to balance the legal recognition of the reciprocal duties of women and men in marriage and take the legislative and other measures necessary to amend Article 317 of the Civil Code so as to bring national law into conformity with the norms of the American Convention and give full effect to the rights and freedoms guaranteed to María Eugenia Morales de Sierra therein.

2. Redress and adequately compensate María Eugenia Morales de Sierra for the harm done by the violations established in this Report.

250. As for the recommendation that Article 317 of the Civil Code be amended, the Commission observes that no such amendment has been introduced. It therefore urges the State to take the measures necessary to comply with the Commission's recommendation.

251. On March 3, 2007, the petitioners and the State of Guatemala signed an "Agreement for Specific Compliance with Recommendations," the purpose being to formalize the State's obligations to comply with the Commission's recommendations in Report No. 4/01. The agreement signed states that María Eugenia Morales de Sierra expressly waived the financial compensation that the IACHR had recommended she receive as a victim of human rights violations because "her cause was to win recognition of women's dignity." The Commission will continue to monitor the fulfillment of the commitments established in the aforesaid Agreement for Compliance.

CASE 9207, Report N° 58/01, Oscar Manuel Gramajo López (Guatemala)

252. In Report N° 58/01, dated April 4, 2001, the IACHR made the following recommendations to the State of Guatemala:

- a. Conduct an impartial and effective investigation of the facts reported to determine the circumstances and fate of Mr. Oscar Manuel Gramajo López, which would establish the identity of those responsible for his disappearance and punish them in accordance with due process of law.

- b. Adopt measures for full reparation of the violations determined, including: steps to locate the remains of Mr. Oscar Manuel Gramajo López; the necessary arrangements to accommodate the family's wishes in respect of his final resting place; and proper and timely reparations for the victim's family.

253. At the Commission's request, on December 28, 2006 the State reported that it had been unable to contact the petitioners to reach a reparations agreement in furtherance of the recommendations made in the Commission's Report N° 58/01. The Commission expects that the State will continue to make the efforts necessary to locate the victim's next-of-kin in order to make proper reparations.

CASE 10.626 Remigio Domingo Morales and Rafael Sánchez; CASE 10.627 Pedro Tau Cac; CASE 11.198(A) José María Ixcaya Pixtay *et al.*; CASE 10.799 Catalino Chochoy *et al.*; CASE 10.751 Juan Galicia Hernández *et al.*, and CASE 10.901 Antulio Delgado Report N° 59/01 (Guatemala)

254. In Report N° 59/01, dated April 7, 2001, the IACHR concluded that the Guatemalan State was responsible for violating the following rights: (1) the right to life recognized in Article 4 of the American convention, in the cases of Remigio Domingo Morales, Rafael Sánchez, Pedro Tau Cac, José María Ixcaya Pixtay, José Vicente García, Mateo Sarat Ixcoy, Celestino Julaj Vicente, Miguel Calel, Pedro Raguez, Pablo Ajiataz, Manuel Ajiataz Chivalán, Catrino Chanchavac Larios, Miguel Tiu Imul, Camilo Ajqui Gimón and Juan Tzunux Us; (2) the right to personal liberty recognized in Article 7 of the American Convention, in the cases of Remigio Domingo Morales, Rafael Sánchez, Pedro Tau Cac and Camilo Ajqui Gimón; (3) the right to humane treatment recognized in Article 5 of the American Convention and articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, in the cases of Remigio Domingo Morales, Rafael Sánchez, Pedro Tau Cac and Camilo Ajqui Gimón, victims of extrajudicial execution, and the right to respect for one's physical integrity, also recognized in Article 5 of the American Convention, in the cases of Catalino Chochoy, José Corino, Abelino Baycaj, Antulio Delgado, Juan Galicia Hernández, Andrés Abelino Galicia Gutiérrez and Orlando Adelso Galicia Gutiérrez, victims of attempted extrajudicial execution; (4) the rights of the child recognized in Article 19 of the American Convention, in the cases of minors Rafael Sánchez and Andrés Abelicio Galicia Gutiérrez; (5) the right to judicial guarantees and to judicial protection, recognized in articles 8 and 25 of the American Convention, respectively, in the case of all the victims of extrajudicial and attempted extrajudicial execution; (6) in all these cases the State was also found responsible for failing to honor its obligation under Article 1.1 of the American Convention, which is the duty to respect and ensure the rights and freedoms that the Convention protects. Based on the analysis and conclusions set forth in the report, the Commission made the following recommendations to the State:

1. That it conduct a thorough, impartial and effective investigation to determine the circumstances of the extrajudicial executions and attempted extrajudicial executions of each victim and the attendant violations, and punish those responsible.
2. That it takes the necessary measures so that the next-of-kin of the victims of the extrajudicial executions might receive adequate and prompt compensation for the violations herein established.
3. That it takes the necessary measures so that the victims of the attempted extrajudicial executions might receive adequate and prompt compensation for the violations herein established.
4. That it effectively prevents a resurgence and reorganization of the Self-defense Civil Patrols.
5. That in Guatemala the principles established in the United Nations "Declaration on the right and responsibility of individuals, groups and institutions to

promote and protect universally recognized human rights and fundamental freedoms” be promoted and that the necessary measures be taken to ensure that the right of those who work to secure respect for fundamental rights is respected and that their life and personal integrity are protected.

255. What follows is a description of the State’s compliance with the recommendations made in each of the cases joined in Report N° 59/01.

Case 10.626, Remigio Domingo Morales and Rafael Sánchez (Guatemala)

256. In Resolution 1/06, dated April 24, 2006, the Inter-American Commission decided to correct Report N° 59/01, published and approved on April 7, 2001, to read that on June 28, 1990, Messrs. Remigio Domingo Morales and Rafael Sánchez were detained by members of the Self-defense Civil Patrols and were taken that same day to the Huehuetenango Hospital for treatment of multiple blunt trauma wounds. The two were both released from the hospital on July 3, 1990. The resolution in question found that the State had violated the right to physical integrity of Mr. Remigio Domingo Morales and Mr. Rafael Sánchez.

Case 10.627, Pedro Tiu Cac (Guatemala)

257. Based on the background information on the case, on July 2, 1990, in the village of Chiop, Santa María Chiquimula, Totonicapán, Pedro Tiu Cac, a member of the Mayan indigenous community and a member of the Runujel Junam Ethnic Communities Council (CERJ), was attacked while doing farm work. His assailants were men in civilian dress—presumably members of the PAC—who detained him and took him to some unknown destination. Several days later, his corpse was found in a deserted area and bore signs of torture. On February 18, 2005, the petitioners and the State of Guatemala signed an “Agreement for Compliance with Recommendations” to formalize the State’s obligations with regard to compliance with the Commission’s recommendations in the Merits Report No. 59/01. In that agreement, the State acknowledged institutional responsibility for violation of the right to life, the right to personal liberty, the right to personal integrity, the right to a fair trial and the right to judicial protection, and for failure to respect and ensure the rights protected in the American Convention, to the detriment of Pedro Tiu Cac. The State also acknowledged that 1990 to 1992 were years of systematic violations of the right to life in the form of forced executions and assaults against persons, perpetrated by agents of the State. On July 2, 1990, in the village of Chiop, Santa María Chiquimula, Totonicapán, Pedro Tiu Cac, a member of the indigenous Mayan community and the Runujem Junam Ethnic Communities Council was attacked while doing farm work. His assailants were men in civilian dress, believed to be members of the PAC. They detained Pedro Tiu Cac and took him to some unknown destination. Some days later his lifeless body was discovered in a deserted place and bore signs of torture.

258. As for the investigation, prosecution and punishment of those responsible, the State pledged to take the necessary measures to ensure that the Public Prosecutor’s Office conducts a responsible investigation into the facts denounced. On the matter of reparations, the State acknowledged that acceptance of international responsibility for the violations of the victim’s human rights meant that it had a responsibility to pay just compensation to the petitioners, as prescribed by domestic and international law. The State also pledged to publish its acknowledgement of institutional responsibility for the violations of Pedro Tiu Cac’s human rights and to make apologies to his next-of-kin in a public ceremony. The State pledged as well to take measures to honor the victim’s memory.

259. The Commission was told that in late December 2005, the State paid the victim’s next-of-kin the agreed compensation. On December 21, 2006, the State reported that, at the request of the victim’s next-of-kin, the State’s apologies were done privately.

260. The Commission appreciates the efforts made by the victims' next-of-kin and their representatives. For years, they have been relentless in the pursuit of justice, both in the domestic courts and with the inter-American system for the protection of human rights. It appreciates also the steps taken by the Guatemalan State to comply with the recommendations made in Merits Report 59/01 with regard to the violations of Pedro Tiu Cac's human rights.

261. The Commission must also underscore how important it is that the State fulfills its obligations to investigate, prosecute and punish those responsible for the facts denounced, both as moral compensation for the victims and their next-of-kin and in fulfillment of the pledge that the events will not recur. In the case in question, the State of Guatemala has not fulfilled this obligation. Therefore, the Commission will continue to observe this important process in order to monitor the standing agreements.

Case 11.198(A), José María Ixcaya Pixtay *et al.* (Guatemala)

262. On February 18, 2005, the petitioners and the Guatemalan State signed an "Agreement for Compliance with Recommendations" in order to formalize the State's obligations vis-à-vis fulfillment of the recommendations made by the IACHR in Merits Report 59/01. In the agreement, the Guatemalan State acknowledged its institutional responsibility for the violation of the right to life, the right to personal liberty, the right to personal integrity, the right to a fair trial and the right to judicial protection, and its failure to comply with its obligation to respect and ensure the Convention-protected rights, to the detriment of José María Ixcaya Pixtay, José Vicente García, Mateo Sarat Ixcay, Celestino Julaj Vicente, Miguel Tzoy Calel, Pedro Raguez, Pablo Ajiataz, Manuel Ajiataz Chivalan, Catrino Chanchavac Larios, Miguel Tiu Imul, Camilo Ajquí Gimón and Juan Tzunux Us. The State acknowledged that the period from 1990 to 1992 was marked by systematic violations of the right to life in the form of forced executions and assaults perpetrated by agents of the State.

263. From the information supplied by the parties the Commission has learned that the State has made economic reparations to the victims' next-of-kin, save in the case of five petitioners where intestate succession had to be established for them to qualify to receive it. As for the measures to honor the victims' memory, the State has yet to deliver the commemorative plaque for Miguel Tiu Imul. The Commission does appreciate the efforts made by the State to comply with the recommendations, and the efforts of the victims' next-of-kin and their representatives.

264. However, the Commission has received no information as to the progress made to prosecute and punish those responsible. The Commission must insist that the State has an obligation to investigate, prosecute and punish those responsible for the facts denounced, both as moral compensation for the victims and their next-of-kin and to comply with its obligation to ensure that these events do not recur. In the case in question, the Guatemalan State has not fulfilled this obligation. The Commission will therefore continue to observe the State's compliance with the Commission's recommendations and monitor the pending agreements.

Case 10.799, Catalino Chochoy *et al.* (Guatemala)

265. At the Commission's request, on December 27, 2006 the State reported that it had been unable to contact the petitioners to arrive at a reparations agreement and thereby comply with the recommendations made in Report N° 59/01. On January 18, 2007, the IACHR forwarded the petitioners' contact information to the State and expects the State to continue to make the necessary efforts to contact the victims' next-of-kin in order to make adequate reparations.

Case 10.751, Juan Galicia Hernández *et al.* (Guatemala)

266. At the Commission's request, on December 27, 2006 the State reported that it had been unable to contact the petitioners to arrive at a reparations agreement and thereby comply with the recommendations made in Report N° 59/01. On January 18, 2007, the IACHR forwarded the petitioners' contact information to the State and expects the State to continue to make the necessary efforts to contact the victims' next-of-kin in order to make adequate compensation.

Case 10.901, Antulio Delgado (Guatemala)

267. The Commission has no information on the measures taken to comply with the recommendations on this case.

CASE 9111, Report N° 60/01, Ileana del Rosario Solares Castillo *et al.* (Guatemala)

268. In Report N° 60/01, dated April 4, 2001, the IACHR made the following recommendations to the State of Guatemala:

- a. Conduct an impartial and effective investigation into the facts of this complaint to determine the whereabouts and condition of Ileana del Rosario Solares Castillo, María Ana López Rodríguez, and Luz Leticia Hernández, to identify the persons responsible for their disappearance, and to punish them in accordance with the rules of due legal process.
- b. Take steps to make full amends for the proven violations, including measures to locate the remains of Ileana del Rosario Solares Castillo, María Ana López Rodríguez, and Luz Leticia Hernández, the arrangements necessary to fulfill their families' wishes regarding the final resting place of their remains, and adequate and timely compensation for the victims' relatives.

269. The information that the parties provided indicates that the first recommendation has not yet been carried out. Thus far, neither the identity of those responsible for the victims' disappearance nor the victims' whereabouts has been established. In the case of the second point, the Commission was told of a meeting that the parties had on December 4, 2006, to draw up a proposed friendly settlement.

270. The Commission must also underscore how important it is that the State fulfills its obligations to investigate, prosecute and punish those responsible for the facts denounced as moral compensation for the victims and their next-of-kin and the importance of fulfilling the guarantee that such events do not recur. In the case in question, the State of Guatemala has not fulfilled this obligation.

271. Therefore, the Commission will continue to monitor fulfillment of the recommendations made in this case.

CASE 11.382, Report N° 57/02, The Workers on the *Finca "La Exacta"* (Guatemala)

272. In Report N° 57/02, dated October 21, 2002, the IACHR made the following recommendations to the Guatemalan State:

1. That it begins a prompt, impartial and effective investigation of the events that took place on August 24, 1994 to be able to detail, in an official report, the circumstances of and responsibility for the use of excessive force on that date.

2. That it takes the necessary steps to subject the persons responsible for the acts of August 24, 1994 to the appropriate judicial proceedings, which should be based on a full and effective investigation of the case.

3. That it makes reparations for the consequences of the violations of the rights listed, including the payment of fair compensation to the victims or their families.

4. That it takes the necessary measures to ensure that violations of the type that took place in this case do not recur in future.

273. At the Commission's request, on December 28, 2006 the State reported that the sum of seven hundred thirty-five thousand quetzals (735,000) was turned over for the purchase of a piece of land selected by the members of the San Juan El Horizonte Workers Union, Empresa La Exacta S.A. The State also reported that certain points of the Reparations Agreement that the parties concluded on October 23, 2003, have still to be negotiated.

274. The Commission appreciates the measures that the Guatemalan State has taken to comply with the recommendations made in Report No. 57/02 and urges it to comply with the other commitments undertaken in the agreement signed with the petitioners. The Commission reiterates that on the question of justice, it remains attentive to the outcome of the public prosecutor's action on the case.

CASE 11.312, Report N° 66/03, Emilio Tec Pop (Guatemala)

275. The background for this case is that in the early hours of January 31, 1994, Emilio Tec Pop, age 16, was traveling from El Estor, in the Department of Izabal, to the departmental capital of Cobán, in Alta Verapaz, when he was detained by unknown persons. Some 32 days later, on March 3 of that year, the authorities from El Estor military post returned the young man to his family. The petitioners in this case stated that the youth had been held against his will and was physically and mentally mistreated. The petitioners also reported that the soldiers threatened Emilio with death and stabbed him in the hands with a knife.

276. On June 16, 2003, the State signed a Friendly Settlement Agreement. One of the commitments the State made in that agreement was to acknowledge its institutional responsibility for the facts that occurred. It also pledged to pay compensation and to take steps to get the investigation into these events back on course and to be able to punish those responsible for the facts. As for the commitment to investigate the facts and punish those responsible, the State reported that the case is in the hands of the Izabal Prosecutor's Office, case 52-94 of the El Estor Justice of Peace; the case was transferred to the current Criminal Court of First Instance of Izabal, classified as case 325-94. The State informed that there is a suspect and the case is now in the investigative phase. It also reported that steps had been taken with the Ministry of Agriculture and Livestock to honor the commitment to give Mr. Tec Pop an adequate amount of basic grain seed. However, the problem was that the State was uncertain about his present address. The Commission expects the State to continue its efforts to locate Mr. Tec Pop in order to honor the commitment it made in the Friendly Settlement Agreement.

277. The Commission appreciates the efforts made by the parties to arrive at and honor the Friendly Settlement and will continue to monitor those points that have not yet been fulfilled.

CASE 11.766, Report N° 67/03, Irma Flaquer (Guatemala)

278. According to the background of this case, journalist Irma Flaquer Azurdia was driving her car in Guatemala City on October 16, 1980 when she was abducted. Also in the car was her son, Fernando Valle Flaquer, who was injured and later died at the Hospital General San Juan de Dios. Irma Flaquer's whereabouts have been unknown since that day.

279. In Friendly Settlement Report 67/03, dated October 10, 2003, the Commission stated that it had been informed that the petitioners in the case –the Inter-American Press Association (IAPA) - were satisfied with the implementation of the great majority of the points of the agreement. However, the following three points were still pending: (1) the establishment of a scholarship for the study of journalism; (2) the creation of a university chair on the history of journalism; and (3) the writing of a letter to family members asking for forgiveness.

280. On December 28, 2006, the State reported that the majority of the commitments undertaken in the friendly settlement agreement had been honored. The petitioners, for their part, pointed out that the State had to submit reports on the progress of the criminal investigation, although they acknowledged and were completely satisfied that the other points of the friendly settlement agreement had been fulfilled.

281. The Inter-American Commission has closely followed the development of this friendly settlement and greatly appreciates the efforts that the parties have made to achieve it. The Commission once again underscores how important it is that the State's obligation to investigate, try and punish those responsible for the facts be fulfilled, that the victims and their next-of-kin be compensated and that the State guarantees that the facts in the case will never recur. The Commission will therefore continue to monitor developments in the judicial inquiry into the facts in this case.

CASE 11.197, Report N° 68/03, Community of San Vicente de Los Cimientos (Guatemala)

282. On August 24, 1993, the Human Rights Legal Action Center (CLADH) and the Runujel Junam Council of Ethnic Communities (CERJ) (hereinafter "the petitioners"), representing 233 indigenous families, lodged a petition with the Commission. There they alleged that during the armed conflict, the area known as Los Cimientos -located in El Chajul, Quiché department, and home to 672 indigenous families who were the owners of that tract- was invaded by the Guatemalan Army, which established a barracks there. Threatened with shelling and in the wake of the murder of two of its members, the people of Los Cimientos were forced to flee their land in February 1982, abandoning their livestock and their corn, bean, and coffee crops. One month after the exodus, a number of families returned to the place, only to find that their homes had been burned down and their belongings stolen. The Los Cimientos community was forced off its land again in 1994. On June 25, 2001, the community's lands –of which it was the legal owner- were violently taken from them by neighbors and others, apparently with the Government's support.

283. The parties signed a friendly settlement agreement in Guatemala City on September 11, 2002. The Commission approved the terms of that agreement on October 10, 2003.

284. On December 28th, 2006, the State reported that while most points in the agreement had been implemented, the formation of the promotion committee in charge of verifying the state of the legal procedures against the persons implicated in the facts of the case was still pending, although a work meeting between the petitioners, the State and members of the community had already taken place.

285. Again, the Commission greatly appreciates the efforts the parties have made to reach this friendly settlement and the readiness to comply demonstrated by the State in this agreement. The Commission will continue to follow up and monitor those points of the friendly settlement agreement whose implementation is still pending.

PETITION 9168, Report N° 29/04, Jorge Alberto Rosal Paz (Guatemala)

286. The case file shows that on August 12, 1983, Mr. Jorge Alberto Rosal Paz was detained while driving between Teculután and Guatemala City. To date, his whereabouts remain unknown. On August 18, 1983, the IACHR received a petition that his wife, Blanca Vargas de Rosal, brought against the Guatemalan State alleging her husband's forced disappearance.

287. The parties signed a friendly settlement agreement in Guatemala City on January 9, 2004, the terms of which the IACHR approved on March 11, 2004. In the agreement the State acknowledged its institutional responsibility for failure to comply with its obligation under Article 1.1 of the American Convention on Human Rights to respect and ensure the rights recognized in the Convention and for its violation of Articles 4, 5, 7, 8, 11, 17, 19 and 25 of that Convention. It further stated that the primary purpose of the agreement reached in this case was to get at the truth and ensure that justice is done, to honor the victim's memory, make reparations for the violations of the victim's rights and to strengthen the regional system for the protection of human rights.

288. In a note sent to the Commission on February 15, 2006, Mrs. Blanca Vargas de Rosal reported that the only commitment honored by the State was the one related to the payment of financial compensation. The commitments pertaining to education, measures to honor the victim's memory, housing, investigation and justice had not been complied with.

289. On December 28, 2006, the State reported that on the question of investigation and prosecution, the case had been referred to the Office of the Prosecutor for Human Rights, which continued to take steps to comply with the obligations still pending from the friendly settlement agreement.

290. The Inter-American Commission has closely followed the progress made on this friendly settlement and appreciates the efforts the parties made to arrive at it. The Commission must once again stress how important it is that the State discharges its obligation to investigate, prosecute and punish those responsible for the facts denounced, both as moral compensation for the victims and their next-of-kin and as a guarantee that the facts will not recur. In the instant case, the Guatemalan State has not fulfilled this obligation. Therefore, the Commission will continue to monitor for compliance with the recommendations and the points of the agreement that have not yet been fulfilled.

PETITION 133/04, Report N° 99/05, José Miguel Mérida Escobar (Guatemala)

291. On January 19, 2004, the IACHR received a petition that Amanda Gertrudis Escobar Ruiz, Fernando Nicolás Mérida Fernández, Amparo Antonieta Mérida Escobar, Rosmel Omar Mérida Escobar, Ever Obdulio Mérida Escobar, William Ramírez Fernández, Nadezhda Vásquez Cucho and Helen Mack Chang brought against the Guatemalan State for the extrajudicial execution of José Miguel Mérida Escobar on August 5, 1991. The petition states that Mr. Mérida Escobar was serving as Chief of the Homicide Division of the Department of Criminological Investigation of the National Police. He was in charge of the investigation into the murder of anthropologist Myrna Mack Chang on September 29, 1990. He had concluded that the main suspect in the anthropologist's murder was a member of the Security Department of the Presidential Staff of the Guatemalan Army.

Mérida Escobar was killed on August 5, 1991, having been shot in the head, the neck, left torso and left arm. He died instantly.

292. On July 22, 2005, the parties signed a friendly settlement agreement, which the Commission approved on October 27, 2005. In the agreement, the State acknowledged its international responsibility for the violation of the rights protected in Articles 4, 5, 8 and 25 of the American Convention.

293. On December 21, 2006, the State reported that the ceremony to unveil the plaque in memory of José Mérida Escobar took place at National Civil Police Headquarters on November 30, 2006. In attendance was the Director General of the National Civil Police, who was there to represent the State, and the Chairman of COPREDEH. It also reported that in Decree No. 59-2006, the municipality of San José el Golfo named the street where the victim and his family lived in his memory, so that it is now José Miguel Mérida Escobar Street. The State reported that the rules to govern the “José Miguel Mérida Escobar” scholarship are awaiting approval. Finally, the victim’s youngest son, Edilsar Omar Mérida Alvarado, would be hired, starting January, under the program “Mi Primer Empleo” [My First Job].

294. The Commission recognizes and appreciates the State’s demonstrated willingness to comply with this agreement and will continue to follow and supervise the points of the friendly settlement that are still pending.

CASE 10.855, Report N° 100/05, Pedro García Chuc (Guatemala)

295. The case record shows that in the early hours of March 5, 1991, several members of the State security forces detained Mr. Pedro García Chuc at kilometer 135 of the Occidente road in the municipality of Sololá, in Sololá Department. Two days later, Mr. Pedro García Chuc’s corpse, which had sustained several bullet wounds, was found in the same spot where he was detained. It is assumed that the extrajudicial execution was due to his activities as President of the Cooperativa San Juan Argueta R.L., as well as his active participation in efforts to secure benefits for his community. On April 2, 1991, the Commission received a petition filed against the Guatemalan State by the family of Pedro García Chuc, alleging violation of Pedro José García Chuc’s right to life. Filed by the victim’s next-of-kin, the petition was one of 46 petitions that the Commission received between 1990 and 1991, wherein the State was denounced for the extrajudicial execution of a total of 71 men, women and children, one of whom was Mr. García Chuc. Once the cases were processed with the IACHR, the latter decided, pursuant to Article 40 of its Rules of Procedure, to join the cases and decide them as a group.

296. On February 24, 2000, the Commission adopted Report N° 5/00, pursuant to Article 50 of the American Convention, in which it found that Guatemala’s international responsibility had been engaged by the arbitrary execution of the victims whose cases were reported, involving violations of the rights to life, to a fair trial, to judicial protection and other rights all recognized in the American Convention. Accordingly, the Commission recommended to the Guatemalan State that:

1. Carry out a complete, impartial, and effective investigation to determine the circumstances of the extrajudicial executions and related violations in the cases of the victims named in section VII, and to punish the persons responsible pursuant to Guatemalan law;
2. Adopt the measures necessary for the family members of the victims identified in paragraph 289 to receive adequate and timely reparation for the violations established herein.

297. The Guatemalan State issued a formal declaration on April 13, 2000, in which it acknowledged its international responsibility for noncompliance with Article 1.1 of the American Convention, acknowledged the version of the events that appeared in Commission Report N° 5/00, and pledged to pay just compensation to the victims' next-of-kin, based on the established principles and criteria within the Inter-American System for the Protection of Human Rights. It also pledged to push the investigations into the facts and, to the extent possible, to bring those responsible to trial. Finally, it pledged to report the progress it made toward fulfillment of its obligations. Published that same day was Report N° 39/00, which contained both Report N° 5/00 and the formal commitment, undertaken by the Guatemalan State.

298. On February 18, 2005, the State and the petitioners signed an "AGREEMENT CONCERNING COMPLIANCE WITH THE RECOMMENDATIONS MADE IN CASE 10,855 PEDRO JOSE GARCÍA CHUC" and on July 19, 2005, signed a reparations agreement.

299. Based on the information supplied by the parties thus far, the Commission observes that the measures to honor the victim's memory have been carried out and the victim's next-of-kin have been paid compensation. The Commission will continue to follow and supervise the pending points of the compliance agreement and the reparations agreement.

CASE 11.335, Report N° 78/02, Guy Malary (Haiti)

300. In Report N° 78/02 of December 27, 2002, the IACHR made the following recommendations to the Haitian State:

- a) Carry out a full, prompt, impartial, and effective investigation within the Haitian ordinary criminal jurisdiction in order to establish the responsibility of the authors of the violation of the right to life of Mr. Guy Malary and punish all those responsible.
- b) Provide full reparation to the next-of-kin of the victim, *inter alia*, the payment of just compensation.
- c) Adopt the measures necessary to carry out programs targeting the competent judicial authorities responsible for judicial investigations and auxiliary proceedings, in order for them to conduct criminal proceedings in the accordance with international instruments on human rights.

301. The parties have not provided the Commission with up-dated information concerning compliance with the Commission's recommendations in Report 78/02. Based upon the information available, the Commission considers that compliance with the Commission's recommendations is pending.

CASES 11.826, 11.843, 11.846 and 11.847, Report N° 49/01, Leroy Lamey, Kevin Mykoo, Milton Montique and Dalton Daley (Jamaica)

302. In Report N° 49/01 dated April 4, 2001 the Commission recommended that the State of Jamaica:

- 1. Grant the victims an effective remedy which included commutation of their death sentences and compensation;

2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in violation of the rights and freedoms guaranteed under the Convention, including Articles 4, 5 and 8, in particular that no person is sentenced to death pursuant to a mandatory sentencing law;
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4.6 of the Convention to apply for amnesty, pardon or commutation of sentence is given effect in Jamaica;
4. Adopt such legislative or other measures as may be necessary to ensure that the victims' rights to humane treatment under Articles 5.1 and 5.2 of the Convention, particularly in relation to their conditions of detention, are given effect in Jamaica;
5. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8.1 of the Convention and the right to judicial protection under Article 25 of the Convention are given effect in Jamaica in relation to recourse to Constitutional Motions.

303. By note dated January 22, 2007, the State informed the Commission that by virtue of the ruling of the Judicial Committee of the Privy Council in *Pratt & Morgan v. the Attorney General of Jamaica* [1993], in any instance where the period between a sentence of death and the time of execution exceeds five years, the carrying out of that execution will be presumed to be inhuman and degrading punishment and therefore inconsistent with Jamaican law. Consequently, as a matter of course, death row convicts will have their sentence of death automatically commuted to life imprisonment, once the sentence has not been effected within a five-year period after sentence. Furthermore, the State expressed that it regarded the first recommendation as “vague and incoherent” considering that the Commission has not set out the purpose for compensation or the underlying principles on which this compensatory package should be based. According to the State, if the Commission’s argument is that compensation is due because the State has not provided an effective remedy in death penalty cases, this point is unfounded because as a result of the decision in *Lambert Watson v. R* [2004] the mandatory death penalty was declared unconstitutional and that the law was revised. Therefore, the State would only contemplate compensation for those persons given a mandatory sentence of death after the ruling in *Lambert Watson*, because to do otherwise, would be to apply the law retroactively.

304. Concerning the second recommendation, the State informed that it had adopted legislative measures to ensure that the mandatory death penalty is not imposed with amendments to the Offences Against the Persons Act 1992, the Parole Act 1978, the Criminal Justice [Reform] Act of 1978 and the Gun Court Act 1974, pursuant to the Offences Against the Persons (Amendment) Act 2005 and the Offences Against the Persons (Amendment) Act 2006. Specifically, the State indicated that the present legislation effectively discarded the two-classification of murder into categories of capital murder, which attracted an automatic and obligatory sentence, and non-capital murder, and, therefore, the sentence of death is now optional for all cases in which previously involved mandatory death sentences. In this regard, the State indicated that the court is mandated, before passing sentence, to hear submissions, representations and evidence from the prosecution and the defense in relation to the issue of the sentence to be passed. In addition, the State of Jamaica informed that whenever a sentence of life imprisonment is imposed, the court has the duty to specify the period of imprisonment that should be served before the offender is eligible for parole. The State similarly indicated that provisions have been made for a review of all mandatory sentences of death previously imposed under the Offences Against the Persons (Amendment) Act 1992 and that as a result, sentences have been quashed and a judicial determination has been made, or is to be made, as to the appropriate sentence to be imposed for each convict.

305. With regard to the Commission's third recommendation, the State informed that the Governor General is empowered under Section 90 of the Jamaican Constitution to grant pardon to any person convicted of any offence, grant respite to any person either indefinitely or for a specified period from the execution of any punishment imposed on that person, or, to substitute a less severe form of punishment for that imposed on any person. The Governor General acts in this on the recommendation of the Jamaican Privy Council under Section 91 of the Constitution. The State referred that the ruling of the Judicial Committee of the Privy Council in *Neville Lewis v. The Attorney General of Jamaica* [2000], regarding fair and proper procedures for the grant of mercy, has become part of Jamaican law, individuals are given notice of hearings and the opportunity to present submissions on their behalf. The State also pointed out that by virtue of the Offences Against the Persons (Amendment) Act 2005, there is no longer a mandatory sentence of death in Jamaica and that judicial consideration of submissions, representation and evidence, as to the appropriateness of the sentence to be passed, is required in all circumstances where a sentence of death may be imposed. Furthermore, the State indicated that persons sentenced to death in Jamaica have always enjoyed a right of appeal against sentence, which is evidenced by the several death row cases that have gone before the Court of Appeal and the Judicial Committee of the Privy Council. Appeal from a sentence of death can and has led to either confirmation or to a quashing of the sentence and the substitution of a more appropriate sentence. According to the State, it effectively guarantees persons condemned to death the right to seek a review of their sentence which can lead to the commutation of their sentence.

306. In respect of the Commission's fourth recommendation, the State pointed out that Leroy Lamey, Kevin Mykoo, Milton Montique and Dalton Daley are inmates that have benefited under the *Lambert Watson v. Jamaica* [2004]. The State indicated that as a result of the decision in *Lambert Watson* decision, all persons on "death row" were removed from "death row" and placed within general prison population, pending the outcome of the hearings as to the appropriateness of the death sentence previously imposed mandatorily. Furthermore, the State indicated that generally, the conditions of detention comply with the standards of humane treatment and that the Inspectorate Unit of the Jamaican Correctional Services continues to monitor conformity to the requisite standards of order, cleanliness and adequacy of space, bedding, ventilation and lighting in all correctional facilities and where necessary the Unit makes recommendations for systematic improvements.

307. Finally, concerning the fifth recommendation, the State indicated that it retained the view that judicial protections and fair hearing procedures are effectively guaranteed under the laws of Jamaica. As to the provision of legal aid assistance to persons wishing to bring Constitutional Motions, the State expressed it is not adverse to giving consideration to such a course of action but maintained, however, that this is not a requirement of Article 8 of the Convention.

308. The Commission points out that in its 2004 and 2005 Annual Reports, the Commission stated there had been partial compliance with the Commission's first, second, and third recommendations. Based upon the latest information presented by the State, the Commission now considers that there has been compliance with the Commission's second recommendation with the adoption of legislative measures to ensure that no person is sentenced to death pursuant to a mandatory sentencing law. With respect to the remaining recommendations, however, the Commission notes that the latest communication presented by the State of Jamaica, for the most part, reiterates the information provided in its previous response considered by the Commission in its 2004 Annual Report. In light of the foregoing, the Commission reaffirms that there has been partial compliance with the first and third recommendation and that compliance with the fourth and fifth recommendations set forth in report N° 49/01 is pending.

CASE 12.069, Report N° 50/01, Damion Thomas (Jamaica)

309. In Report N° 50/01 dated April 4, 2001 the Commission recommended that the State:

1. Grant the victim an effective remedy, which included compensation;
2. Conduct thorough and impartial investigations into the facts of the pertinent incidents denounced by the Petitioners in order to determine and attribute responsibility to those accountable for the violations concerned and undertake appropriate remedial measures;
3. Review its practices and procedures to ensure that officials involved in the incarceration and supervision of persons imprisoned in Jamaica are provided with appropriate training concerning the standards of humane treatment of such persons, including restrictions on the use of force against such persons; and
4. Review its practices and procedures to ensure that complaints made by prisoners concerning alleged mistreatment by prison officials and other conditions of their detention are properly investigated and resolved.

310. In a letter dated December 21, 2006, Mr. Damion Thomas' representatives indicated that, based upon information available to them and to the best of their knowledge, the State of Jamaica had not taken any steps to comply with the four recommendations contained in Report N° 50/01. By note dated January 22, 2007, the State indicated that it regarded the first recommendation as "vague and incoherent" considering that the Commission has not set out the purpose for compensation or the underlying principles on which this compensatory package should be based. As to the second recommendation, the State indicated that it had taken the initiative to bring the matter concerning Mr. Damion Thomas to the attention of the Office of the Public Defender, the one empowered under Jamaican law to receive and investigate complaints from inmates. With regard to the Commission's third recommendation, the State indicated that the Inspectorate Unit of the Correctional Services Department periodically undertakes awareness training exercises for all Correctional Officers to raise awareness of the standards of humane treatment set by the United Nations, international treaties and Jamaican law. Concerning the fourth recommendation, the State informed that periodic reviews of various internal and external prisoner complaints mechanisms continue to be a part of the agenda of the Jamaican Correctional services. The mechanisms include internal investigations of complaints by the superintendent of Correctional Services and the Inspectorate Unit of the correctional services.

311. In its 2004 and 2005 Annual Reports, the Commission indicated that based upon the information available, there had been partial compliance with the third and fourth recommendations transcribed above. The Commission notes that the latest communication presented by the State of Jamaica, for the most part, is a reiteration of the information provided in its previous response considered by the Commission in its 2004 Annual Report. Accordingly, the Commission considers that there has been partial compliance with the second, third and fourth recommendations.

CASE 12.183, Report N° 127/01, Joseph Thomas (Jamaica)

312. In Report N° 127/01 dated December 3, 2001, the Commission recommended that the State:

1. Grant the victim an effective remedy, which included a re-trial in accordance with the due process protections prescribed under Article 8 of the Convention or, where a re-trial in compliance with these protections is not possible, his release, and compensation;
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in contravention of the rights and freedoms guaranteed under the Convention, including and in particular Articles 4, 5 and 8;
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the Convention to apply for amnesty, pardon or commutation of sentence is given effect in Jamaica; and
4. Adopt such legislative or other measures as may be necessary to ensure that the conditions of detention in which the victim is held comply with the standards of humane treatment mandated by Article 5 of the Convention.

313. By communication dated January 22, 2007, the State expressed its reservation with the recommendation that Mr. Joseph Thomas be granted an effective remedy which includes a re-trial or in the alternative, his release and compensation. In this regard, the State indicated that after Mr. Joseph Thomas' first trial leading to his conviction, the case was brought before the Jamaican Court of Appeal and also before the Jamaican Privy Council Mercy Committee. According to the State, at both appellate hearings Mr. Thomas raised the issue of the judge's conduct at the summing up and the failure to hold an identification parade, and that Mr. Joseph Thomas was unsuccessful on both occasions. Given this situation, the State indicated that it can grant no further remedies to Mr. Joseph Thomas through the courts nor grant him compensation without a judicial order.

314. Concerning the second recommendation transcribed above, the State of Jamaica indicated it had adopted legislative measures to ensure that the mandatory death penalty is not imposed with amendments to the Offences Against the Persons Act 1992, the Parole Act 1978, the Criminal Justice [Reform] Act of 1978 and the Gun Court Act 1974, pursuant to the Offences Against the Persons (Amendment) Act 2005 and the Offences Against the Persons (Amendment) Act 2006. Specifically, the State informed the Commission that the pre-existing legislation classified all cases of murder into categories of capital murder, which attracted an automatic and obligatory sentence, and non-capital murder. The present legislative effectively discarded this two-tiered classification of murder and, therefore, the sentence of death is now optional for all cases in which previously involved mandatory death sentences. In this regard, the State indicated that the court is mandated, before passing sentence, to hear submissions, representations and evidence from the prosecution and the defense in relation to the issue of the sentence to be passed. In addition, the State informed that whenever a sentence of life imprisonment is imposed, the court has the duty to specify the period of imprisonment that should be served before the offender is eligible for parole. The State similarly indicated that provisions has been made for a review of all mandatory sentences of death previously imposed under the Offences Against the Persons (Amendment) Act 1992 and that as a result, these sentences have been quashed and a judicial determination has been made, or is to be made, as to the appropriate sentence to be imposed for each convict.

315. With regard to the Commission's third recommendation, the State informed that the Governor General is empowered under Section 90 of the Jamaican Constitution to grant pardon to any person convicted of any offence, grant respite to any person either indefinitely or for a specified period from the execution of any punishment imposed on that person, or, to substitute a less severe form of punishment for that imposed on any person. The Governor General acts in this on the

recommendation of the Jamaican Privy Council under Section 91 of the Constitution. The State referred that the ruling of the Judicial Committee of the Privy Council in *Neville Lewis v. The Attorney General of Jamaica* (2000), regarding fair and proper procedures for the grant of mercy, has become part of Jamaican law, individuals are given notice of hearings and the opportunity to present submissions on their behalf. According to the State, it effectively guarantees persons condemned to death the right to seek a review of their sentence which can lead to the commutation of their sentence.

316. Concerning the fourth recommendation, the State pointed out that Mr. Joseph Thomas is one of the inmates to benefit under the *Lambert Watson v. Jamaica* [2004]. The State indicated that as a result of the decision in *Lambert Watson* decision, all persons on “death row” were removed from “death row” and placed within general prison population, pending the outcome of the hearings as to the appropriateness of the death sentence previously imposed mandatorily. The State similarly referred that by virtue of the ruling of the Judicial Committee of the Privy Council in *Pratt & Morgan v. the Attorney General of Jamaica* [1993], in any instance where the period between a sentence of death and the time of execution exceeds five years, the carrying out of that execution will be presumed to be inhuman and degrading punishment and therefore inconsistent with Jamaican law. Consequently, as a matter of course, death row convicts will have their sentence of death automatically commuted to life imprisonment, once the sentence has not been effected within a five-year period after sentence. Finally, the State indicated that generally, the conditions of detention comply with the standards of humane treatment and that the Inspectorate Unit of the Jamaican Correctional Services continues to monitor conformity to the requisite standards of order, cleanliness and adequacy of space, bedding, ventilation and lighting in all correctional facilities and where necessary the Unit makes recommendations for systematic improvements.

317. In its 2004 and 2005 Annual Report, the Commission stated there had been partial compliance with the Commission’s second and third recommendations in Report N° 127/01. Based upon the latest information presented by the State, the Commission now considers that there has been compliance with the Commission’s second recommendation with the adoption of legislative measures to ensure that no person is sentenced to death pursuant to a mandatory sentencing law. With respect to the remaining recommendations, however, the Commission notes that the latest communication presented by the State of Jamaica, for the most part, reiterates the information provided in its previous response considered by the Commission in its 2004 Annual Report. In light of the foregoing, the Commission reaffirms that there has been partial compliance with the third recommendation and that compliance with the remaining recommendations is pending.

CASE 12.275, Report N° 58/02, Denton Aitken (Jamaica)

318. In Report N° 58/02 dated October 21, 2002, the Commission recommended that the State:

1. Grant Mr. Aitken an effective remedy which includes commutation of sentence and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in contravention of the rights and freedoms guaranteed under the Convention, including and in particular Articles 4, 5 and 8.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the Convention to apply for amnesty, pardon or commutation of sentence is given effect in Jamaica.

4. Adopt such legislative or other measures as may be necessary to ensure that the conditions of detention in which Mr. Aitken is held comply with the standards of humane treatment mandated by Article 5 of the Convention.

5. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the Convention and the right to judicial protection under Article 25 of the Convention are given effect in Jamaica in relation to recourse to Constitutional Motions in accordance with the Commission's analysis in this report.

319. By note dated January 22, 2007, the State of Jamaica indicated that by virtue of the ruling of the Judicial Committee of the Privy Council in *Pratt & Morgan v. the Attorney General of Jamaica* [1993], in any instance where the period between a sentence of death and the time of execution exceeds five years, the carrying out of that execution will be presumed to be inhuman and degrading punishment and therefore inconsistent with Jamaican law. Consequently, as a matter of course, death row convicts will have their sentence of death automatically commuted to life imprisonment, once the sentence has not been effected within a five-year period after sentence. Furthermore, the State expressed that it regarded the first recommendation that compensation be granted to Denton Aitken, as "vague and incoherent" because the Commission has not set out the purpose for compensation or the underlying principles on which this compensatory package should be based. According to the State, if the Commission's argument is that compensation is due because the State has not provided an effective remedy in death penalty cases, this point is founded on a false premise because as a result of the decision in *Lambert Watson v. Jamaica* [2004], the mandatory death penalty was declared unconstitutional in Jamaica and that the law of Jamaica was revised. Therefore, the State would only contemplate compensation for those persons given a mandatory sentence of death after the ruling in *Lambert Watson*, because to do otherwise, would be to apply the law retroactively.

320. Concerning the second recommendation transcribed above, the State of Jamaica indicated that it had adopted legislative measures to ensure that the mandatory death penalty is not imposed with amendments to the Offences Against the Persons Act 1992, the Parole Act 1978, the Criminal Justice [Reform] Act of 1978 and the Gun Court Act 1974, pursuant to the Offences Against the Persons (Amendment) Act 2005 and the Offences Against the Persons (Amendment) Act 2006. Specifically, the State informed the Commission that the pre-existing legislation classified all cases of murder into categories of capital murder, which attracted an automatic and obligatory sentence, and non-capital murder. The present legislative effectively discarded this two-tiered classification of murder and, therefore, the sentence of death is now optional for all cases in which previously involved mandatory death sentences. In this regard, the State indicated that the court is mandated, before passing sentence, to hear submissions, representations and evidence from the prosecution and the defense in relation to the issue of the sentence to be passed. In addition, the State informed that whenever a sentence of life imprisonment is imposed, the court has the duty to specify the period of imprisonment that should be served before the offender is eligible for parole. The State similarly indicated that provisions have been made for a review of all mandatory sentences of death previously imposed under the Offences Against the Persons (Amendment) Act 1992 and that as a result, sentences have been quashed and a judicial determination has been made, or is to be made, as to the appropriate sentence to be imposed for each convict.

321. With regard to the Commission's third recommendation, the State informed that, pursuant to a recommendation of the Jamaican Privy Council under Section 91 of the Constitution, the Governor General is empowered under Section 90 of the Jamaican Constitution to grant pardon to any person convicted of any offence, grant respite to any person either indefinitely or for a specified period from the execution of any punishment imposed on that person, or, to substitute a less severe form of punishment for that imposed on any person. The State referred that the ruling

of the Judicial Committee of the Privy Council in *Neville Lewis v. The Attorney General of Jamaica* (2000), regarding fair and proper procedures for the grant of mercy, has become part of Jamaican law, individuals are given notice of hearings and the opportunity to present submissions on their behalf. According to the State, it effectively guarantees persons condemned to death the right to seek a review of their sentence which can lead to the commutation of their sentence.

322. With respect to the Commission's fourth recommendation, the State indicated that by virtue of the *Lambert Watson* decision, all persons on "death row" were removed from "death row" and placed within general prison population, pending the outcome of the hearings as to the appropriateness of the death sentence previously imposed mandatorily. The State also indicated that generally, the conditions of detention comply with the standards of humane treatment and that the Inspectorate Unit of the Jamaican Correctional Services continues to monitor conformity to the requisite standards of order, cleanliness and adequacy of space, bedding, ventilation and lighting in all correctional facilities and where necessary the Unit makes recommendations for systematic improvements.

323. Concerning the fifth recommendation, the State indicated that it retained the view that judicial protections and fair hearing procedures are effectively guaranteed under the laws of Jamaica. With regard to the provision of legal aid assistance to persons wishing to bring Constitutional Motions, the State expressed it is not adverse to giving consideration to such a course of action but maintained, however, that this is not a requirement of Article 8 of the Convention.

324. In its 2004 and 2005 Annual Report, the Commission stated that there had been partial compliance with the Commission's first, second, and third recommendations in Report N° 58/02. Based upon the latest information presented by the State, the Commission now considers that there has been compliance with the Commission's second recommendation with the adoption of legislative measures to ensure that no person is sentenced to death pursuant to a mandatory sentencing law. With respect to the remaining recommendations, the Commission notes that the latest communication presented by the State of Jamaica, for the most part, reiterates the information provided in its previous response considered by the Commission in its 2004 Annual Report. In light of the foregoing, the Commission reaffirms that there has been partial compliance with the first and third recommendation and that compliance with the remaining recommendations, however, is pending.

CASE 12.347, Report N° 76/02, Dave Sewell (Jamaica)

325. In Report N° 76/02 dated December 27, 2003, the Commission made the following recommendations to the State:

1. Grant Mr. Sewell an effective remedy which includes commutation of sentence in relation to the mandatory death sentence imposed upon Mr. Sewell, and compensation in respect of the remaining violations of Mr. Sewell's rights under the American Convention as concluded above.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in contravention of the rights and freedoms guaranteed under the Convention, including and in particular Articles 4, 5 and 8.
3. Adopt such legislative or other measures as may be necessary to ensure that the conditions of detention in which Mr. Sewell is held comply with the standards of humane treatment mandated by Article 5 of the Convention.

4. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the Convention and the right to judicial protection under Article 25 of the Convention are given effect in Jamaica in relation to recourse to Constitutional Motions in accordance with the Commission's analysis in this report.

326. By note dated January 22, 2007, the State informed the Commission that by virtue of the ruling of the Judicial Committee of the Privy Council in *Pratt & Morgan v. the Attorney General of Jamaica* [1993], in any instance where the period between a sentence of death and the time of execution exceeds five years, the carrying out of that execution will be presumed to be inhuman and degrading punishment and therefore inconsistent with Jamaican law. Consequently, as a matter of course, death row convicts will have their sentence of death automatically commuted to life imprisonment, once the sentence has not been effected within a five-year period after sentence. Furthermore, the State expressed that it regarded the first recommendation that compensation be granted to Mr. Sewell, as vague and incoherent because the Commission has not set out the purpose for compensation or the underlying principles on which this compensatory package should be based. According to the State, if the Commission's argument is that compensation is due because the State has not provided an effective remedy in death penalty cases, this point is founded on a false premise because as a result of the decision in *Lambert Watson v. Jamaica* [2005] 1 A.C. 472, the mandatory death penalty was been declared unconstitutional in Jamaica and that the law of Jamaica was revised. Therefore, the State would only contemplate compensation for those persons given a mandatory sentence of death after the ruling in *Lambert Watson*, because to do otherwise, would be to apply the law retroactively.

327. Concerning the second recommendation transcribed above, the State of Jamaica indicated that it had adopted legislative measures to ensure that the mandatory death penalty is not imposed with amendments to the Offences Against the Persons Act 1992, the Parole Act 1978, the Criminal Justice [Reform] Act of 1978 and the Gun Court Act 1974, pursuant to the Offences Against the Persons (Amendment) Act 2005 and the Offences Against the Persons (Amendment) Act 2006. Specifically, the State informed the Commission that the pre-existing legislation classified all cases of murder into categories of capital murder, which attracted an automatic and obligatory sentence, and non-capital murder. The present legislative change effectively discarded this two-tiered classification of murder and, therefore, the sentence of death is now optional for all cases in which previously involved mandatory death sentences. In this regard, the State indicated that the court is mandated, before passing sentence, to hear submissions, representations and evidence from the prosecution and the defense in relation to the issue of the sentence to be passed. In addition, the State informed that whenever a sentence of life imprisonment is imposed, the court has the duty to specify the period of imprisonment that should be served before the offender is eligible for parole. The State similarly indicated that provisions have been made for a review of all mandatory sentences of death previously imposed under the Offences Against the Persons (Amendment) Act 1992 and that as a result, sentences have been quashed and a judicial determination has been made, or is to be made, as to the appropriate sentence to be imposed for each convict.

328. With regard to the Commission's third recommendation, the State pointed out that Mr. Sewell is one of the inmates to benefit under the *Lambert Watson v. Jamaica* [2005] 1 A.C. 472 decision. The State indicated that as a result of the decision in *Lambert Watson* decision, all persons on "death row" were removed from "death row" and placed within general prison population, pending the outcome of the hearings as to the appropriateness of the death sentence previously imposed mandatorily. The State similarly referred that by virtue of the ruling of the Judicial Committee of the Privy Council in *Pratt & Morgan v. the Attorney General of Jamaica* [1993], in any instance where the period between a sentence of death and the time of execution exceeds five years, the carrying out of that execution will be presumed to be inhuman and degrading punishment and therefore inconsistent with Jamaican law. Consequently, as a matter of

course, death row convicts will have their sentence of death automatically commuted to life imprisonment, once the sentence has not been effected within a five-year period after sentence. Finally, the State indicated that generally, the conditions of detention comply with the standards of humane treatment and that the Inspectorate Unit of the Jamaican Correctional Services continues to monitor conformity to the requisite standards of order, cleanliness and adequacy of space, bedding, ventilation and lighting in all correctional facilities and where necessary the Unit makes recommendations for systematic improvements.

329. Finally, concerning the fourth recommendation, the State indicated that it retained the view that judicial protections and fair hearing procedures are effectively guaranteed under the laws of Jamaica. As to the provision of legal aid assistance to persons wishing to bring Constitutional Motions, the State expressed it is not adverse to giving consideration to such a course of action but maintained, however, that this is not a requirement of Article 8 of the Convention.

330. In its 2004 and 2005 Annual Report, the Commission stated that there had been partial compliance with the Commission's first and second recommendations in Report N° 76/02. Based upon the latest information presented by the State, the Commission considers that the adoption of legislative measures to ensure that no person is sentenced to death pursuant to a mandatory sentencing law has led to compliance with the Commission's second recommendation. With respect to the remaining recommendations, however, the Commission notes that the latest communication presented by the State of Jamaica does not provide new information on compliance, but instead reiterates the information provided in its previous response that was considered by the Commission in its 2004 Annual Report. In light of the foregoing, the Commission reaffirms that there has been partial compliance with the first recommendation and that compliance with the third and fourth recommendations set forth in Report N° 76/02 remains pending.

CASE 12.417, Report N° 41/04, Whitley Myrie (Jamaica)

331. In Report N° 41/04 of October 12, 2004, the IACHR made the following recommendations to the State of Jamaica:

1. Grant Mr. Myrie an effective remedy, which includes a re-trial in accordance with the due process protections prescribed under Article 8 of the Convention or, where a re-trial in compliance with these protections is not possible, his release, and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that Mr. Myrie's conditions of detention comply with international standards of humane treatment under Article 5 of the American Convention and other pertinent instruments, as articulated in the present report.
3. Adopt such legislative or other measures as may be necessary to ensure that the right to judicial protection under Article 25 of the Convention and the right to a fair hearing under Article 8(1) of the Convention are given effect in Jamaica in relation to recourse to Constitutional Motions.

332. By note dated January 22, 2007, the State expressed its reservation with the recommendation that Mr. Myrie be granted an effective remedy which includes a re-trial or in the alternative, his release and compensation. In this regard, the State indicated that after Mr. Myrie's first trial leading to his conviction, the case was brought before the Jamaican Court of Appeal where Mr. Myrie was successful in having his sentence of death commuted to life imprisonment. Given this situation, the State indicated that it can grant no further remedies to Mr. Myrie through

the courts nor grant him compensation without a judicial order. Furthermore, according to the State, the recommendation for compensation is vague and incoherent because the Commission has not set out the purpose for compensation or the underlying principles on which this compensatory package should be based. Concerning the Commission's second recommendation transcribed above, the State indicated that generally, the conditions of detention comply with the standards of humane treatment and that the Inspectorate Unit of the Jamaican Correctional Services continues to monitor conformity to the requisite standards of order, cleanliness and adequacy of space, bedding, ventilation and lighting in all correctional facilities and where necessary the Unit makes recommendations for systematic improvements. With regard to the third recommendation, the State indicated that it retained the view that judicial protections and fair hearing procedures are effectively guaranteed under the laws of Jamaica. As to the provision of legal aid assistance to persons wishing to bring Constitutional Motions, the State expressed it is not adverse to giving consideration to such a course of action but maintained, however, that this is not a requirement of Article 8 of the Convention. Based on the observations presented by the State, the Commission considers that compliance with the recommendations set forth in Report N° 41/04 is pending.

CASE 12.418, Report N° 92/05, Michael Gayle (Jamaica)

333. In Report N° 92/05, issued on October 24, 2005, the Commission made the following recommendations to the State of Jamaica:

1. Grant an effective remedy, which includes the payment of compensation for moral damages suffered by Michael Gayle's mother and next-of-kin, Jenny Cameron, and a public apology by the State to the family of Michael Gayle.
2. Adopt such legislative or other measures as may be necessary to undertake a thorough and impartial investigation into the human rights violations committed against Mr. Gayle, for the purpose of identifying, prosecuting and punishing all the persons who may be responsible for those violations.
3. Adopt such legislative or other measures as may be necessary to prevent future violations of the nature committed against Mr. Gayle, including training for members of Jamaican security forces in international standards for the use of force and the prohibition of torture and other cruel, inhuman or degrading treatment of punishment, summary executions and arbitrary detention, and undertaking appropriate reforms to the procedures for investigating and prosecuting deprivations of life committed by members of Jamaica's security forces to ensure that they are thorough, prompt and impartial, in accordance with the findings in the present report. In this respect, the Commission specifically recommends that the State review and strengthen the Public Police Complaints Authority in order to ensure that it is capable of effectively and independently investigating human rights abuses committed by members of the Jamaican security forces.

334. In communication dated December 29, 2006, the State indicated that compensation had already been paid to Michael Gayle's mother and next-of-kin, Jenny Cameron, and did not accept the Commission's recommendation that the matter of compensation be "revisited between the parties." The State specified that the matter was settled by arm's length negotiations, the sum offered was in keeping with Jamaican precedents and rules, and it was accepted by Ms. Cameron when she had the opportunity to challenge it. In addition, the State informed the Commission that a public apology was given by the Attorney General and Minister of Justice and was published in full in the **Sunday Herald**, March 14-20, 2004, under the heading "The Michael Gayle Case," and reported with substantial quotation in the **Daily Gleaner**, dated March 11, 2004, under the heading "Government 'regrets' Michael Gayle's Death." Again the State did not agree with the

Commission's recommendation that this matter be "revisited between the parties." With regard to recommendation N° 2 transcribed above, the State informed the IACHR that thorough and impartial investigations were carried out in the Michael Gayle case. Additionally, the State indicated that training of members of the security forces is sufficient and appropriate to bring those members up to international standards and that it has in place appropriate procedures for the pursuit of against members of the security forces for wrongful killing, though there are significant concerning the garnering and safeguarding of evidence in some cases. With respect to the strengthening of the Public Police Authority, the State informed that draft legislation concerning the creation of an investigative agency independent of the police force that will investigate matters concerning police abuse and related accusations brought against representatives is currently being discussed in various Ministries of Government. In a letter dated January 9, 2007, the Petitioners informed the Commission that the State had not taken any steps to comply with the Commission's recommendation transcribed above. Based upon the information available, the Commission considers there has been partial compliance with the first recommendation set forth in Report N° 92/05.

CASE 11.565, Report N° 53/01, González Pérez Sisters (Mexico)

335. On April 4, 2001, the Inter-American Commission approved Report N° 53/01 on the referenced case, in which it made the following recommendations:

1. Conduct a full, impartial and effective investigation in the ordinary criminal jurisdiction of Mexico to determine the responsibility of all those involved in violating the human rights of Ana, Beatriz and Celia González Pérez and Delia Pérez de González.
2. Provide adequate compensation to Ana, Beatriz and Celia González Pérez and to Delia Pérez de González for the human rights violations established herein.

336. On October 19, 2005, the IACHR held a working meeting with both parties present to follow up on Report N° 53/01. At that meeting, the Inter-American Commission verified in the presence of the parties that the recommendations were still pending, both as regards the complete, impartial, and effective investigation in the Mexican ordinary criminal courts to determine the responsibility of all the perpetrators of the human rights violations to the detriment of Ana, Beatriz and Celia González Pérez and Delia Pérez de González, and the corresponding reparations.¹ At that working meeting, the petitioners also expressed their concern over the state of health of the González Pérez sisters and their mother. After the Commission consulted with the State on this matter, the State agreed to take steps to provide humanitarian aid to these women. In 2005,² the parties reported that the investigations had made no substantive progress. The petitioners in turn reported that during a meeting with the State, it had indicated that "the due reparations would not be granted until the investigations were completed, since only then could the State bring action to recover payments against the agents responsible for the human rights violations suffered by the victims."

337. On January 12, 2007, the petitioners sent information indicating that no humanitarian aid had been provided to the victims. The IACHR requested information from the State in this regard, and it responded by referring to an agreement signed by the parties that states

¹ The position of the Inter-American Commission was published in its Report on the 123rd session. See IACHR, Press Release N° 35/03, paragraph IV, "Follow-Up on Recommendations," p. 13.

² IACHR, 2005 Annual Report, follow-up on case 11.565, Report N° 53/01.

that “it is the wish of the State’s representatives and the petitioner to establish that the humanitarian aid offered in this document should in no way be related to the petition or complaint filed in favor of the represented parties with international organizations and agencies [...].” On this point, in view of the agreement of the parties, the Commission will not make a decision as to compliance or noncompliance.

338. As regards compliance with the IACHR’s recommendations, the petitioners indicate that they have not been complied with. The Mexican State reported for its part that “in December 2006, a working meeting with the participation of the petitioners was held in the offices of this department, in order to pursue the pending procedures and formalities [...]. On February 16, 2007, the Foreign Ministry convened a working meeting with the representatives of the authority involved, and they testified to their desire to continue working though the pending procedures. They pledged to request once again, through a cooperation mechanism, the support of the *Fiscalía General de Justicia* [Public Prosecutor’s Office] of Chiapas, so that that institution would take responsibility for carrying out the procedures in question, in accordance with the characteristics, conditions, and issues agreed on earlier. These procedures are expected to take place between March and April 2007 [...].”

339. The Mexican State did not submit information on compliance with the Commission’s second recommendation on granting adequate reparations to Ana, Beatriz and Celia González Pérez and to Delia Pérez de González for the human rights violations established herein.

340. Based on the information received from the parties, the Inter-American Commission concludes that compliance with the recommendations in this case is still pending. The IACHR appreciates the efforts that both parties have made and continue making to achieve this objective, but it considers it necessary to repeat that these efforts must be based on the factual and legal conclusions of Report 53/01 regarding the violations suffered by the González Pérez sisters.

CASE 11.807, Report N° 69/03, José Alberto Guadarrama García (Mexico)

341. On October 10, 2003, the Inter-American Commission approved Report N° 69/03 on the referenced case, in which it decided:

1. To approve the friendly settlement agreement signed by the parties on October 30, 1998, as well as the final friendly settlement agreement signed on February 27, 2003.
2. To monitor the points in the agreement that have not been fully satisfied.

342. On November 22, 2006, the Inter-American Commission sent a letter to the parties, specifically concerning compliance with agreement point “a” of paragraph three, which states that one objective is the apprehension of José Luis Velásquez Beltrán, identified as one of the authors of the abduction and subsequent extrajudicial execution of José Alberto Guadarrama García.

343. On December 22, 2006, the Mexican State replied that “pursuant to the outstanding arrest warrant for José Luis Velásquez Beltrán [...] the PGJ-MOR took the following measures: on December 4, 2002, a working meeting was held between representatives of the Mexican Government and of the next-of-kin of José Alberto Guadarrama García, where [...] the latter were informed of the measures already taken and that will be taken to apprehend José Luis Velásquez Beltrán. It was also observed that the information obtained from the inquiry conducted by the PGJ-MOR with a view to his apprehension was based on two theories: the first was that he was probably in the United States; the second was that he was in the State of Guerrero. Accordingly, from time to time, the investigating agent’s staff went to that state, specifically to the towns of

Chipancingo, Chilapa, Acapulco and Zihuatanejo. These leads were found to be pure speculation.” The State also reported that “while the friendly settlement proceeding was in progress, local authorities permanently staked out the private residence of José Luis Velásquez Beltrán to establish his whereabouts. It was also considered that Velásquez Beltrán might have gone to the United States. Therefore, on December 7, 1998, the PGR-MOR requested the assistance of a Deputy Prosecutor with the FBI to conduct an investigation to establish whether there was any indication that Velásquez Beltrán had been in that country, although there was no information to suggest that he had traveled to the United States. Continuing the investigations to establish the whereabouts of Velásquez Beltrán, his own family believed that he had disappeared. They said that they had not heard from him or had news of him for eight years. The last time they saw him, he was heading off to work dressed in U.S. military fatigues.”

344. The State reports that “on July 24, another working meeting was held where the apprehension of José Luis Velásquez Beltrán was discussed. The petitioners’ representatives claimed to have seen him in the State of Morelos. The representatives of the PGJ- MOR reacted by giving the direct telephone numbers of high-ranking officials with the institution (a prosecutor and his private secretary) to the next-of-kin of Guadarrama García so that if they learned his whereabouts they might report it immediately. The PGR-MOR has not received any telephone call or news of his whereabouts.” It adds that “on March 31, 2005, the PGJ-MOR’s Director of Arrests reported that since the time the order for the arrest of José Luis Velásquez was received (November 10, 1997), staff under his command had continued to take the measures necessary to capture him. The matter is also being studied by representatives of the Office of the Deputy Director for Human Rights of the PGJ-MOR. For four years now, they have been focusing on conducting inquiries and operations in partnership with the various State Prosecutor’s Offices nationwide and with the Technical Secretariat of the National Conference for Justice and the General Bureau of Extradition and Legal Assistance, both under the Office of the Attorney General of the Nation, so as to provide support in searching for and apprehending José Luis Velásquez Beltrán, both in Mexico and in the United States.”

345. The petitioners, for their part, did not supply any information regarding compliance with point “a” of paragraph three of the agreement, in which the capture of José Luis Velásquez Beltrán is declared to be one of the objectives of the agreement.

346. The Inter-American Commission takes note of the information received from both parties and appreciates the support that each has given to comply with the points of the friendly settlement agreement. However, the information received indicates that José Luis Velásquez Beltrán has still not been apprehended and no one has been punished for the violations of José Alberto Guadarrama García’s human rights.

CASE 11.381, Report N° 100/01, Milton García Fajardo (Nicaragua)

347. On October 11, 2001, the IACHR approved Report N° 100/01 on the above-mentioned case, and made the following recommendations:

1. To conduct a complete, impartial, and effective investigation to establish the criminal responsibility of the persons who inflicted the injuries caused to the detriment of Milton García Fajardo, Cristóbal Ruiz Lazo, Ramón Roa Parajón, Leonel Arguello Luna, César Chavarría Vargas, Francisco Obregón García, Aníbal Reyes Pérez, Mario Sánchez Paz, Frank Cortés, Arnoldo José Cardoza, Leonardo Solís, René Varela and Orlando Vilchez Florez, and to punish those responsible in accordance with Nicaraguan law.

2. To adopt the measures necessary to enable the 142 customs workers who lodged this petition to receive adequate and timely compensation for the violations of their human rights established herein.

348. On November 27, 2006, the Commission requested the State and the petitioners, to submit information on the status of compliance with the recommendations. By letter dated December 20, 2006, the petitioners responded that the State has failed to comply with any of the agreements it assumed during the diverse working group meetings.

349. Based on the information presented by the petitioners, the Commission considers that compliance with the recommendations is still pending.

CASE 11.506, Report N° 77/02, Waldemar Gerónimo Pinheiro and José Víctor Dos Santos (Paraguay)

350. On December 27, 2002, the Inter-American Commission approved Report N° 77/02 concerning this case. There it made the following recommendations:

1. Make full reparation to Mr. Waldemar Gerónimo Pinheiro, which includes appropriate compensation.
2. Make full reparation to Mr. José Víctor Dos Santos, which includes appropriate compensation.
3. Such reparation should be commensurate with the harm done, which implies that compensation should be greater for Mr. José Víctor Dos Santos, given that he spent eight years in prison, with no legal justification for his detention.
4. Order an investigation to determine who was responsible for the violations ascertained by the Commission and punish them.
5. Take the necessary steps to prevent such violations from recurring.

351. The parties have not presented any information concerning compliance with the Commission's recommendations. Therefore, in keeping with the assessments contained in the Annual Reports for 2003 and 2004, the Commission concludes that the recommendations have not been carried out.

CASE 11.800, Report N° 110/00, César Cabrejos Bernuy (Peru)

352. In its report N° 110/00 of December 4, 2000, the IACHR made the following recommendations to the State of Peru:

1. To offer adequate compensation to Mr. César Cabrejos Bernuy, pursuant to Article 63 of the American Convention, including the moral aspect as well as the material one, for the violation of his human rights, and in particular,
2. To carry out the Judicial Order issued by the Constitutional and Social Chamber of the Supreme Court of Justice on June 5, 1992, reinstating Mr. César Cabrejos Bernuy in his position as Colonel in the National Police, paying him his salary and other remuneration owing to him but not paid since the date of his enforced retirement, and granting him all other benefits to which he is entitled as a Colonel of the Police, including, as appropriate, those relating to his pension; or, as a

second resort, to pay him the salary and other remuneration to which he would be entitled as a Colonel of the National Police, until he is of legal retirement age, paying also in this case his retroactive salary from the date of his forced retirement, and granting him all the other economic benefits to which, as a Colonel of the National Police, he is entitled, including, as appropriate, those relating to his pension.

3. To conduct a full, impartial, and effective investigation of the facts, in order to establish responsibilities for the failure to carry out the ruling of the Supreme Court of Justice of June 5, 1992, and to pursue such criminal, administrative, and other procedures as necessary to apply the appropriate punishment to those responsible, as befits the gravity of the violations in question.

353. Regarding observance of the recommendations, it is important to recall that, in its communication of December 3, 2003, the State of Peru reported that Supreme Resolutions No. 0716-2001-IN/PNP of July 10, 2001 and No. 1158-2001IN/PNP of November 13, 2001 ordered that Mr. César Cabrejos Bernuy be rehired and credited for past service calculated as of his transfer to retirement, that is, from March 26, 1997 to July 10, 2001.

354. As for the observance of the remaining recommendations, the Peruvian Government refrained from providing up-to-date information.

355. Furthermore, the petitioners did not submit information on observance of the pending recommendations.

356. Because of the above, the IACHR deems that the recommendations appearing in the report have been partially observed.

CASE 11.031, Report N° 111/00, Pedro Pablo López González *et al.* (Peru)

357. In Report N° 111/00 of December 4, 2000, the IACHR made the following recommendations to the State of Peru:

1. That it carry out an exhaustive, impartial, and effective investigation to determine the circumstances of the forced disappearance of Pedro Pablo López González, Denis Atilio Castillo Chávez, Gilmer Ramiro León Velásquez, Jesús Manfredo Noriega Ríos, Roberto and Carlos Alberto Barrientos Velásquez and Carlos Martín and Jorge Luis Tarazona More, and that it punish the persons responsible, in keeping with Peruvian legislation.

2. That it void any domestic measure, legislative or otherwise, that tends to impede the investigation, prosecution, and punishment of the persons responsible for the detention and forced disappearance of Pedro Pablo López González, Denis Atilio Castillo Chávez, Gilmer Ramiro León Velásquez, Jesús Manfredo Noriega Ríos, Roberto and Carlos Alberto Barrientos Velásquez and Carlos Martín and Jorge Luis Tarazona More. Accordingly, the State should nullify Laws 26.479 and 26.492.

3. That it adopt the measures required for the family members of Pedro Pablo López González, Denis Atilio Castillo Chávez, Gilmer Ramiro León Velásquez, Jesús Manfredo Noriega Ríos, Roberto and Carlos Alberto Barrientos Velásquez and Carlos Martín and Jorge Luis Tarazona More to receive adequate and timely reparation for the violations established.

358. Regarding the first recommendation regarding the State's duty to investigate the incidents of interest in the present case, by means of the communication of December 5, 2005, the State reported that, on May 11, 2005, the Presiding Senior District Attorney of the First Specialized Superior District Attorney's Office of the Ministry of Justice filed substantive charges against Vladimiro Montesinos Torres, Nicolás Hermosa Ríos, Juan Nolberto Rivero Lazo, Julio Rolando Salazar Monroe, Alberto Segundo Pinto Cárdenas, Víctor Silva Mendoza or Víctor Raúl Silva Mendoza and Federico Augusto Navarro Pérez, as the indirect perpetrators of the crimes of aggravated kidnapping and homicide to the detriment of Jesús Manfredo Noriega Ríos, Carlos Martín Tarazona More, Jorge Luis Tarazona More, Roberto Barrientos Velásquez, Carlos Barrientos Velásquez, Dennis Atilio Castillo Chávez, Federico Coquis Vásquez, and Pedro Pablo López González. Likewise, substantive charges were filed against Santiago Enrique Martín Rivas, Carlos Eliseo Pichilingue Guevara, Julio Chuqui Aguirre, Jesús Antonio Sosa Saavedra, Pedro Guillermo Suppo, Jorge Enrique Ortiz Mantas, Carlos Luis Caballero Zegarra Ballón, Ángel Arturo Pino Díaz Sánchez, Gabriel Orlando Vera Navarrete, Hugo Coral Goycochea, Nelson Rogelio Carvajal García, José Alarcón Gonzáles, José Alarcón González, Rolando Javier Meneses Montes de Oca, Wilmer Yarleque Ordinola, Ángel Sauni Pomaya, Hércules Gómez Casanova, and Estela Cárdenas Díaz, as the perpetrators of the crimes of aggravated kidnapping and homicide to the detriment of the previously listed victims.

359. Likewise, the State indicated that, by means of Resolution No. 70 of July 13, 2005, the First Special Chamber of the Supreme Court of Justice of Lima stated that there were grounds for bringing the case before a hearing of evidence and testimony against the accused and set a date to start up the Public Hearing on August 17, 2005. The petitioners, in their communication of November 27, 2006, also referred to the start of the hearing of evidence and testimony on the indicated date. Likewise, the petitioners indicated that, although on January 10, 2005, the criminal proceedings concerning the case being examined, had been joined with those involving the cases of "Barrios Altos", Pedro Sauri, and "La Cantuta", in March 2006 it had been separated from the others and since then it is being heard individually.

360. In the above-mentioned communication of November 27, 2006, like the State, the petitioners informed about the premature judgment issued in the case against Julio Chuqui Aguirre by the Special Criminal Chamber "A" of the Supreme Court of Justice of Lima, sentencing him to six years of custodial imprisonment. As for the petitioners, they pointed out that, in the proceedings for the incidents of the present case, the "honest admission" by seven of the indicted parties had taken place, but that they had not provided precise information about the location of the remains of the victims, thus making it impossible to locate them until now.

361. Regarding the second recommendation, that is, invalidating all domestic, legislative or other kinds of measures tending to obstruct the investigation, proceedings, and punishment of those responsible for the incidents, the State has specified, in previous communications, that it has been making the necessary efforts to this end. In particular, it mentioned that, by means of the Attorney General's Resolution No. 8154-2005-MP-FN of April 18, 2005, published in the Official Register *El Peruano* on April 20, 2005, it was ordered "that the district attorneys of all the entities that had intervened in the jurisdictional bodies that heard the proceedings in which Laws [of amnesty] No. 26479 y No. 26492 had been applied, request the counterpart Chamber or Trial Court to carry out the *supranational* judgments," that is, those issued by the Inter-American Court of Human Rights in the case of Barrios Altos.

362. Finally, regarding the third recommendation, since the compensation for damages to the relatives of the victim is included in the steps taken that led to the signing of the Joint Press Release of February 22, 2001, the petitioners informed that, regarding the compensation for education, health, and housing, although certain steps had been taken by the State, as yet they have not been fully carried out. Likewise, the petitioners reported in their communication of

November 27, 2006 that the State had not accepted to dialogue on the payment of a possible cash compensation for the victims.

363. As for the recommendation in the matter of the investigation and justice, the Commission shall continue to follow up on the trial stage and is waiting for the results of the judiciary activities in this case.

364. As for observance of the last recommendation, the Commission urges the State to duly fulfill the obligations that were incurred, especially with respect to medical care, scholarships, land titling and the building of housing, as well as the individual compensations aimed at providing direct redress for the victims and their relatives.

365. Owing to the above, the IACHR deems that, until now, there is partial observance by the State of Peru of the recommendations contained in the report. The measures that were adopted by the State have been and shall continue to be evaluated by the Commission in the general reports of the IACHR, as well as in the performance of the other duties set forth by the conventions and statutes.

CASE 11.099, Report N° 112/00, Yone Cruz Ocalio (Peru)

366. In Report N° 112/00 of December 4, 2000, the IACHR made the following recommendations to the State of Peru:

1. That it carry out an exhaustive, impartial, and effective investigation to determine the circumstances of the forced disappearance of Mr. Yone Cruz Ocalio, and that it punish the persons responsible, in keeping with Peruvian legislation.
2. That it void any domestic measure, legislative or otherwise, that tends to impede the investigation, prosecution, and punishment of the persons responsible for the detention and forced disappearance of Mr. Yone Cruz Ocalio. Accordingly, the State should nullify Laws 26.479 and 26.492.
3. That it adopt the measures required for the family members of Mr. Yone Cruz Ocalio to receive adequate and timely reparation for the violations established herein.

367. By means of the communication of February 5, 2007, the State of Peru submitted information on observance of the previous recommendations. Regarding the first recommendations, the State pointed out that the Mixed Provincial District Attorney's Office of Leoncio Prado-Huanuco reported, by means of Letter No. 011-2007-MP-FPM-AUCAYACU of January 4, 2007, that the investigation of the alleged perpetration of the crime of forced disappearance to the detriment of Mr. Yone Cruz Ocalio has been provisionally filed because the alleged perpetrators had not been identified.

368. The petitioners did not submit any up-to-date information.

369. Regarding the second recommendation, the State reasserts what had been stated previously, claiming that there is a practice of its institutions, based on the rulings by the Inter-American Court of Human Rights in the Barrios Altos Case, indicating that the amnesties cannot be validly opposed to the investigations undertaken to identify and subsequently punish those responsible for violations of human rights. The State of Peru deems that the solution to the procedural obstacle raised by the amnesty laws was duly established by means of said judgments of the Inter-American Court, which by order of said Court have general jurisdiction over any case

where the laws referred to have been applied. Therefore, it has not envisaged repealing said laws. The State argues that the repeal of said laws would imply that they were in force and therefore would be applicable on the basis of the principle of benign retroactivity, which has been established as the principle for the administration of criminal justice.

370. Regarding the third recommendation, the State specified that case No. 11.099 is part of the Joint Press Release signed on February 22, 2001. As a result, it points out that, by means of the Executive Secretariat of the High-Level Multisector Commission (Comisión Multisectorial de Alto Nivel—CMAN), in charge of following up on the actions and policies of the State in the framework of peaceful coexistence, collective compensation, and national reconciliation, it has been promoting compliance with the recommendations contained in the Final Report of the Commission created by Supreme Decree No. 005-2002-JUS, referring to the comprehensive non-cash compensation program in health, education, and housing for the relatives of the victims of those cases referred to in said press release.

371. Regarding compensation in terms of health, the State reported that the Ministry of Health has been forwarded a list of beneficiaries of Supreme Decree No. 005-2002-JUS so that they could be taken care of by the Integral Health System. Regarding the commitments made by the State for education, the State reported that the Executive Secretariat of the CMAN has taken steps with the National Institution of Scholarship and Education Loans (Instituto Nacional de Becas y Crédito Educativo—INABEC) to grant scholarships for the benefit of the beneficiaries referred to in Supreme Decree No. 005-2002-JUS. Regarding this, it points out that these demands have been partially met. As for housing, the State reports that, owing to obstacles arising with respect to the transfer of land for the benefit of the beneficiaries of Supreme Decree No. 005-2002-JUS, it has been deferred. Finally, with respect to the third recommendation, the State pointed out that the Compensation Board, which is a collective body that is part of the Office of the Chair of the Council of Ministers, shall be the entity that leads and monitors the compensation policy in conformity with Law No. 28,592 and its Regulations.

372. The Commission considers that the provisional file of the investigation by the Mixed Provincial District Attorney's Office of Leoncio Prado-Aucayuca is a step backward in carrying out the recommendation to investigate and punish those responsible for the disappearance of Mr. Yone Cruz Ocalio.

373. As for adequate compensation for the relatives of the victim in the framework of complying with the commitments made by the State in the press release of February 2001, the Commission considers that, although certain steps have been taken to implement these commitments in terms of health, housing, and education, they have not been implemented completely. The Commission urges the States to fully meet the obligations that were taken, especially with regard to health care, the granting of scholarships, land titling, and the building of housing, as well as the other individual compensations whereby the victims and their relatives might obtain redress directly.

374. Owing to the above, the IACHR deems that to date there has been partial observance of the recommendations appearing in the report by the State of Peru. The measures adopted by the State have been and shall continue to be evaluated by the Commission in the IACHR's general reports, as well as in the performance of the other duties stemming from conventions and statutes.

CASE 10.247 *et al.*, Report N° 101/01, Luis Miguel Pasache Vidal *et al.* (Peru)

375. In report N° 101/01 of October 11, 2001, the IACHR made the following recommendations to the State of Peru:

1. Void any judicial decision, internal measure, legislative or otherwise, that tends to impede the investigation, prosecution, and punishment of the persons responsible for the summary executions and forced disappearance of the victims indicated at paragraph 252. In this regard, the State should also repeal Laws N° 26,479 and 26,492.
2. Carry out a complete, impartial, and effective investigation to determine the circumstances of the extrajudicial executions and forced disappearances of the victims and to punish the persons responsible pursuant to Peruvian legislation.
3. Adopt the measures necessary for the victim's families to receive adequate and timely compensation for the violations established herein.
4. Accede to the Inter-American Convention on Forced Disappearance of Persons.

376. Regarding the first recommendation, that is, invalidating any domestic, legislative or other kind of measure that might hamper the investigation, processing, and punishment of those responsible for the incidents in a communication of February 14, 2007, the State pointed out that it carried out the recommendation of nullifying amnesty laws No. 26479 y 26492 and that there is a practice of its institutions, based on the rulings of the Inter-American Court of Human Rights issued in the Barrios Altos Case, aimed at preventing amnesties from being validly opposed to the investigations undertaken to identify and subsequently punish those responsible for human rights violations. The State of Peru deems that the solution to the procedural obstacle raised by the amnesty laws was duly established by means of the rulings of the Inter-American Court, which by order of this Court have general jurisdiction over any case where the laws referred to have been applied. Therefore, the repeal of these laws has not been envisaged. The State argues that their repeal would be a breach of the strategy to combat impunity, in addition to recognizing the *res judicata* nature of the resolutions that enforced said laws, and because of this to open up the possibility of citing the principle of *non bis in idem* by those being charged.

377. Second, as for the recommendation to investigate and punish those responsible, the State of Peru considers that the competent authorities are carrying out the relevant investigations to identify and punish those responsible for the forced disappearances of the persons included in Report N° 101/01. A summary of the up-to-date information provided by the State with respect to each case is given below:

1. Case 10.247, Vidal Miguel Pasache: At present, the investigation is being conducted by the Second Supraprovincial District Attorney's Office of Lima. It is indicated that, by means of letter No. 05-2007-2° FPS-MP-FN of January 10, 2007, it provides an account of the various steps that are being taken for the purpose of determining the circumstances of the death of Luis Pasache Vidal.
2. Case 10.431, Víctor Tineo Sandoval and others: An investigation is being conducted in the First Supraprovincial District Attorney's Office of Ayacucho. The State indicates that the case is under preliminary investigation by the prosecution, with steps being taken to duly identify the alleged perpetrators.
3. Case 10.472, Walter Munaylla: An investigation is being conducted in the First Supraprovincial District Attorney's Office of Ayacucho. The State indicates that the case is under preliminary investigation by the prosecution, with steps being taken to duly identify the alleged perpetrators.

4. Case 10.564, Luis Alberto Sangama Panalfo: Being investigated by the Third Mixed Provincial District Attorney's Office of Coronel Portillo. The State reports that the preliminary investigation of the case is being extended because it was not possible to identify the alleged perpetrators.
5. Case 10.744, Arturo Torres Quispe: The investigation is being conducted by the Second Supraprovincial Criminal District Attorney's Office of Ayacucho. The case is under investigation by the prosecution. In the report by the State, it is indicated that by means of Resolution No. 279-2006 of December 14, 2006, the proceedings were transferred from the First Supraprovincial District Attorney's Office of Ayacucho to the Second Supraprovincial Criminal District Attorney's Office of Ayacucho, which accepted to hear the case and conduct the preliminary investigation.
6. Case 10.805, Adelmo Loli, Mauricio Saturnino and others: At present, the investigation is being conducted in the Second Provincial Criminal District Attorney's Office of Huaraz. The State reported that the complaint has been provisionally filed until the perpetrator or perpetrators of the crime being investigated have been identified, providing for the extension of the investigation in the hands of the Criminal Investigation Division.
7. Case 10.878, Marcelo Javier Ipanaque and others: At present, the investigation can be found in the Specialized Provincial District Attorney's Office for Human Rights. The case remains under investigation. The State reported that, by means of Resolution of October 5, 2006, it was ordered that the present case be separated from the case of the "Ventocilla family," for the purpose of facilitating the continuation of the investigations.
8. Case 10.947, Guillermo Marín Gallegos and others: The investigation of the case is being conducted by the Mixed Provincial District Attorney's Office of Aucayacu. The State reports that the case is provisionally filed because the perpetrator or perpetrators of the crime have not been identified and that the respective investigations are continuing in order to fully clarify the facts.
9. Case 11.035, León Cajacuri Roca: Being investigated by the Third Provincial District Attorney's Office of Huancayo. The State reports that the case is being investigated because there are proceedings whose execution is still pending and because to date those responsible have not yet been identified.
10. Case 11.051, Adrián Medina Puma: The investigation is in the Specialized District Attorney's Office for Human Rights of Lima. It is reported that supplementary proceedings are being filed and that the taking of statements by witnesses in answer to charges has been scheduled.
11. Case 11.088, Amadeo Inca Ñaupá and others: The investigation is being conducted in the First Supraprovincial Criminal District Attorney's Office of Ayacucho. The State reports that the case is under preliminary investigation and that proceedings have been filed to duly identify the alleged perpetrators.
12. Case 11.126, César Teobaldo Vílchez Simeón and others: The case is in the court trial phase in the Third Criminal Court of Huancayo. The Third Provincial Criminal District Attorney's Office of Huancayo is competent to hear the case.
13. Case 11.161, Pascual Chipana Huaylla and others: An investigation is being conducted in the First Supraprovincial Criminal District Attorney's Office of Ayacucho. The State reports that the case is under preliminary investigation and that steps are being taken to duly identify the alleged perpetrators.
14. Case 11.179, León Esteban Romero and others: The investigation is being conducted by the Third Provincial Criminal District Attorney's Office of Huancayo. The State reports that it is in the process of taking the relevant steps for the preliminary investigation phase.

15. Case 11.200, Camilo Nuñez Quispe and other: An investigation is being conducted by the Third Provincial Criminal District Attorney's Office of Huancayo. The State reports that the case is under preliminary investigation and that steps are being taken to duly identify the alleged perpetrators.

16. Case 11.292, Jessica Rosa Chávez Ruíz and others. The case is in the trial stage with the First Criminal Chamber of the Superior Court of Justice of La Libertad.

17. Case 11.680, Moisés Carvajal Quispe. The case is in the trial phase in the Second Criminal Trial Court of Abancay. In its report, the State does not refer to the development and results of the trial.

18. Case 11.064, Cosme Ureta and others. The investigation is in the hands of the Third Provincial Criminal District Attorney's Office of Huancayo. The State reports that there is still information to compile in the context of the preliminary information since not all the relatives went to the Attorney General's Office to give their respective statements.

19. Case 11.065, Ricardo Salazar Ruiz. The case is in a judicial proceedings phase in the Superior Court of San Martín. The State reports that the case is now in the Mixed Provincial Court of El Dorado. There is no information on the development and results of the trial.

20. Case 11.057, Rafael Ventocilla Rojas and others. Investigation of the case is being conducted in the Specialized District Attorney's Office for Human Rights. The State informed that, by means of Resolution of October 5, 2006, the separation of the present case from that of the proceedings for Marcelo Ipanaque and others was ordered, for the purpose of facilitating the continuation of the investigations.

21. Case 10.913, Juan Hualla Choquehuanca and others. At present, the case is in the Specialized Mixed District Attorney's Office of Malgar, in the investigation phase. The State reported that it had rule on opening up the investigation in the District Attorney's Office, ordering the taking of a series of statements and that the Forensic Medicine Institute be requested to schedule the proceedings for the disinterment of the corpses of the victims Juan Hualla, Francisco Atamari, Feliciano Turpo, and Roberto Quispe Mamaní in the Community of Chillutira of the province of Melgar.

22. Case 10.994, Teodoro Lorenzo Alvarado. The case is being investigated with the Provincial Criminal District Attorney's Office of Arequipa. The State reported that the case is in the office with ruling pending, as the taking of a series of statements was scheduled for November 2006, although only one of the persons summoned for this purpose appeared.

23. Case 11.040, Percy Borja Gaspar and others. The case is in the trial phase in the Second Criminal Court of Junín. The State reports that the parole granted to the accused had been censured, and therefore it was ordered that they be re-arrested. There is no report on the development and results of the trial.

24. Case 11.132, Edith Galván Montero. The case is currently being investigated in the Fourth Supraprovincial District Attorney's Office of Lima.

378. Regarding the third recommendation referring to financial compensation, the State indicates that the victims of forced disappearances, arbitrary, summary or out-of-court executions have the right to adequate compensation for the violation or offense perpetrated. Regarding this, the State pointed out that, through the Compensations Board, a collegiate body that is part of the Office of the Chair of the Council of Ministers, the compensations policy shall be carried out and monitored in accordance with the provisions of Law No. 28,592 and its Regulations.

379. Likewise, the State reported, with regard to the health compensations, that a list of beneficiaries of Supreme Decree No. 005-2002-JUS was remitted to the Ministry of Health so that

they can be taken care of by the Integral Health System. Regarding the commitments made by the State for education, the State reported that the Executive Secretariat of the CMAN has taken steps with the National Scholarship and Educational Loan Institute (Instituto Nacional de Becas y Crédito Educativo—INABEC) to grant scholarships for the benefit of the beneficiaries referred to in Supreme Decree No. 005-2002-JUS. Regarding this, it pointed out that said demands had been partially met. In terms of housing, the State reported that, due to difficulties arising from the transfer of land for the benefit of the beneficiaries of Supreme Decree No. 005-2002-JUS, it was deferred.

380. Finally, regarding the fourth recommendation, the State reiterated that, by means of Legislative Resolution No. 27622, published in the daily *El Peruano* on January 7, 2002, Peru adopted the Inter-American Convention on the Forced Disappearance of Persons, which was ratified by Supreme Decree No. 010-2002-RE, published in the daily *El Peruano* on January 23, 2002; and that it deposited the ratification instrument on February 13, 2002.

381. Regarding the report of the State, the Commission appreciates the information provided and observes that, first of all, of the 24 cases covered in Report N° 101/01, only five are in the trial phase, although in none of them has a judgment been issued. The 19 cases that remain are being investigated by the prosecution. Regarding the latter, the Commission observes that, despite the proceedings ordered and filed by the competent authorities, no significant progress has been made in identifying those responsible for the incidents.

382. As for the third recommendation, the IACHR observes that the relatives of the victims are still waiting for adequate compensation. The fourth recommendation was fully carried out by the State.

383. Because of the above, the IACHR considers that to date the recommendations appearing in Report N° 101/01 have been partially carried out by the State of Peru. The measures adopted by the State have been and shall continue to be evaluated by the Commission in the general reports of the IACHR, as well as in the performance of the duties stipulated in the conventions and statutes.

CASE 12.191, Report N° 71/03, María Maméríta Mestanza (Peru)

384. On October 10, 2003, the IACHR adopted Report N° 71/03, which considered the friendly settlement reached by the petitioners and the State of Peru and decided:

1. To approve the terms of the Agreement for Friendly Settlement signed by the parties on August 26, 2003.
2. To continue following up and monitoring each and every point of the friendly settlement, and in this context to remind the parties of their obligation to submit reports to the IACHR every three months on compliance with this agreement.
3. To publish this report and include it in its annual report to the OAS General Assembly.

385. By means of the communication of February 14, 2006, the State submitted information regarding the state of compliance with the Friendly Settlement Agreement in the present case. Regarding compliance with the third clause of the agreement referred to above, the State of Peru pointed out, with regard to the complaints made about the application of Voluntary Surgical Contraception (Anticoncepciones Quirúrgicas Voluntarias—AQV), that the Regional Health Department of the Regional Government of Cajamarca informed that a Commission had been set up

to investigate the death of Ms. María Mamérita Mestanza Chávez so that the merits of the case could be decided upon in the shortest time possible.

386. Likewise, the State informed that, by means of Resolution of January 16, 2007, the Provincial District Attorney of the Specialized District Attorney's Office for Human Rights had filed Criminal Complaint No. 004-2004, regarding the investigation of the incidents of the present case, for the purpose of determining the "responsibilities of the persons involved in perpetrating the attempts on the personal freedom and life, body and health of María Mamérita Mestanza Chávez." The report of the State points out that the complaint referred to above states that these facts constitute perpetration of the crime against liberty-coercion as criminalized in Article No. 151 of the Criminal Code, which crime was supposedly committed by the three persons charged in the trial, to the detriment of Ms. Mestanza Chávez. The State also indicates that these incidents highlight in addition the alleged perpetration of crimes against the life, body, and health, gross homicide and exposure to danger of a dependent person with aggravating circumstances, supposedly committed by seven of the accused in the proceedings to the detriment of Ms. Mestanza Chávez. As for the State, it indicated that administrative and judicial proceedings have been filed regarding the staff involved in cases of forced sterilization.

387. Finally, the State reported that, regarding legislative amendments and public policies on reproductive health and family planning, the "Directive for the Evaluation of Obstetric and Neonatal Functions in Health Establishments" of December 29, 2005, the "Manual of Orientation/Counseling in Sexual and Reproductive Health" of March 20, 2006 and the dissemination of "Moving Toward Safe Maternity in Peru" also dated March 20, 2006.

388. By means of a communication received on December 29, 2006 by the Executive Secretariat of IACHR, the petitioners submitted information related to the status of compliance with the clause referring to the investigation of the crime of the present case. Regarding this, the petitioners pointed out that the Provincial Criminal District Attorney's Office for Human Rights started up investigations in 2004 and a series of proceedings related to the present case. Furthermore, the petitioners indicated that, after an investigating commission of the Congress of the Republic of Peru remitted its report, the same District Attorney's Office started up investigations to determine the alleged existence of a policy on surgical contraception issued by the State, so as, if necessary, to sentence and punish those responsible, joining this investigation to the one already initiated with respect to the facts of the present case. Nevertheless, the petitioners indicated that, after two years of proceedings, the District Attorney had not yet formally legalized any accusation in the framework of the investigations referred to above. They add that, from May 2005, the District Attorney's Office had not filed any relevant proceedings regarding the case being studied.

389. Regarding the investigation and punishment of those responsible administratively, the petitioners pointed out that the Ministry of Health imposed administrative sanctions on the medical staff involved in the "acceptance, operation and death of Mamérita Mestanza" and that the sanctions that were imposed in such disciplinary procedures consisted of dismissing the obstetrician and the intervening physicians and their disqualification from practicing their profession in the jurisdiction of the Health Region of Cajamarca. Regarding this, the petitioners indicated that, without detriment to the application of these sanctions, they were insufficient because the disqualification of the professionals referred to above to work in the Region of Cajamarca would not prevent them from exercising their profession in other provinces and regions.

390. Regarding compliance with the fourth clause of the Friendly Settlement Agreement, in a writ of February 9, 2006, the State reported that the establishment of a Trust Fund had been legalized for the benefit of the minors Napoleón, Amancio, María Delia, and Almanzor Salazar Mestanza. Regarding Alindor Salazar Mestanza, the State reported that he could not be included in the Trust Fund, because on December 28, 2005, the date the contract was signed between the

Banco de la Nación and the Ministry of Justice, he had already reached full legal age. As a result, the State announced that the beneficiary Alindor Salazar Mestanza would be paid the corresponding compensation amount by means of a check made out to his name, upon presentation of his identity card. Regarding this, the petitioners reported, by means of the above-mentioned communication received in the IACHR on December 29, 2006, that the State had proceeded to pay the financial compensation for the benefit of the beneficiaries by a payment made directly to Mr. Jacinto Salazar Suarez and his adult children; and by the establishment of a Trust Fund for the minors.

391. Taking into consideration the information that is available and the terms of the agreement, the IACHR believes that the State of Peru has not as yet complied with the provisions of the third clause in accordance with the friendly settlement dealt with in Report N° 71/03.

392. Furthermore, the Commission values the steps taken by the State to compensate Mr. Salazar Suarez and the children of Ms. María Mamérita Mestanza for damages, especially the establishment of a trust fund to meet the international obligations of the State of Peru in cases dealing with the violations of human rights settled in international bodies. In this regard, the Commission considers that the State has met its obligations with regard to the payment of compensation to the beneficiaries.

393. By virtue of the information submitted by the parties, the Commission considers that the Friendly Settlement Agreement signed on August 26, 2003 has been partially implemented. The measures adopted by the State have been and shall continue to be evaluated by the Commission in the general reports of the IACHR, as well as in the performance of the other duties stemming from conventions and statutes.

CASE 12.078, Report N° 31/04, Ricardo Semoza Di Carlo (Peru)

394. On March 11, 2004, the IACHR adopted Report N° 31/04, which considered that the friendly settlement between the petitioners and the State of Peru had been reached and decided:

1. To approve the terms of the friendly settlement agreement that the parties signed on October 23, 2003.
2. To continue to monitor and supervise each and every point of the friendly settlement agreement; accordingly, to remind the parties of their obligation to report to the IACHR every three months on the performance of this friendly settlement.
3. To make the present report public and include it in the Commission's Annual Report to the OAS General Assembly.

395. By means of a communication of December 10, 2006, received on December 15 in the Executive Secretariat of the IACHR, the petitioner stated that, although the State credited the complainant with the real, effective and uninterrupted time of service during which he was arbitrarily separated from the National Police Force of Peru, the related benefits stemming from the crediting referred to above have not been provided. Concretely speaking, Mr. Semoza Di Carlo points out that fuel has not been repaid, that the difference between his salary and that of a major, which he would have received as of October 1, 1997 by legal mandate, has not been paid either, that the contributions to the Officers' Insurance Fund have not been made, that the ceremony of redress has not been held, and finally those responsible for failure to comply with orders issued by the judiciary mandates to protect his violated rights have not been investigated or punished.

396. By means of a communication of January 25, 2007, the State presented Report No. 006-2007-JUS/CND-SE/CESAPI, indicating that, by means of Department Resolution 735-2006-

DIRREHUM-PNP of January 20, 2006, PNP Major Ricardo Manuel Semoza Di Carlo, 35 years of age, was credited with six months, twenty-four days of real and effective services, granting him a renewable retirement pension. The State also indicated that, in compliance with the provisions of the Inter-American Commission on Human Rights, Resolution 170- DIRREHUM-PNP of January 7, 2005, whereby he was credited for the time he stayed in retirement, was issued.

397. By virtue of the information that is available and the terms of the agreement, the IACHR considers that the State of Peru has partially complied with the agreement to reach a friendly settlement referred to in Report N° 31/04. The measures adopted by the State have been and shall continue to be evaluated by the Commission in the general reports of the IACHR, as well as in the performance of the other duties stemming from conventions and statutes.

CASE 9903, Report N° 51/01, Rafael Ferrer-Mazorra *et al.* (United States)

398. In Report N° 51/01 dated April 4, 2001 the Commission recommended that the State:

1. Convene reviews as soon as is practicable in respect of all of the Petitioners who remained in the State's custody, to ascertain the legality of their detentions in accordance with the applicable norms of the American Declaration, in particular Articles I, II, XVII, XVIII and XXV of the Declaration as reported by the Commission's analysis in the report; and
2. Review its laws, procedures and practices to ensure that all aliens who are detained under the authority and control of the State, including aliens who are considered "excludable" under the State's immigration laws, are afforded full protection of all of the rights established in the American Declaration, including in particular Articles I, II, XVII, XVIII and XXV of the Declaration as reported by the Commission's analysis in its report.

399. In its 2005 Annual Report, the Commission indicated that based upon the State's communication dated December 15, 2005, which informed the Commission that it disagreed with and declined the Commission's recommendations and denied any violations of the American Declaration of the Rights and Duties of Man in light of the State's previous responses in the case, which have been posted on the Commission's web site at www.cidh.org, and based upon the Petitioner's letter dated December 27, 2005, which advised the Commission that they had no information regarding the compliance by the United States with Report N° 51/01, the Commission stated that it considered compliance with the Commission's recommendations transcribed above as pending. By letter dated December 7, 2006, the Petitioners advised the Commission that they did not have observations regarding compliance by the United States with the recommendation set forth in Report N° 51/01. The State has not provided the Commission with updated information. Based upon the information available, therefore, the Commission considers compliance with the recommendations remains pending.

Case 12.243, Report N° 52/01, Juan Raul Garza (United States)

400. In Report N° 52/01 dated April 4, 2001, the Commission made the following recommendations to the State:

1. Provide Mr. Garza with an effective remedy, which includes commutation of sentence; and
2. Review its laws, procedures and practices to ensure that persons who are accused of capital crimes are tried and, if convicted, sentenced in accordance with

the rights established in the American Declaration, including Articles I, XVIII and XXVI of the Declaration, and in particular by prohibiting the introduction of evidence of unadjudicated crimes during the sentencing phase of capital trials.

401. The Commission lacks updated information from the State and the Petitioner on compliance with the recommendations set forth in Report N° 52/01. Accordingly, the Commission presumes that the recommendations are pending compliance.

CASE 11.753, Report N° 52/02, Ramon Martinez Villareal (United States)

402. In Report N° 52/02 dated October 10, 2002, the IACHR made the following recommendations to the State:

1. Provide Mr. Martinez Villareal with an effective remedy, which includes a re-trial in accordance with the due process and fair trial protections prescribed under Articles XVIII and XXVI of the American Declaration or, where a re-trial in compliance with these protections is not possible, Mr. Martinez Villareal's release.

2. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.

403. In its 2005 Annual Report, the Commission stated that based upon the information available, it considered that there had been partial compliance with the Commission's recommendations. The parties have not provided the Commission with up-dated information since the publication of the 2005 Annual Report, and therefore reiterates its prior conclusion that the State has partially complied with the recommendations set forth in Report N° 52/02.

CASE 11.140, Report N° 75/02, Mary and Carrie Dann (United States)

404. In Report N° 75/02 dated December 27, 2002, the IACHR made the following recommendations:

1. Provide Mary and Carrie Dann with an effective remedy, which includes adopting the legislative or other measures necessary to ensure respect for the Danns' right to property in accordance with Articles II, XVIII and XXIII of the American Declaration in connection with their claims to property rights in the Western Shoshone ancestral lands.

2. Review its laws, procedures and practices to ensure that the property rights of indigenous persons are determined in accordance with the rights established in the American Declaration, including Articles II, XVIII and XXIII of the Declaration.

405. In a note dated January 18, 2006, the State informed the Commission that it disagreed with and declined the Commission's recommendations in Report N° 75/02 based upon the State's prior filings in the case, including the prior Response of the United States posted on the Commission's website (www.cidh.org/resp.eng.htm). In a communication received September 14, 2006, the Petitioners stated that since the Commission issued Report N° 75/02 in December of 2002, new and continued violations of Western Shoshone human rights persist as the United States

continued harassing Western Shoshone families with monetary fines and other collection notices; initiated sales of Western Shoshone ancestral lands; and proceeded with plans to permit cyanide heap leach gold mining, nuclear waste storage, geothermal and oil/gas leasing, military weapons testing, and water expropriation on Western Shoshone land. Based upon the information available, the Commission considers that compliance with the Commission's recommendations set forth in Report N° 75/02 is pending.

CASE 11.193, Report N° 97/03, Shaka Sankofa (United States)

406. In Report N° 97/03 dated December 29, 2003, the Commission made the following recommendations to the State:

1. Provide the next-of-kin of Shaka Sankofa with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that violations similar to those in Mr. Sankofa's case do not occur in future capital proceedings.
3. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age.

407. In its 2005 Annual Report, the Commission stated that based upon the information available, it considered that there had been partial compliance with the Commission's recommendations set forth in Report N° 97/03. The parties have not provided the Commission with up-dated information since the publication of the 2005 Annual Report. As such, the Commission presumes that the compliance with the recommendations in Report N° 97/03 remains partial.

CASE 11.204, Report N° 98/03, Statehood Solidarity Committee (United States)

408. In Report N° 98/03 dated December 29, 2003, the Commission made the following recommendations to the State:

Provide the Petitioners with an effective remedy, which includes adopting the legislative or other measures necessary to guarantee to the Petitioners the effective right to participate, directly or through freely chosen representatives and in general conditions of equality, in their national legislature.

409. By note dated January 11, 2006, the State indicated that it disagreed with and declined the Commission's recommendation and denied any violations of the American Declaration of the Rights and Duties of Man based upon its previous responses in the case. In a letter dated December 2, 2006, the Petitioners informed the Commission that the United States had failed to grant the residents of Washington, D.C representation in the U.S. Senate and the House of Representatives as recommended by the Commission. Based upon the information available, the Commission considers that compliance with the Commission's recommendation is pending.

CASE 11.331, Report N° 99/03, Cesar Fierro (United States)

410. In Report N° 99/03 dated December 29, 2003, the Commission made the following recommendations to the State:

1. Provide Mr. Fierro with an effective remedy, which includes a re-trial in accordance with the due process and fair trial protections prescribed under Articles

XVIII and XXVI of the American Declaration or, where a re-trial in compliance with these protections is not possible, Mr. Fierro's release.

2. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.

411. In a note dated January 11, 2006, the State informed the Commission that it disagreed with and declined the recommendations of the Commission and continued to deny any violation of the American Declaration of the Rights and Duties of Man based upon its prior responses in the case. In a letter dated December 13, 2006, the Petitioners informed the Commission that the State had not complied with the Commission's recommendations in Report N° 99/03. According to the Petitioners, Mr. Fierro remains on death row in Texas and the United States has not re-tried or released Mr. Fierro, or provided any other remedy. The Petitioners also claimed that the United States made information available to local authorities about their obligation in regard to consular access. The Petitioners added, however, that since December 29, 2003, the United States had not reviewed its laws, procedures and practices in this regard. The Petitioners noted that some local authorities had adopted instructions to their personnel about consular access obligations but that actual implementation remains pending. Finally, the Petitioners stated that the United States failed to inform U.S. courts of their obligation to provide redress to foreign nationals who were not informed of their right of consular access but who were convicted of criminal charges. Based upon the information available, the Commission considers that compliance with the Commission's recommendations in Report N° 99/03 remains pending.

CASE 12.240, Report N° 100/03, Douglas Christopher Thomas (United States)

412. In Report N° 100/03 dated December 29, 2003, the Commission made the following recommendations to the State:

1. Provide the next-of-kin of Douglas Christopher Thomas with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age.

413. The parties have not provided the Commission with up-dated information concerning compliance with the Commission's recommendations in Report N° 100/03. As such, the Commission reiterates its conclusion stated in its 2005 Annual Report that there has been partial compliance with the Commission's recommendations.

CASE 12.412, Report N° 101/03, Napoleon Beazley (United States)

414. In Report N° 101/03 dated December 29, 2003, the Commission made the following recommendations to the State:

1. Provide the next-of-kin of Napoleon Beazley with an effective remedy, which includes compensation.

2. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age.

415. In a letter dated January 9, 2006, the Petitioner informed the Commission that the United States Supreme Court's ruling in *Roper v. Simmons*, 543 U.S. (2005), which held that the application of the death sentence to individuals who were younger than eighteen years of age when they commit a capital crime is unconstitutional under the Eighth and Fourteenth Amendments to the U.S. Constitution, has led to compliance by the State of Texas with the Commission's recommendation N° 2. The Petitioner claimed, however, that neither the United States government nor the State of Texas had done anything to comply with the Commission's recommendation No. 1. Based on the information above the Commission considers that the State has complied with Recommendation No. 2 set forth in Report N° 101/03. Compliance with recommendation No. 1 is still pending.

CASE 12.430, Report N° 1/05, Roberto Moreno Ramos, (United States)

416. In Report N° 1/05 dated January 28, 2005, the IACHR made the following recommendations:

1. Provide Mr. Moreno Ramos with an effective remedy, which includes a new sentencing hearing in accordance with the equality, due process and fair trial protections prescribed under Articles II, XVIII and XXVI of the American Declaration, including the right to competent legal representation.
2. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.
3. Review its laws, procedures and practices to ensure that defendants in capital proceedings are not denied the right to effective recourse to a competent court or tribunal to challenge the competency of their legal representation on the basis that the issue was not raised at an earlier stage of the process against them.

417. The parties have not provided the Commission with up-dated information concerning compliance with the Commission's recommendations set forth in Report N° 1/05. As such, the Commission presumes that the recommendations are pending compliance.

CASE 12.439, Report N° 25/05, Toronto Markkey Patterson (United States)

418. In Report N° 25/05 dated March 7, 2005, the Commission made the following recommendations to the State:

1. Provide the next-of-kin of Toronto Markkey Patterson with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age.

419. Thus far, the parties have not reported on compliance with the IACHR recommendations transcribed above. Nonetheless, the Commission notes that there has been full compliance by the United States with the recommendation to ensure that capital punishment is not imposed upon persons who, at the time his or her crimes was committed, were under 18 years of age. Therefore, based upon the information available, the Commission considers that there has been partial compliance with Recommendation No. 2 set forth in Report N° 25/05.

CASE 12.421, Report N° 91/05, Javier Suarez Medina (United States)

420. In Report N° 91/05 issued on October 24, 2005, the Commission made the following recommendations to the State:

1. Provide the next-of-kin of Mr. Suarez Medina with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that persons who are accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration, including Articles I, XVIII and XXVI of the Declaration, and in particular by prohibiting the introduction of evidence of unadjudicated crimes during the sentencing phase of capital trials.
3. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.
4. Review its laws, procedures and practices to ensure that requests for precautionary measures granted by the Commission are implemented so as to preserve the Commission's functions and mandate and to prevent irreparable harm to persons.

421. The parties have not provided the Commission with up-dated information concerning compliance with the Commission's recommendations. The Commission, therefore, presumes that the recommendations in Report N° 91/05 are pending compliance.

E. Petitions and cases before the Inter-American Court of Human Rights

1. Provisional Measures

422. Article 63.2 of the American Convention on Human Rights provides that in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

423. Below is a summary of the 45 provisional measures adopted during the period covered by this report, arranged by country. The number of measures requested of States is not the same as the number of persons protected by the measures.

a. Argentina

Millacura Llaipén et al.

424. On June 20, 2006, the Commission requested the Inter-American Court for provisional measures designed to have the State protect the life and physical integrity of María Leontina Millacura Llaipén, her children Marcos and Valeria Torres, her son-in-law Juan Pablo Caba; Gerardo Colín; Patricio Oliva; Tamara Bolívar; Walter Mansilla; Silvia de los Santos; Verónica Heredia; Miguel Ángel Sánchez; as well as Viviana and Sonia Hayes. Mrs. Millacura Llaipén is a petitioner before the Commission; in connection with the events complained of in her petition and her quest for justice, she, her family and her lawyers have been subjected to intimidation and attacks.

425. By a resolution of June 21, 2006, the President of the Court ordered the State, among other things, to immediately take all steps necessary to protect the right to life and physical integrity of the beneficiaries identified by the Commission. The President of the Court also summoned the parties to a public hearing on the matter, held on July 6, 2006, attended by the Commission, the representatives of the beneficiaries and the State. That same day the Court issued a resolution fully confirming the President's. In the course of the year, the Commission presented information and observations on these provisional measures, as ordered by the Court.

426. The full text of the resolutions may be found at this link:
http://www.corteidh.or.cr/docs/medidas/millacura_se_01.doc

Prisons in Mendoza

427. During 2006 the Commission presented information and observations on the provisional measures ordered by the Court on November 22, 2004, whose primary purpose is to protect the life and physical integrity of all inmates at the Provincial Penitentiary of Mendoza and the Gustavo André facility in Lavalle, as well as all persons within those facilities.

428. On February 7, 2006, the Court summoned the IACHR, the representatives of the beneficiaries and the State, to a public hearing held on March 30, 2006. That same day the Court issued an order reiterating the State's obligation to immediately and without fail take the necessary provisional measures to effectively protect the life and physical integrity of all inmates at the Provincial Penitentiary of Mendoza and the Gustavo André unit in Lavalle, as well as all persons within those facilities, eliminating in particular the risk of violent death and correcting the deficient conditions of internal security and control in those prisons.

429. The order may be found at this link:
http://www.corteidh.or.cr/docs/medidas/penitenciariamendoza_se_03.doc.

b. Barbados

Boyce et al.

430. These measures were ordered by the Court at the request of the Commission in order to stay the death penalty imposed by the courts of Barbados on Lennox Boyce, Jeffrey Joseph, Frederick Atkins and Michael Huggins, until such time as the organs of the Inter-American System have ruled on their complaints of violation of the American Convention. During 2006, despite repeated requests from the Court, Barbados failed to report on the measures taken to comply with these measures.

431. On June 23, 2006, the Commission filed a complaint against Barbados that is now being heard by the Court, in connection with these measures. See below under contentious cases.

c. Brazil

Urso Branco Prison

432. During 2006 the Commission presented information and observations on these provisional measures ordered on June 18, 2002, in favor of inmates at the José Mario Alves Detention Center -- known as the "Urso Branco Prison -- to "prevent further deaths of inmates" in that facility.

433. In particular, the Commission has insisted on the need to hold a public hearing on this matter, so that the parties may present arguments or information with respect to the hitherto deficient implementation of these measures.

Febém Tatuapé Complex

434. During 2006 the Commission observed periodically on the State's reports concerning these measures, which were ordered by the Court at the Commission's request in order to protect the life and physical integrity of all children and teenagers at FEBEM's "Tatuapé Complex," as well as all persons within that facility as of November 17, 2005.

435. On July 4, 2006, the Court issued a ruling confirming the State's obligations in regard to these provisional measures and denying a request to expand the provisional measures in favor of the head of one of the organizations representing the beneficiaries, who was allegedly subjected to acts of intimidation by State agents in connection with her participation in the proceedings.

436. The above-mentioned resolution may be found at: http://www.corteidh.or.cr/docs/medidas/febem_se_03.doc.

Araraquara Penitentiary

437. On July 25, 2006, the Commission asked the Court for provisional measures to have the State protect the life and physical integrity of all persons imprisoned at the Dr. Sebastião Martins Silveira Penitentiary located at Araraquara, in the state of São Paulo, as well as persons who might in the future be held as inmates or detainees in that prison, whose inmates were suffering from crowding and neglect in unsanitary conditions.

438. By an order of July 28, 2006, the President of the Court ordered the State, among other things, to immediately take the necessary measures to protect the life and physical integrity of all persons imprisoned in the "Dr. Sebastião Martins Silveira" Penitentiary, as well as persons who might be held there as inmates or detainees in the future. The President of the Court also summoned the parties to a public hearing on this matter, held on September 28, 2006, with the Commission, representatives of the beneficiaries and the Brazilian State. At that public hearing the State advised the Court that it had shut down the Araraquara Penitentiary and transferred all inmates to other detention facilities.

439. On September 30, 2006, the Court issued a resolution reiterating to the State the measures already ordered by the President in July and informing the State that its obligations regarding detainees covered by a protective measure are not fully discharged by simply transferring

them to another prison. During 2006 the Commission presented information and observations on these provisional measures.

440. The full text of the above-mentioned orders may be found at:
http://www.corteidh.or.cr/docs/medidas/araraquara_se_012.doc and
http://www.corteidh.or.cr/docs/medidas/araraquara_se_02_portugues.doc.

d. Colombia

19 Merchants

441. During 2006 the Commission periodically commented on the State's reports concerning these measures, ordered by the Court on September 3, 2004 at the request of the Commission, to protect the life and physical integrity of Mrs. Sandra Belinda Montero (a relative of two victims in the case, see below, adversarial proceedings) and her family.

442. On April 28, 2006, the President of the Court issued an urgent measures order reiterating to the State the need for taking, maintaining and expanding the protective measures ordered since 2004. On July 4, 2006, the Court confirmed the President's decision and ordered the State of Colombia to maintain the measures taken in favor of Mrs. Montero and her family; to immediately take the necessary measures to protect the right to life and physical integrity of Messrs. Salomón Flórez Contreras and Luis José Pundor Quintero and Mrs. Ana Diva Quintero Quintero de Pundor, as well as their respective families; and to investigate the events that prompted the protective measures.

443. The above-mentioned orders may be found at:
http://www.corteidh.or.cr/docs/medidas/comerciantes_se_02.doc and http://www.corteidh.or.cr/docs/medidas/comerciantes_se_03.doc.

Álvarez et al.

444. During 2006 the Commission periodically presented to the Court comments on Colombia's reports regarding these measures ordered by the Court at the request of the Commission to protect the physical integrity of members of the Association of Relatives of Detainees-Disappeared Persons of Colombia since July 22, 1997.

Caballero Delgado and Santana

445. During 2006 the Commission periodically presented to the Court its comments on Colombia's reports about these measures. The measures were ordered by the Court at the request of the Commission on December 7, 1994, to protect the physical integrity of certain witnesses who testified about the responsibility of State agents during the adversarial proceedings in this case heard by the Court (see below).

446. On July 4, 2006, the Court issued an order lifting the provisional measures in favor of Mrs. Élda González Vergel because

the information presented by the State, the Commission and the representatives shows that her whereabouts have remained unknown for over five years [...] the usefulness of provisional measures depends largely on the possibility of actually implementing them. The parties agree that the possible lifting of the measures carries no implication about the risk that the beneficiary may face, which will need to be evaluated when there is news of her whereabouts.

447. The Court also ordered Colombia to maintain and take the necessary measures to protect the life and physical integrity of María Nodelia Parra and Gonzalo Arias Alturo. The text of that decision may be found at: http://www.corteidh.or.cr/docs/medidas/caballero_se_06.doc.

San José de Apartadó Peace Community

448. These measures were ordered by the Court at the request of the Commission to protect the physical integrity of members of the San José de Apartadó Peace Community and persons in its service as from October 9, 2000. On February 2, 2006, the Court reiterated the applicability of the provisional measures. Subsequently, the Commission presented to the Court its observations on the reports by the State and the representatives of the beneficiaries.

449. The text of the above mentioned order may be found at: http://www.corteidh.or.cr/docs/medidas/apartado_se_06.doc.

Community Councils of Jiguamiandó and Curbaradó

450. The Court ordered these measures on March 6, 2003, at the request of the Commission, to protect the right to life and the right to remain in their territory of members of the Community Council of Jiguamiandó and Curbaradó families. On February 7, 2006, the Court reiterated the applicability of the provisional measures. Subsequently, the Commission submitted to the Court its observations on the report submitted by the State and the observations of the representatives of the beneficiaries.

451. The text of the above mentioned decision may be found at: http://www.corteidh.or.cr/docs/medidas/jiguamiando_se_04.doc.

Giraldo Cardona

452. The measures in the case of Giraldo Cardona were ordered by the Court at the request of the Commission on October 28, 1996. They are intended to protect the life, physical integrity and continuity of the work of members of the Civic Committee for Human Rights of the Department of Meta, who had been threatened, harassed and persecuted. During 2006 the Commission presented to the Court periodic observations on the reports by Colombia and the representatives of the beneficiaries.

453. On November 29, 2006, the Court reiterated the applicability of these provisional measures. That order may be found at: http://www.corteidh.or.cr/docs/medidas/giraldo_se_09.doc.

Gutiérrez Soler

454. During 2006 the Commission periodically submitted observations on the State's reports concerning these measures ordered by the Court on March 11, 2005. The measures seek to: a) protect the life, physical integrity and personal liberty of Mr. Ricardo Gutiérrez Soler and his family, namely: his mother, Mrs. María Elena Soler de Gutiérrez; his children Luisa Fernanda Gutiérrez Reyes, Paula Camila Gutiérrez Reyes, Leonardo Gutiérrez Rubiano, Leydi Caterin Gutiérrez Peña, Sulma Tatiana Gutiérrez Rubiano, Ricardo Alberto Gutiérrez Rubiano and Carlos Andrés Gutiérrez Rubiano; and Mrs. Yaqueline Reyes; and b) protect the life, physical integrity and personal liberty of Mr. Wilson Gutiérrez Soler and his son Kevin Daniel Gutiérrez Niño, should they return to Colombia. See below, contentious cases.

Mapiripán Massacre

455. During 2006 the Commission periodically observed on the State's reports concerning the measures originally ordered by the President of the Court on February 4, 2005. They require the State to take the necessary measures in order to protect the life and physical integrity of Carmen Johana Jaramillo Giraldo, Esther Pinzón López, Sara Paola Pinzón López, María Teresa Pinzón López, Yur Mary Herrera Contreras, Zully Herrera Contreras, Maryuri Caicedo Contreras, Nadia Marina Valencia Sanmiguel, Yinda Adriana Valencia Sanmiguel, Johana Marina Valencia Sanmiguel, Gustavo Caicedo Contreras, Rusbel Asdrúbal Martínez Contreras, Roland Andrés Valencia Sanmiguel, Ronald Mayiber Valencia Sanmiguel, Luis Guillermo Pérez, Nory Giraldo de Jaramillo, Marina San Miguel Duarte, Viviana Barrera Cruz, Luz Mery Pinzón López and Mariela Contreras Cruz. See below, contentious cases.

Mery Naranjo et al.

456. On July 3, 2006, the Commission asked the Court for provisional measures to have the State protect the life and physical integrity of Mrs. Mery Naranjo Jiménez and her family and investigate the events perpetrated against her and Mrs. María del Socorro Mosquera Londoño. Mrs. Naranjo and Mrs. Mosquera are human rights defenders and community leaders in the city of Medellín. They have been subjected, in connection with their work, to intimidation and attacks by State agents and civilians identifying with paramilitary groups.

457. By decision of July 5, 2006, the Court ordered the State, among other things, to immediately take the necessary measures to protect the right to life and physical integrity of Mery Naranjo Jiménez and her family members Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Javier Augusto Torres Durán, Heidi Tatiana Naranjo Gómez, Sebastián Naranjo Jiménez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo, María del Socorro Mosquera Londoño and Luisa María Escudero Jiménez. The Court reiterated this decision in a decision of September 22, 2006. In the course of the year, as ordered by the Court, the Commission presented information and observations on these provisional measures.

458. The full text of the above decisions may be found at the following links: http://www.corteidh.or.cr/docs/medidas/naranjo_se_01.doc and http://www.corteidh.or.cr/docs/medidas/naranjo_se_02.doc.

Kankuamo Indigenous People

459. During 2006 the Commission periodically commented on the State's reports concerning measures ordered on July 5, 2004, in favor of members of the indigenous Kankuamo people to protect their lives, physical integrity, cultural identity and special connection to their ancestral lands.

460. On December 7, 2006, the President of the Court scheduled a public hearing at the seat of the Court to hear the parties' arguments on implementation of the provisional measures ordered in this case to be held on January 26, 2007.

e. Ecuador

Indigenous People of Sarayaku

461. During 2006 the Commission presented to the Court its observations on the State's reports concerning the measures ordered by the Court at the request of the Commission on June 6,

2004, in favor of members of the indigenous kichwa people of Sarayaku. The measures seek to protect their life and physical integrity, their right to freedom of movement and their special connection to their ancestral lands. These measures were confirmed on June 17, 2005, before the public hearing with the parties, held on May 11, 2005, in Asunción, Paraguay.

f. El Salvador

Gloria Giralt de García Prieto et al.

462. On September 26, 2006, the Court issued, at the request of the Commission, provisional measures to protect the life and physical integrity of certain family members of Mr. Ramón Mauricio García Prieto Giralt, as well as some of his legal advisers and members of the Human Rights Institute of the Central American University. These measures have to do with a complaint filed by the Commission on February 9, 2006, which is being heard by the Court (see below, contentious cases).

463. The text of the provisional measures order may be found at: http://www.corteidh.or.cr/docs/medidas/giralt_se_01.doc.

g. Guatemala

Bámaca Velásquez

464. During 2006 the Commission presented information and observations on these provisional measures originally ordered on June 30, 1998, whose purpose at present is to protect the life and physical integrity of the following persons: Santiago Cabrera López, Alfonso Cabrera Viagres, María Victoria López, Blanca Cabrera, Carmenlinda Cabrera, Teresa Aguilar Cabrera, Olga Maldonado, Carlos Alfonso Cabrera, José León Bámaca Hernández, Egidia Gebia Bámaca Velásquez, Josefina Bámaca Velásquez, Alberta Velásquez, Rudy López Velásquez and other members of the Bámaca Velásquez family residing permanently in Guatemala; Emerita Mendoza, Wendy Pérez Álvarez, Sulni Madeli Pérez Álvarez, José Oswaldo Pérez Álvarez, Jacobo Álvarez, José Pioquinto Álvarez, Alez Javier Álvarez, Germán Aníbal de la Roca Mendoza, Kevin Otoniel de la Roca Mendoza, Blanca Noelia Meléndez, Aron Álvarez Mendoza and his family, and other members of the family of Mr. Otoniel de la Roca Mendoza residing permanently in Guatemala, under the terms of the most recent decision of the Court, issued on March 11, 2005, confirming that the measures remain in effect. See below, contentious cases.

Carpio Nicolle

465. During 2006 the Commission presented information and observations on these provisional measures ordered since July 4, 1995, among other things to protect the life and physical integrity of Mrs. Martha Arrivillaga de Carpio, Mrs. Karen Fischer and Messrs. Jorge and Rodrigo Carpio Arrivillaga, Abraham Méndez García and his wife and children, and Rodrigo and Daniela Carpio Fischer, should they return to Guatemala. See below, contentious cases.

Colotenango

466. During 2006 the Commission presented periodic observations on reports by the State concerning these provisional measures. They were ordered on June 22, 1994, to protect the life and physical integrity of witnesses in the Colotenango case who are at risk as a result of the escape of several former civilian vigilantes.

467. On June 2, 2006, the Court warned the State that failure to act on the repeated requests for specific information about the implementation of these provisional measures could result in application of Article 65 of the American Convention.

Guatemalan Forensic Anthropology Foundation

468. On July 4, 2006, at the request of the Commission, the Court ordered provisional measures to protect the life and physical integrity of members of the Forensic Anthropology Foundation of Guatemala and the family of its Executive Secretary, Mr. Fredy Armando Peccerelli Monterroso. Later, the Commission presented comments on the information supplied by Guatemala.

469. The text of the above decision may be found at: http://www.corteidh.or.cr/docs/medidas/antropo_se_02.doc.

Helen Mack et al.

470. During 2006 the Commission commented periodically on reports by the State. The provisional measures were decreed on August 26, 2002, to protect the life and physical integrity of the family of Mrs. Myrna Mack Chang and members of the Myrna Mack Foundation, Mrs. Iduvina Hernández and Mr. Jorge Guillermo Lemus Alvarado and his family. See below, contentious cases.

"Plan de Sánchez" massacre (Community Studies and Psychosocial Action Team, "ECAP")

471. On October 15, 2006, the Center for Human Rights Legal Action requested the Court for provisional measures enjoining Guatemala to protect the life and physical integrity of members of the Community Studies and Psychosocial Action Team ("ECAP") who are supporting the process of reparations to victims and survivors of the Plan de Sánchez Massacre (see below, contentious cases). On November 25, 2006, the Court fully upheld the October 20, 2006, order by the President of the Court that granted the measures requested.

472. The text of the above mentioned decisions may be found at: http://www.corteidh.or.cr/docs/medidas/plandesanchez_se_04.doc and http://www.corteidh.or.cr/docs/medidas/plandesanchez_se_05.doc.

Raxcacó et al.

473. During 2006 the Commission continued periodically observing on the State's reports concerning these measures ordered on August 30, 2004, to preserve the life and physical integrity of Ronald Ernesto Raxcacó Reyes, Hugo Humberto Ruiz Fuentes, Bernardino Rodríguez Lara and Pablo Arturo Ruiz Almonger, who were condemned to death in Guatemala in proceedings that violated the Convention and whose cases are being heard in the Inter-American system.

474. On September 15, 2005, the Court decided the Raxcacó Reyes case (see below, contentious cases), ordering that the judicial decision rendered against him in Guatemala be set aside, that a new decision be rendered consistently with the provisions of the Convention, and that the State refrain from executing him. The Court consequently established that the State's obligations under the provisional measures concerning Mr. Raxcacó Reyes were thereby replaced by those established in its decision. Those measures, however, remain in effect with respect to the other three beneficiaries.

475. On April 20, 2006, the President of the Court rejected as inadmissible a request to expand the provisional measures in favor of Mr. Tirso Román Valenzuela Ávila submitted by the

representatives of the beneficiaries of the provisional measures. The complete text of that order may be found at: http://www.corteidh.or.cr/docs/medidas/Raxcaco_se_02.doc.

476. On July 4, 2006, the President of the Court decided to lift the provisional measures ordered in favor of the beneficiary Hugo Humberto Ruiz Fuentes, who died after escaping from the high-security prison at Escuintla. The complete text of this ruling may be found at: http://www.corteidh.or.cr/docs/medidas/Raxcaco_se_03.doc.

477. On December 21, 2006, the President of the Court provided *ex officio* for the appointment of an expert to inspect the detention centers where two of the beneficiaries of these measures are being held and to report back no later than January 12, 2007.

h. Haiti

Lysias Fleury

478. During 2006 the Commission observed on these provisional measures granted on June 7, 2003, to protect the life and physical integrity of Mr. Lysias Fleury, a human rights defender who reported being arrested without a court order on June 24, 2002, detained and subsequently beaten by police and civilians. The Commission had already expressed its concern over the State's noncompliance with its obligation to report to the Court on the implementation of these measures.

i. Honduras

López Álvarez et al.

479. During 2006 the Commission observed on these provisional measures granted, as of September 21, 2005, to protect the life and physical integrity of Mr. Alfredo López Álvarez, and Mrs. Teresa Reyes Reyes, and Mrs. Gregoria Florez Martínez, as well as the mother and daughters of the latter. The beneficiaries of these measures testified before the Court in the case of López Álvarez *et al.* at the hearing that took place on June 28, 2005. See below, contentious cases.

j. Mexico

José Francisco Gallardo

480. During 2006 the Commission presented information and observations on the provisional measures ordered by the President of the Court on December 20, 2001, confirmed by the Court on February 18, 2002, to protect the life and physical integrity of General José Francisco Gallardo Rodríguez. On December 18, 2001, the IACHR filed with the Court a request explaining that the proper measure to guarantee the fundamental rights of General Gallardo, his family and members of Mexican society is to free the General, who, in fact, was in military custody in open defiance of reports from the IACHR and the United Nations establishing that his detention was arbitrary.

Pilar Noriega et al. (previously the Miguel Agustín Pro Juárez Human Rights Center et al.)

481. During 2006 the Commission presented information and observations on the provisional measures ordered by the Court on April 20, 2004, to protect the life and physical integrity of the attorneys Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez, and in behalf of Eusebio Ochoa López and Irene Alicia Plácido Evangelista, parents of Digna Ochoa y Plácido and the siblings Carmen, Jesús, Luz María, Eusebio, Guadalupe, Ismael, Elia, Estela,

Roberto, Juan Carlos, Ignacio and Agustín, all of them surnamed Ochoa y Plácido, following the lifting of the provisional measures ordered on November 30, 2001, to protect members of the Miguel Agustín Pro Juárez Human Rights Center (PRODH). It bears remembering that those provisional measures were issued upon the violent death of Digna Ochoa y Plácido on October 19, 2001, in her office in Mexico City; next to her body it was found a message containing a specific threat against the members of PRODH because of their work defending human rights.

k. Nicaragua

Mayagna (Sumo) Awas Tingni Community

482. During 2006 the Commission presented information and observations on the provisional measures granted to protect the Mayagna (*Sumo*) Awas Tingni Community (see below, contentious cases) on September 6, 2002. The measures sought to safeguard the exercise and enjoyment of property rights over lands belonging to the Awas Tingni Mayagna Community as well as their natural resources, and were specifically intended to prevent immediate and irreparable harm from activities of third parties who had settled in lands of the Community or were exploiting their natural resources, so long as there was no boundary determination, demarcation and issuance of final deeds as ordered by the Court in its decision of August 31, 2001.

l. Peru

Gómez Paquiyauri

483. During 2006 the Commission periodically observed on the State's reports concerning the protective measures granted by the Court at the request of the Commission in the Gómez Paquiyauri Case (see below, contentious cases) to protect the life and physical integrity of Ricardo Samuel Gómez Quispe, Marcelina Paquiyauri Illanes de Gómez, Lucy Rosa Gómez Paquiyauri, Miguel Ángel Gómez Paquiyauri, Jacinta Peralta Allccarima, Ricardo Emilio, Carlos Pedro, and Marcelina Haydée, all surnamed Gómez Paquiyauri, as well as the child Nora Emely Gómez Peralta. In addition, the Court ordered the State to take without delay the necessary measures to protect the life and physical integrity of Mr. Ángel del Rosario Vásquez Chumo and his family.

484. On September 22, 2006, the Court ordered the State to maintain the measures decreed and reiterated the need for the beneficiaries to take part in the planning and implementation of those measures. The text of that decision may be found at: http://www.corteidh.or.cr/docs/medidas/gomez_se_02.doc.

Ramírez Hinostroza and Rivera Paz

485. During 2006 the Commission expressed observing on the measures ordered in this case since September 21, 2004, to protect the life and physical integrity of Mr. Luis Alberto Ramírez Hinostroza and his family, as well as his lawyer, Mr. Carlos Rivera Paz. Because Mr. Rivera Paz ceased to represent Mr. Ramírez Hinostroza, on July 4, 2006 the Court lifted the measures protecting the former.

m. Dominican Republic

Haitians and Dominicans of Haitian origin in the Dominican Republic

486. The Commission voiced concern over the lack of information and presented its periodic comments on the State's reports concerning the measures decreed in favor of the beneficiaries, all of them Haitians and Dominicans of Haitian origin within the jurisdiction of the

Dominican Republic who run the risk of being collectively "expelled" or "deported." The Court granted the measures on August 18, 2000.

487. On February 2, 2006, the Court expanded the protective measures granted since August 18, 2000, and decided that the State should maintain whatever measures it had put in place and should take at once the necessary measures to effectively protect the life and physical integrity of Benito Tide Méndez, Antonio Sension, Janty Fils-Aime, William Medina Ferreras, Rafaelito Pérez Charles, Berson Gelim, the priest Pedro Ruquoy and Andrea Alezy and Solain Pie or Solain Pierre or Solange Pierre and her four children. The Court also ordered the State to ensure the proper conditions for Mrs. Pierre and her four children to return to the Dominican Republic; to assure that the protective measures decreed were planned and implemented with the involvement of the beneficiaries or their representatives, and to investigate the events that led to those measures being granted, maintained and expanded. The text of the order may be found at: http://www.corteidh.or.cr/docs/medidas/haitianos_se_06.doc.

n. Trinidad and Tobago

James et al.

488. During 2006 the Court advised the Commission that the State had failed to report on the implementation of the provisional measures decreed on May 27, 1998. Those measures have to do in part with the contentious case Hilaire, Constantine and Benjamin *et al.*, see below.

o. Venezuela

Carlos Nieto Palma et al.

489. During 2006 the Commission presented information and observations on the provisional measures decreed in this case. On July 9, 2004, at the Commission's request, the Court granted provisional measures to protect the life, physical integrity, freedom of expression and association of human rights defender Carlos Nieto Palma, General Coordinator of the NGO "*Una Ventana a la Libertad*" ["A Window to Freedom"] and to protect the life and physical integrity of his family.

490. On September 22, 2006, the Court reiterated to the State that it must keep in place the measures it had taken and immediately take all those needed to effectively protect the life, physical integrity and freedom of Carlos Nieto Palma, as well as the life and physical integrity of Yvonne Palma Sánchez, Eva Teresa Nieto Palma and John Carmelo Lacono Nieto, letting the beneficiaries take part in the planning and implementation of those measures.

Eloisa Barrios et al.

491. During 2006 the Commission presented information and observations on the provisional measures decreed in this case. On November 23, 2004, at the request of the Commission, the Court granted provisional measures to protect the life and physical integrity of Eloisa Barrios, Jorge Barrios, Rigoberto Barrios, Oscar Barrios, Inés Barrios, Pablo Solórzano, Beatriz Barrios, Caudy Barrios, Carolina García and Juan Barrios, eyewitnesses and/or complainants in the investigations connected with the murder of Narciso Barrios, whose perpetrators are alleged to be government agents. In 2005, while the provisional measures were in effect, Rigoberto Barrios was killed by nine shots.

El Nacional and Así es la Noticia

492. During 2006 the Commission presented information and comments on the provisional measures granted in this case. On July 6, 2004, at the request of the Commission, the Court granted provisional measures to protect the life, physical integrity and freedom of expression of the employees of media outlets "El Nacional" and "Así es la Noticia." In its most recent observations in 2006 the IACHR requested the Court to order the State to include in its next report detailed information on: the specific measures taken to protect the life and physical integrity of the beneficiaries and to continue investigating the events that prompted the provisional measures.

Guerrero Galluci and Martínez Barrios

493. The Commission presented information and observations on the provisional measures in this case, which were decreed on July 4, 2006, at the request of the Commission, in behalf of Mrs. María del Rosario Guerrero Galluci and Mr. Adolfo Segundo Martínez Barrios. The Court ordered the State to immediately take the necessary provisional measures to protect the life and physical integrity of Mrs. Guerrero Galluci and Mr. Martínez Barrios; to investigate the events that led to the protective measures and to assure that the beneficiaries or their representatives were involved in planning and implementing the measures.

Liliana Ortega et al.

494. During 2006 the Commission presented information and observations on the provisional measures ordered since 2002 for the benefit of Liliana Ortega and other members of the NGO "Committee of Family Members of Victims of the February-March 1989 events" (COFAVIC). In its most recent reports the Commission requested the Court to order the State to report in detail on the protective measures taken and the investigation into the events that prompted the provisional measures.

Luis Uzcátegui

495. During 2006 the Commission presented information and observations on the provisional measures ordered in favor of Mr. Luis Uzcátegui, a beneficiary of protective measures since November 2002. In its most recent comments in 2006 the Commission confirmed its request to the Court to order the State to provide in its next report specific information on the measures taken to fully comply with the order issued by the Court.

Luisiana Ríos et al.

496. During 2006 the Commission presented information and observations on the provisional measures ordered in favor of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos and Argenis Uribe, all of them employees of Radio Caracas Television (RCTV). In its last report the Commission requested the Court to have the State provide in its next report more specific information on the implementation of measures ordered by the Court.

Marta Colomina and Liliana Velásquez

497. During 2006 the Commission presented information and comments on the provisional measures ordered in favor of Marta Colomina and Liliana Velásquez. On July 4, 2006, the Court lifted the measures to protect Mrs. Liliana Velásquez; declared that the State was in breach of its duty to report to the Court, specifically and in detail, on the implementation of the measures ordered by the Court; reiterated to the State that it must take without a delay all necessary measures to protect the life and physical integrity and freedom of expression of Mrs.

Marta Colomina; and ordered the State to continue assuring the beneficiary's involvement in planning and implementing the protective measures, keeping her abreast of developments affecting them.

The case of the "La Pica" Judicial Detention Center

498. On December 29, 2005, the Commission asked the Court for provisional measures to protect the life and physical integrity of detainees at the Monagas Judicial Detention Center, known as "La Pica." After requesting information from the parties, on January 13, 2006, the President of the Court ordered urgent protective measures in favor of the inmates. On January 30, 2006, the Court summoned the parties to a public hearing on February 9, 2006, in order to hear arguments on the events and circumstances that prompted the urgent measures. That same day the Court granted provisional measures in favor of the inmates. During 2006 the Commission presented comments on the various government briefs dealing with implementation of those measures.

499. The text of the above Orders may be found that: [http://www.corteidh.or.cr/docs/medidas/lapica se 01.doc](http://www.corteidh.or.cr/docs/medidas/lapica%20se%2001.doc) and [http://www.corteidh.or.cr/docs/medidas/lapica se 02.doc](http://www.corteidh.or.cr/docs/medidas/lapica%20se%2002.doc).

"Globovisión" television

500. During 2006 the Commission presented information and comments on the provisional measures granted by the Court on September 4, 2004, at the Commission's request, to safeguard and protect the life, physical integrity and freedom of expression of reporters, managers and employees of Globovisión, as well as other persons found in the premises of that media outlet or directly connected with its reporting work.

The case of the Yare I and II Capital Region Penitentiary Center

501. On March 28, 2006, the Commission asked the Court to grant provisional measures to protect the life and physical integrity of detainees at the Yare I and II Capital Region Penitentiary Center. On March 30, 2006, the Court granted the provisional measures in favor of the inmates. During 2006 the Commission presented observations on the various briefs from the government dealing with implementation of those measures.

502. The text of the above decisions may be found at: [http://www.corteidh.or.cr/docs/medidas/penitenciarioregion se 01.doc](http://www.corteidh.or.cr/docs/medidas/penitenciarioregion%20se%2001.doc).

2. Contentious cases

503. Under Article 51.1 of the American Convention, within three months of approving the report on the merits, the Commission must submit the case to the Court or decide whether to publish its report. Article 61 of the Convention, 44 of the Commission's Rules of Procedure and 32 of the Court's Rules of Procedure also mention this authority.

504. Below is a summary of cases pending before the Court, arranged by country.

a. Argentina

Bueno Alves Case

505. On March 31, 2006, the Commission filed with the Court an application in case 11.425 against Argentina, on account of its responsibility for the violation of Articles 5 (Right to Humane Treatment), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in connection with failure to observe Article 1.1 thereof, to the detriment of Juan Francisco Bueno Alves, tortured while in state custody and subsequently denied proper protection and a fair trial by the judicial system.

506. On July 20, 2006, the victim's representative sent to the Court a brief containing petitions, arguments and evidence, as provided by Article 36 of the Court's Rules. On September 26, 2006, the State answered the application as prescribed by Article 38 of the Court's Rules.

507. On December 6, 2006, the Court scheduled a public hearing on the merits, reparations and costs, to be held in San José, Costa Rica, on February 2, 2007, with the Commission, the victim's representative and the State.

Bulacio Case

508. In 2006 the Commission reported periodically on the implementation of the resolution ordered by the Court in its decision of September 18, 2003, and its November 17, 2004 resolution on compliance with it. In that ruling the Court asked the State to report in detail on the progress made in investigating all events in this case and punishing the perpetrators, as well as on the legislative and other measures of any kind needed to bring its domestic law into line with international human rights standards and render them fully effective, so that episodes such as this case will not be repeated.

509. In a decision of December 2004, considering the mandatory nature of the judgments of the Inter-American Court, the Supreme Court of Argentina decided to reopen the criminal case against the head of the police precinct at the time Mr. Bulacio was illegally arrested, which a lower court had found to have lapsed because of the statute of limitations in December 2002.

510. On December 12, 2006, the Court asked the State to present by January 31, 2007, updated information on the status of compliance with the decision of November 28, 2002.

511. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_100_esp.pdf.

Cantos Case

512. In 2006 the Commission reported periodically on compliance with the Court's orders in its November 28, 2002 decision on the merits, reparations and costs, as well as its resolution of November 28, 2005 on execution of that judgment. In its 2005 ruling the Court kept open the procedure to supervise compliance with orders not yet implemented in this case, namely: to refrain from charging Mr. José María Cantos the judicial fee and the fine for nonpayment of that fee; to set at a reasonable amount the attorney fees for case C-1099 of the Supreme Court of Argentina; to pay the fees and costs of all experts and attorneys for the State and for the Province of Santiago del Estero; and to lift the liens, general restraining orders on disposition of property and other measures decreed against the property and commercial activities of Mr. José María Cantos for the purpose of securing payment of the judicial fee and attorney fees in the case.

513. On December 12, 2006, the Court asked the State to present by January 31, 2007, updated information on the status of compliance with the Court's judgment of November 28, 2002.

514. The full text of the judgment may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_97_esp.pdf.

Garrido and Baigorria Case

515. This case concerns the disappearance of Raúl Baigorria and Adolfo Garrido on April 28, 1990 and the subsequent denial of justice, in violation of Articles 1.1 (Obligation to Respect Rights), 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 7.5, 7.6, 8 and 9 (Right to a Fair Trial), 8.1 (Judicial Safeguards) and 25 (Judicial Protection) of the American Convention on Human Rights.

516. In 2006 the Commission was unable to periodically comment on compliance with the Court's orders because the State presented no information whatever on the status of compliance with the compensation decision of August 27, 1998. In its last ruling of November 17, 2004, the Court had already referred to the lack of information from the State.

517. The full text of the decision may be found at: [http://www.corteidh.or.cr/docs/casos/articulos/seriec_26_esp\[1\].pdf](http://www.corteidh.or.cr/docs/casos/articulos/seriec_26_esp[1].pdf).

b. Barbados

Boyce et al. Case

518. On June 23, 2006, the Commission filed an application concerning case 12.480 (Boyce *et al.*) against Barbados because of its responsibility for the violation of Articles 4.1 and 4.2 (Right to Life), 5.1 and 5.2 (Right to Humane Treatment, and 8 (Right to a Fair Trial) in connection with Articles 1.1 (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention on Human Rights to the detriment of Messrs. Lennox Boyce, Jeffrey Joseph, Frederick Benjamin Atkins and Michael Huggins.

519. Messrs. Boyce, Joseph, Atkins and Huggins were found guilty of first-degree murder and sentenced in 2001 to death under Barbados' 1994 Crimes Against the Person Act, which prescribes the mandatory death penalty for that crime. Because of a "savings" clause in the Constitution of Barbados, its judiciary may not invalidate laws establishing a mandatory death penalty, even if they violate fundamental rights protected by the Constitution of Barbados and by the American Convention. In addition, during the proceedings and after their sentencing, the victims were imprisoned in deplorable conditions and the State read to each of them the respective execution order even as their appeals were pending in the Inter-American system.

520. In its proceedings in this case the Court has received the brief containing petitions arguments and evidence from the victims, as well as the State's answer to the application.

c. Bolivia

Trujillo Oroza Case

521. As regards compliance with its judgment, on September 12, 2005 the Court issued its most recent resolution establishing that the State had as yet not fulfilled its obligations to employ all necessary means to locate the mortal remains of the victim and deliver them to the family for

adequate burial; to include the crime of forced disappearance of persons in its domestic law; and to investigate, identify and punish the perpetrators in this case.

522. On October 30, 2006, the Commission presented observations on the State's report on compliance, which had been presented on September 19, 2006. The Commission recognized as positive the criminalization of forced disappearances in the law published on January 21, 2006. Still pending in terms of compliance, however, are operative items one and three of the Court's decision that deal with locating and delivering the mortal remains of the victim to his family and investigating, identifying and punishing all perpetrators. The Court was also asked to order the State to present detailed information on the transfer of the investigation to a civilian judge.

523. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/Seriec_64_esp.pdf.

d. Brazil

Nogueira de Carvalho Case

524. On January 13, 2005, the Commission filed with the Court an application against Brazil in case No. 12.058, Nogueira de Carvalho, because of the State's responsibility in the actions and omissions that have preserved impunity in the murder of the attorney Francisco Gilson Nogueira de Carvalho, a human rights defender, and the lack of adequate compensation for his mother and father, Jaurídice Nogueira de Carvalho and Geraldo Cruz de Carvalho.

525. On November 28, 2006, the Court decided preliminary objections and the merits, holding that it had not been established that the State had violated the right to a fair trial and to judicial protection under Articles 8 and 25 of the American Convention, and ordering the case closed. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_161_esp.doc.

Ximenes Lopes Case

526. On October 1, 2004, the Commission filed with the Court an application against Brazil in case No. 12.237, Damião Ximenes Lopes, because of the inhuman and degrading conditions of hospitalization of Mr. Damião Ximenes Lopes -- who is mentally handicapped -- at a health center operating within the Single Health System of Brazil and known as the *Casa de Repouso Guararapes* [Guararapes Rest Home]; the blows and abuse he was subjected to by the staff of *Casa de Repouso*; his death while undergoing psychiatric treatment there; and the lack of investigation and due process that have led to continued impunity in this case.

527. On July 4, 2006, the Court decided the merits and remedies in this case. It accepted the partial acknowledgment of international responsibility made by the State and held that Brazil had violated Mr. Ximenes Lopes' right to life and humane treatment established, respectively, in Articles 4.1 and 5.1 and 5.2 of the American Convention; his family's right to humane treatment under Article 5 of the Convention; and the right to a fair trial and to judicial protection under Articles 8.1 and 25.1 of the Convention with respect to Mrs. Albertina Viana Lopes and Mrs. Irene Ximenes Lopes Miranda; all in connection with Articles 1.1 and 2 of the Convention. The Court's decision ordered the appropriate remedies.

528. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/Seriec_149_esp.doc.

e. Colombia

19 Merchants (Álvaro Lobo Pacheco et al.) Case

529. In the course of 2006 the Commission periodically reported on the degree of compliance with the Court's orders in its judgment on the merits, reparations and costs dated July 5, 2004.

530. On February 2, 2006, the Court issued a resolution on compliance with that decision, keeping the proceedings open with respect to the State's unfulfilled obligations. Among these are to investigate the events in this case; make a serious effort to ascertain what happened to the remains of the victims; build a monument in memory of the victims and dedicate a plaque with the names of the 19 merchants; provide the medical and psychological treatment required by family members; create the proper conditions for the exiled family of the victim Antonio Flórez Contreras to return to Colombia if they so desire; guarantee the life, safety and security of persons who testified before the Court and of their families; pay the amounts awarded in the judgment for loss of income of each of the 19 victims, the expenses incurred by the families of 11 of the victims, and the compensation for moral damage; deposit the compensation awarded to the underage beneficiaries in a bank account in their name at a solvent Colombian bank; take the necessary steps to find the families of Mr. Juan Bautista and Mr. Huber Pérez and turn over to them the compensation they are entitled to; and reimburse costs and expenses. The complete text of this ruling may be found at: http://www.corteidh.or.cr/docs/supervisiones/comerciantes_02_02_06.doc.

Caballero Delgado and Santana Case

531. Throughout 2006 the Commission reported periodically on compliance with the reparations ordered by the Court in its judgment of January 29, 1997, and its resolution on compliance dated November 27, 2003. In the latter the Court kept the proceedings open with respect to the interest earned on amounts unpaid to Mrs. Ana Vitelma Ortiz, mother of Ms. María del Carmen Santana; the transfer of half the amount of compensation shown in the Certificate of Deposit and its yield before maturity to an account to be opened in the name of the minor Ingrid Carolina Caballero Martínez; purchasing a new Certificate of Deposit using half the compensation and earnings shown for the CD maturing on September 1, 2004, in favor of the representatives of the minor Iván Andrés Caballero Parra; investigating and punishing the persons responsible for the disappearance and presumed death of the victims, and locating the victims' remains and delivering them to their families.

532. The Court also urged the State to take every step required to put into effect and promptly comply with its judgments of December 8, 1995 on the merits, and January 29, 1997 on reparations, as prescribed by Article 68.1 of the American Convention.

Escué Zapata Case

533. On May 16, 2006, the Commission filed with the Court an application against Colombia in case 10.171, citing State responsibility for violation of Articles 4 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, along with failure to comply with Article 1.1 thereof, because of the unlawful detention, torture and extrajudicial execution of the indigenous leader Germán Escué Zapata on February 1, 1988, in the district of Jambaló, municipality of Jambaló, Department of Cauca, the lack of subsequent due diligence in investigating the events, and the denial of justice to the family of the victim.

534. On September 18, 2006, the representatives of the victim and his family sent to the Court a brief containing petitions, arguments and evidence. On November 17, 2006, the State answered, acknowledging its international responsibility for violating Articles 4, 5, 7, 8 and 25, and its failure to comply with Article 1.1 of the Convention.

535. On December 20, 2006, the Court scheduled a public hearing on the merits, reparations and costs, held in San José, Costa Rica, on January 29, 2007, with the Commission, the representatives of the victim and his family and the Colombian State.

Las Palmeras Case

536. This case involves the extrajudicial execution of six persons on January 23, 1991, in the locality of Las Palmeras, municipality of Mocoa, department of Putumayo, Colombia, and the subsequent denial of justice to their families.

537. During 2006 the Commission reported periodically on compliance with the reparations ordered by the Court in its judgment of November 26, 2002, and its November 17, 2004 ruling on compliance, in which the Court ordered the State to take all necessary measures to promptly put into effect the reparations that remain unimplemented and asked it to present detailed information on all steps taken to fulfill its obligation to investigate the events and identify the perpetrators, make public the results of the investigation and punish the perpetrators, as well as on the efforts made to locate the remains of N.N./Moisés and his family and to pay the balance of the compensation ordered in the judgment of November 26, 2002.

La Granja and El Aro Case

538. On July 30, 2004, the Commission filed with the Court an application against Colombia in cases 12.050, La Granja, and 12.266, El Aro, because of State responsibility in the events of June 1996 and those that took place as from October 1997, respectively, in the municipality of Ituango, department of Antioquia, involving violation of the right to life of 16 persons; the right to life and personal liberty of one person; the right to life, humane treatment and liberty of two persons; and the property rights of six persons; as well as to ensure proper protection and a fair trial for all these persons and their families and safeguard the applicable children's rights, all in connection with Article 1.1 of the American Convention.

539. On July 1, 2006, the Court accepted the State's acknowledgment of international responsibility for violating rights protected by Articles 4 (Right to Life); 7 (Right to Personal Liberty); 5 (Right to Humane Treatment) and 21 (Right to Private Property) of the Convention, all in conjunction with Article 1.1 (Obligation to Respect Rights). In its decision the Court ordered the appropriate reparations. The full text of the decision is at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_148_esp.doc.

La Rochela Case

540. On March 10, 2006, the Commission filed with the Court an application against Colombia in case 11.995, La Rochela, over its responsibility for the events of January 18, 1989, when a paramilitary group, with support and acquiescence from government agents, extrajudicially executed 12 persons and injured three others, all of them part of a commission of Colombian judiciary officials taking evidence in the "La Rochela" locality of Colombia.

541. On December 22, 2006, the Court scheduled a public hearing to hear testimony and expert witnesses offered by the parties, as well as the final arguments of the Commission, the representatives of the victims and the State of Colombia, which partially acknowledged its

international responsibility in its written answer filed with the Court. The hearing was held on January 31 and February 1, 2007.

Mapiripán Massacre Case

542. This case involves the massacre that took place July 15-20, 1997, when some 100 members of the United Self-Defense Forces of Colombia, with the cooperation and acquiescence of government agents, seized, tortured and murdered at least 49 civilians, destroyed the bodies and dumped the remains into the Guaviare River in the municipality of Mapiripán, department of Meta.

543. On December 6, 2006, the Court forwarded to the Commission and the representatives of the victims and their families the first report from the State on implementation of the September 15, 2005 judgment on the merits, reparations and costs.

544. The Commission has until January 17, 2007, to provide observations on the report.

"Pueblo Bello" (José Álvarez Blanco et al.) Case

545. On January 31, 2006, the Court held that Articles 4, 5, 7, 8 and 25 of the American Convention, in conjunction with Article 1.1, had been violated. In its decision the Court ordered the appropriate reparations. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_140_esp.doc.

546. On May 24, 2006, both the State and the representatives of the victims asked for an interpretation of the decision on the merits, reparations and costs, as provided in Articles 67 of the Convention and 59 of the Court's Rules.

547. The State requested an interpretation of the scope of the remedy prescribed by the Court in paragraphs 275 and 276 of the decision, which calls for implementing, as in other cases, an adequate housing program for family members returning to Puerto Bello. It also asked for clarification of paragraph 240 (a) on distribution of compensation among spouses or domestic partners of the persons killed or missing.

548. For their part, the representatives of the injured parties voiced various doubts about the determination of beneficiaries of the compensation set in the decision, under the guidelines established by the Court in paragraphs 233 to 241. Those guidelines, they pointed out in particular, had not been applied to certain persons not included by the Court, even though such persons had shown "in a timely fashion and with proper documentation... the family ties... and that they met the Court's requirements for beneficiaries of that compensation."

549. In a decision dated November 25, 2006, the Court rejected as inadmissible the interpretation request from the representatives and clarified the meaning and scope of paragraphs 240 (a), 275, 276 and 287 of the judgment of January 31, 2006, as requested by the State. The text of this interpretation decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_159_esp.doc.

Wilson Gutiérrez Soler Case

550. This case deals with the detention and injuries suffered by Wilson Gutiérrez Soler, who was tortured in an attempt to make him confess to a crime of which Colombian courts eventually found him innocent.

551. On December 6, 2006, the Court conveyed to the Commission and the representatives of the victim and his family the first report by the State on implementation of the judgment on the merits, reparations and costs rendered by the Court on September 12, 2005.

552. The Commission has until January 17, 2007, to comment on the report.

f. Chile

Almonacid Arellano Case

553. This case deals with the lack of investigation and punishment of the persons responsible for the extrajudicial execution of Mr. Almonacid Arellano as a result of the application of Decree Law No. 2191, the amnesty law enacted in Chile in 1978. Mr. Almonacid was executed on September 16, 1973 in the city of Rancagua, Chile.

554. On February 7, 2006, the Court scheduled a public hearing to hear preliminary objections and arguments on the merits, reparations and costs. The hearing took place in Brasilia, Brazil, on March 29, 2006, with the Commission, the representatives of the victim and his family and the Chilean State.

555. On May 22, 2006, the Commission, the victim's representatives and the State made their final written arguments, and on September 26, 2006, the Court rendered its decision, holding that Articles 8 and 25 of the American Convention, in connection with Articles 1.1 and 2 thereof, had been violated. The Court ordered the appropriate reparations. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_154_esp.doc.

Claude Reyes et al. Case

556. On July 8, 2005, the Commission filed with the Court an application against Chile in case 12.108, Marcel Claude Reyes, Sebastián Cox Urrejola and Arturo Longton Guerrero, because of its international responsibility for denying access to public information and failing to provide the victims with an appeal against that denial.

557. On September 19, 2006, the Court held that the State had violated the rights to freedom of thought and expression, a fair trial and judicial protection established in Articles 13, 8 and 25 of the Convention in connection with Article 1.1 and 2 thereof. The Court ordered the appropriate reparations. The full text of the judgment may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_151_esp.doc.

Humberto Palamara Iribarne Case

558. On May 13, 2004, the Commission filed with the Court an application against Chile in the Palamara Iribarne case, because the State had confiscated the copies and printing matrix of the book "Ethics and Intelligence Services" ["Ética y Servicios de Inteligencia"], had erased the book from the hard disc of Mr. Palamara's personal computer, banned its publication and found Mr. Palamara guilty of contempt.

559. On November 22, 2005, the Court decided this case. It concluded that the State had violated the rights to freedom of thought and expression, private property, fair trial, judicial protection and personal freedom protected, respectively, by Articles 13, 21, 8, 25 and 7 of the American Convention, in conjunction with Articles 1.1 and 2 thereof.

560. By late 2006 the Commission awaited the report from the State on compliance with the reparations ordered by the Court.

g. Costa Rica

The newspaper "La Nación" (Herrera Ulloa) Case

561. In 2006 the Commission reported periodically on implementation of the Court's orders in its judgment on the merits, reparations and costs dated July 2, 2004.

562. On September 22, 2006, the Court decided to keep the proceedings open with respect to the State's unmet obligations, namely: fully invalidate the judgment of November 12, 1999, by the Criminal Court of the First Judicial District of San José; bring domestic law into conformity with Article 8.2.h of the American Convention on Human Rights, in conjunction with Article 2 thereof; and pay late interest on the unpaid compensation for moral damage and reimbursement of expenses.

563. In that same resolution the Court asked the State to present by January 19, 2007, an updated report on the status of compliance with its unfulfilled obligations. The full text of this resolution may be found at: http://www.corteidh.or.cr/docs/supervisiones/herrera_22_09_06.doc.

h. Ecuador

Benavides Cevallos Case

564. The last Court ruling on compliance is dated November 27, 2003. In it the Court informs the General Assembly of the Organization about the State's failure to discharge its obligation to investigate and clear up the forced disappearance of the victim.

565. In 2006 the State did not present the necessary reports to document compliance with its obligation to investigate, prosecute and punish the perpetrators of human rights violations against Consuelo Benavides Cevallos as ordered in the fourth operative paragraph of the Court's judgment of June 19, 1998.

Chaparro Álvarez et al. Case

566. On June 23, 2006, the Commission filed with the Court an application in case 12.091, Juan Carlos Chaparro Álvarez and Freddy Hernán Lapo Iñiguez, because of Ecuador's international responsibility for their arbitrary detention in Guayaquil on November 15, 1997, and subsequent violations of their rights in the proceedings instituted against them, which resulted in material and moral damage to both. In light of the facts of the case, the Commission asked the Court to hold Ecuador internationally liable for violating the victims' rights under Articles 5 (Humane Treatment), 7 (Personal Liberty), 8 (Fair Trial), 21 (Private Property) and 25 (Judicial Protection) of the American Convention, in conjunction with Article 1.1 (Obligation to Respect Rights). The Commission also asked for a finding that the State violated Article 2 of the Convention to the detriment of Mr. Lapo Iñiguez.

567. The Court has received a brief containing petitions, arguments and evidence from the joint representative of the victims, as well as the answer from the State, in which it raised a preliminary objection to the hearing of the case by the Court. The Court is expected to schedule a public hearing.

Cornejo et al. Case

568. On July 5, 2006, the Commission filed with the Court an application in case 12.406, *Cornejo et al.*, involving Ecuador's international responsibility for failing to discharge its international obligations towards Mrs. Carmen Susana Cornejo de Albán and Mr. Bismarck Wagner Albán Sánchez, who in their efforts to address the death of their daughter, Laura Susana Albán Cornejo, have for years sought justice and the punishment of the perpetrators by collecting evidence about her death and have unsuccessfully tried to draw the attention of the authorities to her case. In its application the Commission argued that the State has violated Articles 8 (Fair Trial) and 25 (Judicial Protection) in conjunction with Articles 1.1 (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention.

569. A brief containing petitions, arguments and evidence from the representative of the victims, as well as the State's answer, have been received in the proceedings before the Court. A public hearing has not yet been scheduled.

Daniel David Tibi Case

570. This case deals with the unlawful and arbitrary detention of Mr. Daniel David Tibi on September 27, 1995, his torture and the impossibility while he was detained of filing a legal action against the torture or his preventive detention, which was excessively long.

571. During 2006 the Commission filed observations on the information presented by the representatives of the victim and his family and by the State, voicing concern over the failure to comply with the remedies ordered by the Court in its judgment of September 7, 2004.

572. On September 22, 2006, the Court issued a resolution on compliance with its judgment and ordered the State to take all necessary steps to effectively and promptly comply with the unimplemented measures ordered by the Court in its ruling on objections, merits and reparations, and to present by January 19, 2007, a detailed report on compliance. The full text of this resolution is available at: http://www.corteidh.or.cr/docs/supervisiones/tibi_22_09_06.doc.

Rigoberto Acosta Calderón Case

573. This case involves the illegal and arbitrary detention of Mr. Acosta Calderón on November 15, 1989, and the violations of due process during his criminal trial.

574. In 2006 the State presented its first report on compliance with the judgment rendered in this case, and the Commission is now waiting for information from the representatives of the injured party before commenting on the degree of compliance with the reparations ordered by the Court in its decision of June 24, 2005.

Salvador Chiriboga Case

575. On December 12, 2006, the Commission filed with the Court an application against Ecuador in case 12.056, *Salvador Chiriboga*, on account of Ecuador's international responsibility for the expropriation of a parcel of land belonging to the brothers Salvador Chiriboga through a procedure that deprived them of its use and enjoyment without the proper compensation established by Ecuadorian law and the American Convention on Human Rights. The Commission asked the Court to hold the State internationally liable for violating the victims' rights under Articles 8 (Fair Trial), 21 (Private Property) and 25 (Judicial Protection) of the American Convention, in conjunction with Articles 1.1 (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof.

576. Notification to the parties was pending at the time of the writing of this report.

Suárez Rosero Case

577. During 2006 the Commission periodically reported on compliance with the reparations ordered by the Court. The last Court ruling on compliance, on November 27, 2003, specified the reparations that remained unimplemented. The Commission has expressed concern over the lack of compliance with one aspect of the remedies ordered by the Court and has asked the Court to order the State to promptly report on steps taken in that connection.

Zambrano Vélez et al. Case

578. On July 24, 2006, the Commission filed with the Court an application in case 11.579, Zambrano Vélez *et al.*, asking it to hold Ecuador internationally liable for the extrajudicial execution of Messrs. Wilmer Zambrano Vélez, Segundo Olmedo Caicedo and José Miguel Caicedo on March 6, 1993, in Guayaquil, and the subsequent failure to investigate the matter. The Commission asked the Court to hold the State internationally responsible for violating its obligations under Article 27 (Suspension of Guarantees), 4 (Right to Life), 8 (Fair Trial) and 25 (Judicial Protection) in conjunction with Articles 1.1 and 2 of the American Convention.

579. The Court has received a brief with petitions, arguments and evidence from the representative of the victims, as well as the State's answer. It has not yet scheduled a public hearing.

i. El Salvador

Erlinda and Ernestina Serrano Cruz Case

580. During 2006 the Commission filed observations on the information received from the representatives of the victims and from the State regarding compliance with the reparations ordered by the Court in its judgment of March 1, 2005.

581. On September 22, 2006, the Court ruled on the status of compliance with its judgment in this case and ordered the State to take all necessary measures to effectively and promptly put into effect the unimplemented items in its decision on the merits and reparations, namely: effectively investigating the events; identifying and punishing the perpetrators and conducting a serious search for the victims; eliminating all obstacles and mechanisms that prevent compliance with the State's obligations; operating a national commission to search for young people who disappeared when they were children during the internal conflict, with community participation; establishing a genetic data system to obtain and preserve genetic information that will help identify and determine the filiation of children who disappeared and their family members; designating a day devoted to children who for various reasons disappeared during the national armed conflict; offering free medical and psychological care to the families of the victims; setting up a web page to search for persons who disappeared; publishing the parts of the judgment that deal with the merits, reparations and costs ordered by the Court and payment of costs and expenses.

582. The Court ordered the State to present by January 19, 2007, a detailed report on compliance with the reparations ordered. The full text of the ruling may be found at: http://www.corteidh.or.cr/docs/supervisiones/serrano_22_09_06.doc.

García Prieto Giralt Case

583. On February 9, 2006, the Commission filed an application in case 11.697, Ramón Mauricio García Prieto Giralt, asking the Court to hold El Salvador responsible for the actions and omissions in the investigation of the murder of Ramón Mauricio García Prieto Giralt in San Salvador on June 10, 1994, the subsequent threats against his family because of their role in seeking investigation, and the lack of adequate remedies.

584. The Commission asked the Court to hold the State internationally responsible for violating Articles 5 (Humane Treatment), 8 (Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in conjunction with Article 1.1 (Obligation to Respect Rights) thereof, to the detriment of the family members of Ramón Mauricio García Prieto Giralt, José Mauricio García Prieto Hirlemann, Gloria Giralt de García Prieto and Carmen Estrada de García Prieto. El Salvador accepted the adversarial jurisdiction of the Court as from June 6, 1995, and the violations complained of in the Commission's application to the Court took place after that date.

585. The Court has received a brief with petitions, arguments and evidence from the joint representative, as well as the answer from the State, which raises preliminary objections. On December 14, 2006, the Court summoned the parties to a public hearing at its headquarters on January 25 and 26, 2007.

j. Guatemala

Bámaca Velásquez Case

586. During 2006 the Commission periodically reported on the degree of compliance with the Court's orders in its judgment on the merits, reparations and costs dated February 22, 2002.

587. On July 4, 2006, the Court issued a ruling on compliance with the above decision and kept the procedure open with respect to the following unimplemented obligations of the State: locating the mortal remains of Mr. Efraín Bámaca Velásquez, exhuming them in the presence of his widow and family and delivering them to the family; investigating the events that led to violations of the American Convention and the Inter-American Convention to Prevent and Punish Torture, identifying and punishing the perpetrators and making public the results of the investigations; publishing in the Official Gazette and one other national newspaper the chapter on proven facts and the operative part of the judgment on the merits rendered on November 25, 2000; holding a public event to acknowledge its responsibility for the events in this case and to honor the victims; and taking the legislative or other measures of any kind needed to bring Guatemalan law into conformity with international human rights and humanitarian law standards, and making them fully effective domestically. The full text of this resolution may be found at: http://www.corteidh.or.cr/docs/supervisiones/Bamaca_04_07_06.doc.

588. In its comments the Commission expressed satisfaction that Guatemala has carried out the publications ordered by the Court, has set up a High-Level Commission to study how to bring Guatemalan law into line with international human rights law and humanitarian law, and has held, on October 16, 2006, the public event acknowledging its responsibility and honoring the victims.

589. On the other hand, the Commission highlighted the fundamental importance, not only to the families but also to society as a whole, of investigating the whereabouts of victims in cases of forced disappearance, an obligation that remains unmet.

Blake Case

590. The last Court resolution on compliance is dated November 27, 2003. Still pending at that time were the State's obligations to investigate, prosecute and punish all those responsible for human rights violations in this case. In 2006 the State provided no information on compliance in this case.

Carpio Nicolle Case

591. During 2006 the Commission periodically commented on compliance with the reparations ordered by the Court in its judgment of November 22, 2004. It pointed out the need for the State to immediately comply with its obligations under that decision, and asked the Court to order the State to report on the fulfillment of its duties to investigate; to identify, prosecute and punish those who carried out and ordered the extrajudicial execution of Messrs. Carpio Nicolle, Villacorta Fajardo, Ávila Guzmán and Rivas González, as well as the serious injuries inflicted on Sydney Shaw Díaz; the steps taken to make public the results of the proceedings, so that Guatemalan society may learn the truth; the measures adopted to remove all obstacles and mechanisms that preserve impunity in this case; the specific steps designed to strengthen investigative capabilities; the event to acknowledge responsibility and honor the victims; the obligations to publicize; the payment of compensation, costs and expenses.

592. In its comments to the Court, the Commission expressed satisfaction with the steps taken to pay the compensation and costs ordered, and voiced concern over the lack of progress in complying with the remaining reparations ordered by the Court.

Fermín Ramírez Case

593. During 2006 the Commission periodically commented on compliance with the remedies ordered by the Court in its judgment on the merits, remedies and costs dated July 20, 2005.

594. On September 22, 2006, the Court issued a resolution on compliance with that judgment. It kept open the proceedings with respect to the following outstanding obligations of the State: hold within a reasonable time a new trial of Mr. Fermín Ramírez consistent with due process standards, with full hearing and defense safeguards for the defendant; refrain from applying that part of Article 132 of the Guatemalan Criminal Code that deals with the risk posed by the defendant and bring it into line with the Convention within a reasonable time; refrain from executing Mr. Fermín Ramírez, whatever the outcome of his trial; take the necessary legislative and administrative steps to set up a procedure whereby any person sentenced to death will have the right to request a pardon or commutation of the sentence; provide adequate treatment for the victim and adopt, within a reasonable time, the measures needed to bring prison conditions into line with international human rights standards.

595. In that same resolution the Court asked Guatemala to present by January 19, 2007, an updated report on the status of compliance with the above obligations. The complete text of this ruling may be found at: http://www.corteidh.or.cr/docs/supervisiones/Fermin_22_09_06.doc.

596. The Commission recognizes the steps taken in 2006 by Guatemala that led to a new trial for Fermín Ramírez. It is also pleased by the steps taken to adopt legislative and administrative measures that will provide every person sentenced to death with a procedure for pardon or commutation of the penalty.

Maritza Urrutia Case

597. This case deals with the illegal and arbitrary detention of Mrs. Maritza Urrutia on July 23, 1992, and her subsequent torture in a clandestine detention center where she spent eight days and was forced to make a public statement prepared by her captors.

598. The last Court resolution on compliance is from September 21, 2005. Still pending compliance by the State at that time were its obligations to effectively investigate the events that gave rise in this case to violations of the American Convention and the Inter-American Convention to Prevent and Punish Torture; identify, prosecute and punish the perpetrators and publicize the results of the investigation, all measures ordered by the Court in its decision of November 27, 2003.

599. During 2006, despite repeated requests from the Court, the State provided no information on compliance in this case.

"Plan de Sánchez Massacre" Case

600. The judgment ordering reparations in this case was rendered by the Court on July 3, 2004. In 2006, when responding to the compliance reports from the State, the Commission stated that it valued the efforts made to identify the beneficiaries of the compensation ordered, to open bank accounts for the deposits, to inform and advise the community in the Maya Quiché language, to advise the beneficiaries about investment options and help the victims throughout the reparations process. The Commission stressed the importance of complying with the obligation to investigate the events that gave rise to the violations and identify, prosecute and punish the perpetrators.

Molina Theissen Case

601. The Court's judgment ordering redress in this case is from July 3, 2004. In 2006 the Commission provided observations on the State's compliance report, expressing satisfaction with the implementation of several remedies ordered by the Court and noting that, inasmuch as looking for and handing over the mortal remains of Marco Antonio Molina Theissen is one of the specific obligations ordered by the Court, the information presented by the State should explicitly deal with the efforts and actions undertaken to do so. The Commission insisted on the importance of State compliance with its duty to investigate and punish the perpetrators, both as moral reparation to the victims' families and as a safeguard against repetition of the events. It asked the Court to order the State to report in detail about the status of the investigation to uncover truth and find the perpetrators of the forced disappearance of Marco Antonio Molina Theissen.

Myrna Mack Case

602. The last Court resolution on compliance in this case was issued on September 12, 2005. Still pending are the State's obligations to investigate the events and identify, prosecute and punish all perpetrators and accessories and all persons responsible for the extrajudicial execution of Myrna Mack Chang and the cover-up of that execution, as well as other occurrences in this case; to remove all legal or non-legal obstacles that serve to preserve impunity in this case; to ensure the safety of court officials, prosecutors, witnesses, justice personnel [operadores de justicia] and family members of Myrna Mack Chang and take all measures within its power to expedite the proceedings; to include in the training of the armed forces, police and security agencies courses on human rights and international humanitarian law; to establish a scholarship named for Myrna Mack Chang; and to place at the site of her death or in the adjoining area a highly visible memorial plaque explaining the activities she was engaged in.

603. As regards compliance with the obligation to investigate and identify, prosecute and punish those responsible for the murder of Myrna Mack, the Commission noted in 2006 that the arrest warrant for former colonel Juan Valencia Osorio, convicted as an accessory in the murder, had not led to his apprehension. On the other hand, the Commission expressed satisfaction over the establishment of a scholarship named for Myrna Mack Chang and the efforts made by the State to unveil at the scene of the crime a plaque commemorating the work of the victim.

Paniagua Morales et al. Case

604. During 2006 the Commission periodically reported on compliance with the reparations ordered by the Court. The Court's last resolution on compliance is dated November 27, 2003.

605. Pending compliance under that ruling are the State's obligations to investigate the events in this case and identify and punish the perpetrators; transfer the mortal remains of Pablo Corado Barrientos to the location chosen by his family for burial; take all legislative, administrative or other measures to guarantee accuracy and public access to detainee records; and pay the compensation set for moral damage as well as costs and expenses.

606. The Commission was pleased to note in its comments that the compensation ordered by the Court in this case was finally paid. Because the State reported that the mortal remains of Mr. Corado Barrientos were at the ossuary of the Verbena Cemetery, the Commission took the view that the State, in light of the material difficulties involved in carrying out the Court's order, should take other steps to the same end. In addition, the State's obligation to investigate the matter and punish the perpetrators remains unmet.

Raxcacó Reyes Case

607. This case involves the mandatory death sentence imposed on Mr. Raxcacó Reyes for the crime of abduction or kidnapping, an offense for which Guatemalan law did not establish that penalty when the country ratified the American Convention; the disproportionate nature of the penalty imposed; the conditions of his imprisonment and the ineffectiveness of judicial appeals in Guatemala.

608. On February 6, 2006, the Court rejected as inadmissible the State's request for interpretation of the judgment on the merits, reparations and costs, which was filed on November 30, 2005. The text of that resolution on interpretation is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_143_esp.doc.

609. By February 1, 2007, the Commission must file its first comments on the information the State has thus far supplied on compliance with the decision on the merits, reparations and costs of September 15, 2005.

Villagrán Morales et al. (Street Children) Case

610. This case is about the kidnapping, torture and murder of Henry Giovanni Contreras, Federico Clemente Figueroa Túnchez, Julio Roberto Caal Sandoval and Jovito Josué Juárez Cifuentes; the murder of Anstrum Villagrán Morales; and the failure of the State to offer access to justice to the victims' families.

611. The last Court resolution on compliance is dated November 27, 2003. State obligations pending under that ruling are: to pay compensation for moral damage to Gerardo Adoriman Villagrán Morales; to investigate, prosecute and punish the perpetrators of human rights

violations established by the Court in its judgment of May 26, 2001, in line with Article 68.1 of the American Convention; and to provide the resources and take the necessary steps for transferring the mortal remains of Henry Giovanni Contreras to a site selected by his family for burial.

612. During 2006, despite repeated requests from the Court, the State provided no information on compliance in this case.

k. Haiti

Yvon Neptune Case

613. On December 14, 2006, the Commission filed with the Court an application in case 12514 against Haiti, because of its responsibility in the violation of Yvon Neptune's rights protected by Articles 5 (Humane Treatment), 7 (Personal Liberty), 8 (Fair Trial), 9 (Ex Post Facto Laws) and 25 (Judicial Protection) of the American Convention, in conjunction with Article 1.1 thereof. These violations result from Haiti's failure to advise the victim in a timely and sufficient fashion of the charges against him; to bring him without delay before a judge or other judicial official empowered by law to exercise judicial authority; to afford him an appeal to a court competent to look into the legality of his detention; to ensure his physical, mental and moral integrity and his right to be separated from inmates already convicted; to provide him with detention and treatment conditions consistent with international standards while he was in custody at the National Penitentiary; to give him adequate time and means to prepare his defense; and to refrain from accusing him of an act that was not a crime under Haitian law.

614. Notification of the case to the parties was pending at the end of January 2007.

l. Honduras

Alfredo López Álvarez Case

615. On July 7, 2003, the Commission filed with the Court an application in case 12387 against Honduras, because of violations committed against Mr. Alfredo López Álvarez, a member of a Honduran Garífuna community. Mr. López Álvarez was arrested on April 27, 1997, and tried in criminal court, where he was acquitted on January 13, 2003. He was imprisoned for six and a half years before being released on August 26, 2003.

616. On February 1, 2006, the Court held that Honduras had violated Mr. Alfredo López Álvarez' right to personal liberty under Articles 7.1, 7.2, 7.3, 7.4 and 7.6 of the American Convention on Human Rights, his right to humane treatment under Articles 5.1, 5.2 and 5.4, his right to a fair trial and judicial protection under Articles 8.1, 8.2, 8.2.b, 8.2.d, 8.2.g and 25.1, his right to freedom of thought and expression and equality before the law under Articles 13 and 24, and his family's right to humane treatment under Article 5.1; all in conjunction with Article 1.1 of the Convention.

617. The full text of the decision is available at:
http://www.corteidh.or.cr/docs/casos/articulos/seriec_141_esp.doc

Juan Humberto Sánchez Case

618. This case has to do with the kidnapping of Juan Humberto Sánchez on July 11, 1992, his torture and execution, the ineffectiveness of the habeas corpus application filed to determine his whereabouts before his body was found days later, and the impunity of the perpetrators of these crimes.

619. During 2006 the Commission periodically reported on compliance with the reparations ordered by the Court in its judgment of June 7, 2003, and its ruling on compliance of September 12, 2005. In that ruling the Court kept open the procedure to supervise compliance with obligations not fully discharged, namely: continue effectively investigating the facts of the case and identify and punish, both administratively and criminally, the perpetrators and accomplices as well as any accessories after the fact; provide the victim's family with full access to all stages of the investigation and make the results publicly known; transfer the victim's mortal remains to a site chosen by his family, at no cost to them; create a registry of detainees that will make it possible to review the legality of detentions; publish in the Official Gazette and one other national newspaper the operative part and the chapter on proven facts of the judgment of June 7, 2003; pay the compensation ordered for the children Breidy Maybeli Sánchez and Norma Iveth Sánchez into an investment account at a solvent Honduran banking institution, on the most favorable financial terms allowed by law and banking practices; pay the total amount ordered by the Court for material and moral damages, costs and expenses, as well as the applicable interest on arrears.

620. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_99_esp.pdf.

Servellón García et al. Case ("Cuatro Puntos Cardinales") [Four Points of the Compass]

621. On February 2, 2005, the Commission filed with the Court an application against Honduras in case 12331, Servellón García et al, also known in Honduras as "Four Points of the Compass." Marco Antonio Servellón García, Rony Alexis Betancourth Vásquez, Orlando Álvarez Ríos y Diomedes Obed García Sánchez were arrested between September 15 and 16, 1995, during an operation conducted by the then Public Security Force (hereinafter "FUSEP"). The four young men were executed extrajudicially by State agents and, on September 17, 1995, their dead bodies were found outdoors in various parts of the city of Tegucigalpa, Honduras. The Commission filed the application because of the inhuman and degrading detention conditions to which the victims were subjected by the State; the blows and mistreatment they received from police; their death while in police custody; and the lack of investigation and due process exhibited in this murder case, whose perpetrators remain at large.

622. On September 21, 2006, the Court accepted the State's acknowledgment of international responsibility and held that Honduras had violated the victims' rights to liberty, humane treatment and life protected by Articles 7.1, 7.2, 7.3, 7.4 and 7.5, 5.1 and 5.2 and 4.1 of the American Convention, and the right to humane treatment under Article 5.5, in connection with the rights of children established in Article 19, with respect to Marco Antonio Servellón García and Rony Alexis Betancourth Vásquez, who were under 18 years of age; that it had violated their families' right to humane treatment under Article 5.1 of the American Convention; had violated Articles 8.1, 8.2, 7.6 and 25.1 of the Convention; had violated their families' right to a fair trial and judicial protection under Articles 8.1 and 25.1 of the American Convention; all in conjunction with the general obligation to respect and guarantee rights prescribed by Article 1.1 of the Convention.

623. The full text of the judgment is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_152_esp.doc.

m. Nicaragua

Mayagna (Sumo) Awas Tingni Community Case

624. This case deals with the lack of demarcation of the communal lands of the Awas Tingni Community, the failure to take effective measures to guarantee the property rights of the

Community over its ancestral lands and natural resources, and the granting of a concession on lands belonging to the Community without its consent and without ensuring an effective legal action to hear the ownership claims of the Community.

625. In its judgment of August 31, 2001, the Court found that the State had violated the right to judicial protection of members of the Mayagna (Sumo) Awas Tingni Community, which is protected by Article 25 of the American Convention on Human Rights in conjunction with Articles 1.1 and 2 thereof, as well as their right to property under Article 21, and that the State must take the legislative, administrative and other measures required under domestic law to provide an effective means of delimiting, demarcating and issuing title to properties in the indigenous communities in a manner consistent with their customary law and values, usage and practice.

626. In 2006 the Commission requested a resolution with a view to expediting compliance with the Court's orders.

627. The full text of the decision is available at: http://www.corteidh.or.cr/docs/casos/articulos/Seriec_79_esp.pdf.

Yatama Case

628. In 2006 the Commission presented observations on the information provided by the representatives of the injured parties and by the State regarding compliance with the remedies ordered by the Court in its judgment of June 23, 2005.

629. On November 29, 2006, the Court issued a resolution requiring the State to take all necessary measures to effectively and promptly put into effect all orders from the Court that remain unimplemented. It also asked the State to present by March 5, 2007, a detailed report on fulfillment of its obligations to legislate a simple, speedy and effective legal action to review decisions by the Supreme Electoral Council that affect human rights, such as political rights, in a manner consistent with the applicable legal and treaty safeguards, and to repeal any provisions standing in the way of such a legal remedy; to amend Electoral Law No. 331 of 2000 so as to clearly regulate the consequences of noncompliance with the requirements of electoral participation, the procedures to be followed by the Supreme Electoral Council in determining noncompliance, and the fundamental decisions that the Council must take, as well as the rights of persons whose participation is affected by State decisions; to amend the regulation of requirements in Electoral Law No. 331 of 2000 that violate the American Convention and to take all measures required to enable members of indigenous and ethnic communities to effectively participate in elections in a manner consistent with their traditions, practices and customs; to pay the compensation awarded for material and moral damages and the amount set for costs and expenses; and to publicize certain sections of the judgment in Spanish, Miskito, Sumo, Rama and English.

630. The full text of the ruling is available at: http://www.corteidh.or.cr/docs/supervisiones/yatama_29_11_06.doc.

n. Panama

Baena Ricardo et al. Case

631. During 2006 the Commission periodically commented on compliance with the Court's remedies ordered in its judgment of February 2, 2001 and its most recent resolution of November 28, 2005. This last ruling of the Court kept the proceedings open in regard to the obligation to pay to the 270 victims the proper amounts for salary arrears and other employment benefits under Panamanian law, which in the case of employees who have died should be paid to

their heirs; to reinstate the 270 victims in their jobs and, if this is not possible, to offer them employment options consistent with the terms, salary and compensation they had when they were dismissed. Should this last also prove impossible, to pay the severance amounts provided under domestic law for termination of employment. Likewise, to pay to the heirs of dead victims the pension or retirement benefits to which they may be entitled as well as the compensation for moral damages.

632. The full text of the ruling may be found at: http://www.corteidh.or.cr/docs/supervisiones/baena_28_11_05.pdf.

o. Paraguay

"Panchito López" Juvenile Rehabilitation Center Case

633. During 2006 the State provided no substantial information on the status of compliance with the judgment of September 2, 2004. Consequently, the Commission has been unable to periodically report on the degree of compliance with the Court's orders.

634. On July 4, 2006, the Court issued a ruling on compliance with that decision and decided to keep the proceedings open with regard to the following outstanding obligations of the State: hold, in consultation with civil society, a public act to acknowledge its international responsibility and to announce the drafting of a short, medium and long-term policy on children that come into conflict with the law; provide psychological treatment to all who were inmates of the Institute between August 14, 1996 and July 25, 2001; provide medical and/or psychological treatment to former inmates injured in the fires and provide psychological treatment to all family members of inmates who died or were injured; provide vocational assistance and a special-education program for inmates of the Institute who were there between August 14 and July 25, 2001; make available for the remains of Mario del Pilar Álvarez Pérez a crypt near the residence of his mother; protect the life, safety and security of witnesses and their families; pay for material and moral to the victims and their families and reimburse the expenses and costs of representatives of the victims.

635. The full text of the resolution is available at: http://www.corteidh.or.cr/docs/supervisiones/instituto_04_07_06.doc.

Goiburú et al. Case

636. On June 8, 2005, the Commission filed with the Court an application against Paraguay in cases 11560, 11665 and 1667, over the illegal and arbitrary detention, torture and forced disappearance of Messrs. Agustín Goiburú Giménez, Carlos José Mancuello Bareiro and the brothers Rodolfo Feliciano and Benjamín de Jesús Ramírez Villalba, carried out by State agents as from 1974 and 1977, as well as the partial impunity that attaches to those events because all perpetrators have not been punished.

637. On September 22, 2006, the Court accepted the State's acknowledgment of international responsibility and found that Paraguay had violated the right to life, humane treatment and personal freedom protected by Articles 4.1, 5.1, 5.2 and 7 of the American Convention, of Agustín Goiburú Giménez, Carlos José Mancuello Bareiro, Rodolfo Ramírez Villalba and Benjamín Ramírez Villalba; their families' right to humane treatment under Article 5.1; the right of the victims and their families to a fair trial and judicial protection under Articles 8.1 and 25; all in conjunction with the general obligation to respect and guarantee rights and liberties under Article 1.1 of the Convention. The Court ordered reparations resulting from the State's international responsibility.

638. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_153_esp.doc.

Ricardo Canese Case

639. This case involves the conviction of Mr. Ricardo Canese, and the restrictions on his ability to leave the country, as a result of statements he made while he was a candidate in the presidential elections held in Paraguay in 1993.

640. During 2006 the State provided no substantial information on the status of compliance with the Court's judgment of August 31, 2004. Consequently, the Commission was unable to periodically report on the degree of compliance with the Court's orders.

641. On September 22, 2006, the Court issued a resolution on compliance with its judgment, finding that the State "has not complied with the provisions in the operative paragraphs of the judgment on the merits, remedies and costs rendered by the Court." The full text of this ruling is available at: http://www.corteidh.or.cr/docs/supervisiones/canese_22_09_06.doc.

Sawhoyamaxe Case

642. The Commission filed an application in this case because of the State's failure to guarantee the ancestral land ownership of the Sawhoyamaxe Community and its members and the lack of satisfactory resolution of their request for territorial recovery. This has meant that the Community and its members have been denied ownership and possession of their lands and have been kept in a state of vulnerability in terms of food, medical care and sanitation, that continually threatens their survival and safety.

643. On March 29, 2006, in light of the evidence supplied by the parties during the proceedings and the arguments made, the Court held that Articles 3, 4, 8, 21 and 25 of the American Convention had been violated, in conjunction with Articles 1.1, 2 and 19 thereof. In its decision the Court established the appropriate reparations.

644. The full text of the decision is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_146_esp2.doc.

Vargas Areco Case

645. On March 27, 2005, the Commission filed with the Court an application in case 12300 (Gerardo Vargas Areco) against Paraguay, because of its failure to investigate, prosecute and punish the perpetrators of the offenses committed against the child Vargas Areco, who was recruited into the Armed Forces of Paraguay when he was 15 years old and died from a shot in the back on December 30, 1989, while trying to flee his garrison. Paraguay accepted the adversarial jurisdiction of the Court on March 26, 1993, and the violations cited by the Commission in its application to the Court occurred after that date.

646. On September 26, 2006, Court accepted in part the State's acknowledgment of international responsibility and held that Paraguay had violated, with respect to the family of Gerardo Vargas Areco, its duty to guarantee the rights protected by Articles 4 and 5.1 of the American Convention, in conjunction with Article 1.1 thereof, and Articles 6 and 8 of the Inter-American Convention to Prevent and Punish Torture; the right recognized by Article 5.1 of the American Convention; and the rights protected by Articles 8.1 and 25 of the American Convention; all in conjunction with Article 1.1 of the Convention and as from March 26, 1993. The Court's decision also dealt with other aspects of the case and established the appropriate remedies.

647. The full text of the decision may be found at:
http://www.corteidh.or.cr/docs/casos/articulos/seriec_155_esp.doc.

Yakye Axa Case

648. During 2006 the Commission reported on the degree of compliance with the Court's reparations ordered in its judgment of June 17, 2005. It indicated that Paraguay had acknowledged its responsibility in a public ceremony held at the present location of the Yakye Axa Community; it stressed the importance of having the Judgment Implementation Committee begin its operations, and it dealt with the partial payment of damages, costs and expenses. Noting that all other State obligations remained unmet, the Commission deemed it necessary for the State to present full information in this connection, particularly and foremost on its obligation to provide subsistence supplies according to objective criteria, and on the changes that, according to the injured party, are being made at the Loma Verde ranch.

649. The full text of the decision is available at:
http://www.corteidh.or.cr/docs/casos/articulos/seriec_125_esp.pdf.

p. Peru

5 Pensioners Case

650. During 2006 the Commission reported on implementation of the reparations ordered by the Court in its judgment of February 28, 2003. It expressed concern over the lack of compliance and the State's failure to report to the Court.

651. On July 4, 2006, the Court addressed the unmet obligations in this case, namely: to conduct the proper investigations and punish those responsible for ignoring the judgments of Peruvian courts in response to legal actions filed by the victims; to pay the four victims and the widow of Mr. Maximiliano Gamarra Ferreira moral damages; and to pay the amount set for expenses and costs. The Court also ruled that the financial consequences resulting from the violation of the right to private property must be established in accordance with domestic law by the competent national agencies.

652. The full text of this resolution is available at:
http://www.corteidh.or.cr/docs/supervisiones/Pensionistas_04_07_06.doc.

Acevedo Jaramillo et al. (SITRAMUN) Case

653. On June 25, 2003, the Commission filed with the Court an application in case 12084 against Peru, over its failure to comply with a series of judgments issued between 1996 and 2000 in favor of the employees of the Municipality of Lima who were illegally laid off or fired. Those decisions ordered their reinstatement and payment of compensation, bonuses, allowances and other benefits. The State had acknowledged to the Commission its responsibility for these violations of the rights of the employees who were members of the union (SITRAMUN) and were included in the proceedings. But in view of continued noncompliance with the judgments, the Commission decided to refer the case to the Court.

654. On February 7, 2006, the Court dismissed the two preliminary objections raised by the State, accepted the acknowledgment of international responsibility made by the State in the proceedings before the Commission and decided that Peru had violated, with regard to the persons covered by the judgments, the right to judicial protection under Article 25.1 and 25.2.c of the

American Convention on Human Rights, in conjunction with the general obligation to respect and guarantee rights and liberties prescribed by Article 1.1.

655. The full text of the decision may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_144_esp.doc.

Baldeón García Case

656. This case deals with the illegal and arbitrary detention, torture and extrajudicial execution of Mr. Bernabé Baldeón García at the hands of Peruvian army personnel on September 25, 1990.

657. On January 9, 2006, as required by the President of the Court in his resolution of December 13, 2005, the Commission and the representatives of the victim and his family presented their final written arguments.

658. On April 6, 2006, after reviewing the evidence supplied by the parties in the proceedings, their arguments and the State's partial acknowledgment of responsibility, the Court found violations of Articles 4, 5, 7, 8 and 25 of the American Convention, in conjunction with Article 1.1 thereof, as well as of Articles, 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture. In its decision the Court established the reparations deemed appropriate. The full text of the judgment is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_147_esp2.doc.

Barrios Altos Case

659. This case addresses the extrajudicial execution of 15 persons on November 3, 1991, in the neighborhood known as "Barrios Altos" of Lima, Peru, and the subsequent denial of justice to their families because of the application of Law No. 26479 that granted a "general amnesty to military, police and civilian personnel in various cases" and Law No. 26492 that "clarifies... the interpretation and scope of the amnesty granted by Law No. 26479."

660. In its decision of March 14, 2001, the Court found that by approving and enacting the amnesty laws the State had violated Articles 4, 5, 8 and 25 of the American Convention and failed to comply with Articles 1 and 2 thereof. Amnesty laws No. 26479 and No. 26492, the Court held, are incompatible with the American Convention on Human Rights and consequently have no legal effect. It ordered a series of remedies, which include the obligation to investigate the events and find the perpetrators. The text of the judgment may be found at: http://www.corteidh.or.cr/docs/casos/articulos/Seriec_75_esp.pdf.

661. Subsequently, in a ruling on interpretation, the Court made it clear that in view of the nature of the violation that amnesty laws No. 26479 and No. 26492 represent, the judgment on the merits in the Barrios Altos case applies generally. The full text of this interpretation ruling may be found at: http://www.corteidh.or.cr/docs/casos/articulos/Seriec_83_esp.pdf.

662. During 2006 the Commission reported on compliance with the remedies ordered by the Court in its decisions of March 14 and November 30, 2001. The Commission voiced concern over the lack of compliance with some of the measures ordered.

663. On September 22, 2005, the Court decided to continue the supervisory procedure for the following unimplemented remedies and asked the State to report on: its duty to investigate the events and find the perpetrators of human rights violations mentioned in the judgment on the merits, as well as to make public the results of that investigation and the punishment of the

perpetrators; the payment of certain amounts of compensation; the health benefits to be provided; the educational benefits to be provided; the progress made in arriving at the "most appropriate legal definition" of the crime of extrajudicial execution"; the remembrance monument to be built; and publishing in the "El Peruano" Official Gazette the full judgment on the merits rendered by the Court on March 14, 2001, and disseminating through other media the contents of the decision on reparations dated November 30, 2001.

Cantoral Benavides Case

664. This case deals with the illegal arrest of Mr. Luis Alberto Cantoral Benavides on February 6, 1993, followed by his arbitrary detention and imprisonment and cruel, inhuman and degrading treatment, and the violation of due process and freedom from ex post facto laws because of the same events.

665. The last Court resolution on compliance is dated September 22, 2005. Pending compliance by the State under that ruling are the obligations to: pay the interest on arrears; provide medical and psychological treatment to Mrs. Gladys Benavides López; give Luis Alberto Cantoral Benavides a higher-education or university scholarship at a recognized academic institution selected jointly by the State and the victim and covering the full cost of a professional degree chosen by the latter, as well as all living expenses over the course of his studies; and punish the violators of his rights.

666. During 2006 the State provided no information on compliance with the reparations ordered by the Court. The Court gave it a non-extendable deadline to do so: January 11, 2007.

667. The text of the decision on the merits may be found at: http://www.corteidh.or.cr/docs/casos/articulos/Seriec_69_esp.pdf.

Castillo Páez Case

668. This case is about the kidnapping and subsequent disappearance of Ernesto Rafael Castillo Páez at the hands of the Peruvian National Police on October 20, 1990, and the lack of investigation and punishment of the perpetrators.

669. The last Court resolution on compliance is dated November 17, 2004. Pending under that ruling are the State's obligations to investigate the events, identify and punish the perpetrators and locate the remains of the victim.

670. During 2006 the Commission presented observations on the reports by the State. It recognized the major efforts made by the State to ensure compliance with fundamental aspects of the judgment, but noted that it has yet to comply with its duty to return the mortal remains of the victim to his family, and that it would be appropriate for the Court to ask the State for certain information and urge it to take steps to identify the remains of the victim and return them to his family.

671. The text of the decision on the merits is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_34_esp.pdf.

Castillo Petrucci Case

672. The judgment ordering reparations in this case was rendered by the Court on May 30, 1999. In it, the Court ordered the State to invalidate the trial of the victims and ensure a new trial with full observance of due process and to take appropriate steps to amend Decree Laws No.

25475 and 25659 and guarantee the exercise of rights protected by the American Convention to all persons within its jurisdiction, without exception. The text of the decision on the merits may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_52_esp.pdf.

673. During 2006 the Commission continued reporting on compliance and expressed concern over the victims' complaints that their new convictions are based on the same provisions of Decree Law 25475 that were ruled invalid by the Court. The Commission accordingly asked the Court to order the State to clarify this matter as well as the evidence admitted in the proceedings, the general guidelines that were followed to admit it and, in particular, the rules under which the testimony of a remorseful accomplice who turned State's evidence was admitted.

Cesti Hurtado Case

674. During 2006 the Commission reported on the information provided by the representatives of the victims and by the State regarding compliance with the reparations ordered by the Court in its judgment of May 31, 2001. The Commission noted various State obligations that remain unmet, the length of time that has gone by and the particular effort that the injured party has been forced to make in order to secure redress.

675. On September 22, 2006, the Court issued a resolution on the status of compliance with its judgment and ordered the State to take all necessary steps to effectively and promptly comply with the Court's orders that remain unimplemented, and present, by January 19, 2007, a detailed report on compliance, specifically on payment of interest due on the compensation for moral damages; the investigation of the events and punishment of the perpetrators; payment of the damages for material injury; and the annulment of the military trial and all effects resulting from it.

676. The full text of the resolution is available at: http://www.corteidh.or.cr/docs/supervisiones/cesti_22_09_06.doc.

De La Cruz Flores Case

677. During 2006 the Commission reported on the information provided by the representatives of the victim and by the State regarding compliance with reparations ordered by the Court in its judgment of November 18, 2004. The full text of the decision is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_115_esp.pdf.

678. Still awaiting compliance by the State, the Commission notes, are its obligations to outlaw ex post facto laws and guarantee due process in the new trial of Mrs. María Teresa De La Cruz Flores; to provide medical and psychological care to the victim through government health services, including free medication; to reinstate the victim in the activities she performed as a professional physician in public institutions when she was arrested; to take the steps ordered within a year from notification of the judgment; to provide the victim with a scholarship enabling her to take the professional training and refresher courses of her choice, thereby making it possible for her to become current in her profession; to re-register her in the pension rolls retroactively to the date when she was excluded and guarantee her full enjoyment of retirement rights as they existed before she was arrested.

679. In its latest report the Commission noted that the State had reported only on monetary compensation and the publication of the judgment, but not on the rest of the reparations. The Commission highlighted the importance of receiving information on the remaining points.

Durand and Ugarte Case

680. This case deals with the mutiny that took place at the penitentiary known as "El Frontón" on June 19, 1986, and the failure to identify the dead bodies of Mr. Nolberto Durand Ugarte and Mr. Gabriel Pablo Ugarte Rivera, two of the inmates. The text of the decision on the merits is available at: http://www.corteidh.or.cr/docs/casos/articulos/Seriec_68_esp.pdf.

681. The last Court resolution on compliance is dated November 27, 2002. Still pending under it are the State's obligations to: provide health care, psychological support and interpersonal development and support for construction of a building; publish the Court's judgment of August 16, 2000, and publicize its contents through other media; include in the Supreme Resolution ordering publication of the agreement "a public request for pardon to the victims for the serious injuries caused"; investigate and punish the perpetrators and continue pressing forward the investigation by the 41st Criminal Prosecutor's Office of Lima into the killing of 30 persons, including Nolberto Durand Ugarte and Gabriel Pablo Ugarte Rivera, taking specific steps to establish the location and identify the bodies of these two victims.

García Asto and Ramírez Rojas Case

682. In its judgment in this case, notified on December 15, 2005, the Court accepted the State's acknowledgement of facts preceding September 2000 and established the violations that had taken place. The full text of the judgment may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_137_esp.pdf.

683. Because the one-year deadline for the State to provide information on compliance expired on December 15, 2006, the Commission is waiting for a report from the State before presenting its observations on this point.

Gómez Palomino Case

684. The judgment in this case was notified on December 15, 2005. In it, the Court accepted the State's acknowledgment of international responsibility and established the violations involved in the illegal and arbitrary detention and forced disappearance of the victim. The full text of the judgment is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_136_esp.pdf.

685. Because the one-year deadline for the State to provide information on compliance expired on December 15, 2006, the Commission is waiting for a report from the State before presenting its observations on this point.

Gómez Paquiyauri Case

686. During 2006 the Commission reported on the information presented by the victims' representatives and the State on compliance with the reparations ordered by the Court in its decision of July 8, 2004. It pointed out the various State obligations that still need to be discharged to repair the consequences of the illegal detention, torture and extrajudicial execution of the victims.

687. On September 22, 2006, the Court issued a resolution on compliance and ordered the State to take all necessary measures to effectively and promptly implement the following obligations still outstanding: effectively investigate the events to identify, prosecute and punish all perpetrators of the violations against Rafael Samuel and Emilio Moisés Gómez Paquiyauri; officially bestow the names Rafael Samuel Gómez Paquiyauri and Emilio Moisés Gómez Paquiyauri on a school in the province of El Callao, in a public ceremony attended by the families of the victims;

create a scholarship covering studies up to the university level in favor of Nora Emely Gómez Peralta and facilitate her vital-records registration as daughter of Rafael Samuel Gómez Paquiyaui. The Court also asked for a detailed report by January 19, 2007, on compliance. The full text of the resolution is available at: http://www.corteidh.or.cr/docs/supervisiones/gomez_22_09_06.doc.

Huilca Tecse Case

688. During 2006 the Commission presented observations on the State's report on compliance with the Court's judgment in this case. Under the Court's ruling on compliance, dated September 22, 2006, unimplemented reparations include the following: investigate, identify and punish the persons who carried out or ordered the execution of Pedro Huilca Tecse; establish a course on human rights and labor law named after Pedro Huilca; recall and honor, during the official May 1 (Labor Day) celebration, the work of Mr. Pedro Huilca Tecse; place a bust in his memory and provide care and psychological treatment to his family.

689. The text of the resolution may be found at: http://www.corteidh.or.cr/docs/supervisiones/huilca_22_09_06.pdf.

Ivcher Bronstein Case

690. During 2006 the Commission reported on compliance with the reparations ordered by the Court in its judgment of February 6, 2001, and its most recent ruling of September 21, 2005. Still pending under this last ruling are the State's duty to investigate the events that led to the violations established in the judgment; to facilitate the victim's efforts to recover the use and enjoyment of his rights as the largest shareholder in Compañía Latinoamericana de Radiodifusión S.A.; to pay compensation for moral damages and reimburse the costs and expenses of proceedings at home and abroad.

691. The Commission has voiced concern over the failure to fully implement the Court's judgment in this case more than five years after notification to the State. It also asked the Court for the following: concerning the obligation to facilitate Mr. Bronstein's recovery of the use and enjoyment of his rights as majority shareholder, which he was until August 1, 1997, to order the State to take specific steps to end actions preventing Mr. Bronstein's use and enjoyment of his rights as majority shareholder in Compañía Latinoamericana de Radiodifusión S.A.

Juárez Cruzatt et al. ("Centro Penal Miguel Castro Castro") [Miguel Castro Castro Prison] Case

692. On February 12, 2006, Peru answered the application as prescribed by Article 38 of the Rules of the Court.

693. On May 24, 2006, the President of the Court called the parties to a public hearing on the merits, reparations and costs, which was held in San Salvador, El Salvador, on June 26 and 27, 2006, with the Commission, the representatives of the victims and their families and the State.

694. On August 3, 9 and 18, 2006, respectively, as ordered by the President of the Court on May 24, 2006, the Commission, the joint representative and the State submitted their final written arguments.

695. On September 26, 2006, having reviewed the evidence supplied by the parties during the proceedings and their arguments, the Court rendered its judgment and found violations of Articles 4, 5, 8 and 25 of the American Convention, in conjunction with Articles 1.1 thereof, Article 7.b of the Inter-American Convention to Prevent, Punish and Eradicate Violence against Women,

and Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture. The Court ordered the reparations deemed appropriate. The full text of the judgment may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_160_esp.doc.

La Cantuta Case

696. On February 14, 2006, the Commission filed with the Court an application in case No. 11045, La Cantuta, involving the violation of the human rights of Professor Hugo Muñoz Sánchez and the students Bertila Lozano Torres, Dora Oyague Fierro, Luis Enrique Ortiz Perea, Armando Richard Amaro Córdor, Robert Edgar Teodoro Espinoza, Heráclides Pablo Meza, Felipe Flores Chipana, Marcelino Rosales Cárdenas and Juan Gabriel Mariños Figueroa, as well as their families. The victims were abducted at the Enrique Guzmán y Valle National University - "La Cantuta," Lima, at dawn on July 18, 1992, by personnel of the Peruvian Army, who were responsible for their disappearance and the summary execution of some. The application was also prompted by the impunity that has surrounded this case.

697. On November 29, 2006, the Court decided the merits and remedies in this case. It accepted the State's partial acknowledgment of international responsibility and held that Peru had violated the right to life, humane treatment, judicial protection and fair trial, in conjunction with its general obligation to respect rights in its duty to enact domestic-law provisions, as established in the American Convention.

698. In its decision the Court prescribed the reparations deemed appropriate. The full text of the decision is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_162_esp.doc.

Loayza Tamayo Case

699. During 2006 the State provided no information whatever on compliance with the judgment of November 27, 1998. Consequently, the Commission has been unable to periodically report on the degree of compliance with the Court's orders.

700. On September 22, 2006, the Court issued a resolution on compliance and kept open the proceedings in regard to the following outstanding obligations of the State: reinstating Mrs. María Elena Loayza Tamayo as a teacher in public institutions, on the understanding that her salary and other benefits must equal her remuneration on account of those activities in the public and private sector when she was arrested; guaranteeing her full right to retirement, including the time of her detention; taking all domestic-law measures to ensure that no adverse ruling issued in the civil trial she underwent will produce any legal effect whatever; taking the necessary domestic-law measures to ensure that Decrees Laws No. 25475 (Crime of Terrorism) and No. 25659 (Crime of Treason) are brought into conformity with the American Convention; and investigating the events of this case, identifying and punishing the perpetrators, and taking the necessary steps under domestic law to ensure compliance with this obligation.

701. In that same resolution the Court asked the State to present by January 20, 2007, an updated report on the status of compliance with these unmet obligations. The complete text of this ruling is available at: http://www.corteidh.or.cr/docs/supervisiones/loayza_22_09_06.doc.

Lori Berenson Case

702. During 2006 the Commission reported on the State's report on compliance with the Court's judgment in this case. The last resolution of the Court is dated September 22, 2006. Unimplemented orders include: bringing domestic law on terrorism into conformity with the standards of the American Convention; providing adequate and specialized medical care to the

victim, including both medical and psychological care; bringing detention conditions at the Yanamayo Prison into line with international standards, transferring to other prisons inmates whose condition precludes imprisonment at that altitude, and reporting every six months to the Court. The resolution is available at: http://www.corteidh.or.cr/docs/supervisiones/lori_22_09_06.doc.

Neira Alegria Case

703. The Court's last resolution on compliance is dated November 28, 2002. State obligations still pending under it are to locate and identify the remains of the victims and deliver them to their families.

704. During 2006 the Commission periodically reported on compliance with the Court's orders. In its last document it noted that, in light of the State's statements concerning the decision to conduct DNA testing, it is appropriate to maintain the obligation to locate, identify and deliver the remains, which has been pending in this case since the judgment of September 19, 1996.

Constitutional Tribunal Case

705. In 2006 the State provided no information at all on compliance with the judgment of January 31, 2001. Consequently, the Commission has been unable to periodically report on the degree of compliance with the Court's orders.

706. On February 7, 2006, the Court issued a resolution on compliance and decided to keep open the procedure with respect to the State's outstanding obligations, namely: to investigate and determine who is responsible for violating the human rights of the victims and to punish them, and to determine and cancel, under the applicable domestic law most favorable to the victims and in line with due process of law, the interest generated during the period of unpaid salaries and other benefits of Manuel Aguirre Roca, Guillermo Rey Terry and Delia Revoredo Marsano. The full text of this resolution may be found at: http://www.corteidh.or.cr/docs/supervisiones/tribunal_07_02_06.doc.

Employees Dismissed from Congress Case

707. On February 4, 2005, the Commission filed with the Court an application in case 11.830, Employees Dismissed from Congress, over the dismissal from the Peruvian National Congress of a group of 257 employees, part of a group of 1117 employees dismissed by congressional resolutions on December 31, 1992.

708. On November 24, 2006, the Court ruled on preliminary objections, merits and reparations and found a violation of the right to judicial protection of the employees dismissed from Congress, in conjunction with the general obligation of the State to respect and guarantee rights and its duty to enact domestic-law provisions in conformity with the Convention.

709. In its decision the Court ordered the appropriate reparations. The full text of the decision is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_158_esp.doc.

q. Dominican Republic

Dilcia Yean and Violeta Bosico Case

710. During 2006 the Commission reported on compliance with the reparations ordered by the Court in its judgment of September 8, 2005. It noted the State's assertion that it would implement the decision, stressed the imperative need to monitor its actual implementation and

voiced the hope that this would happen as soon as possible. Nevertheless, it expressed concern regarding compliance and asked the Court to schedule a public hearing to learn what steps the State planned to take to comply with the reparations ordered by the Court in the face of actions by the executive, legislative and judicial branches of government that might stand in the way of compliance, as well as domestic-law reforms and proposals for reform and their compatibility with the Court's judgment.

711. On November 23, 2006, Court ruled on a request for interpretation of the judgment submitted by the State on January 5, 2006, and found it inadmissible. The full text of the ruling is available at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_156_esp.doc.

r. Suriname

Moiwana Village Case

712. The decision ordering redress in this case was rendered by the Court on June 15, 2005. During 2006 the Commission periodically reported on compliance with the Court's orders.

713. The Commission brought this case to the Court because of a continual denial of justice following the massacre carried out by the Armed Forces of Suriname in 1986. The Court held that Surinam's deficient investigation of the attack of November 29, 1986, on the village of Moiwana, the violent obstruction of justice by the State and the long period that went by without investigating the events and punishing the perpetrators violated the standards of access to justice and due process established by the American Convention and violated its Articles 1.1, 5, 8, 21, 22 and 25.

Twelve Saramaka Clans Case

714. On June 23, 2006, the Commission filed with the Court an application in case 12338 against Suriname over its responsibility for the violation of Articles 21 (Right to Property) and 25 (Right to Judicial Protection) of the American Convention, in conjunction with Articles 1.1 and 2 thereof, to the detriment of the Saramaka people. The State, the Commission argues, did not take effective steps to recognize their right of communal property over the lands they occupied and used traditionally, and did not offer them access to justice to protect their fundamental rights.

715. The Court served notice of the case on September 5, 2006, setting deadlines of two months for the representatives of the victims to file their petitions, arguments and evidence, and four months for the State to answer the complaint.

716. On November 3, 2006, the representatives of the victims filed a brief with petitions, arguments and evidence, as provided in Article 36 of the Rules of the Court.

s. Trinidad and Tobago

Hilaire, Constatine and Benjamin et al. Case

717. During 2006 the Court advised the Commission that the State had submitted no reports on implementation.

Winston Caesar Case

718. During 2006 the Commission reported periodically on compliance with the orders issued by the Court in its judgment of March 11, 2005, on the merits, reparations and costs.

t. Venezuela

El Amparo Case

719. On July 4, 2006, the Court issued a resolution on compliance with its judgment, deciding: that the State had fully paid the interest on arrears in this case; that, if after 10 years the families of Mr. Julio Pastor Ceballos do not claim the amounts deposited in their name at a financial institution, the amounts will be returned to the State along with the interest earned; and that the obligation still outstanding in this case is to continue investigating the events and punish the perpetrators. The text of this resolution is available at: http://www.corteidh.or.cr/docs/supervisiones/amparo_04_07_06.doc.

720. Further reporting from the State is pending.

Caracazo Case

721. On February 17, 2006, the Commission reported on compliance with the measures ordered by the Court in its judgment. It indicated that the State had not complied with the operative items on investigating and identifying the perpetrators; locating, exhuming and identifying the mortal remains; paying the cost of burial of mortal remains that have been identified; and taking all necessary steps to avoid a repetition of the events in this case. The Commission also noted that the State had fully paid the costs and expenses to the representatives.

The Disappeared of Vargas (Blanco Romero, Hernández Paz and Rivas Fernández) Case

722. As described in the 2005 Annual Report, on November 28, 2005, the Court rendered a judgment in which, following the State's acknowledgment of responsibility, it found violations of the victims' rights to life, humane treatment, personal liberty, a fair trial and judicial protection protected, respectively, by Articles 4, 5, 7, 8 and 25 of the Convention, in conjunction with Articles 1.1 and 2 thereof, as well as a breach of the State obligations under Articles 1, 5, 6, 7 and 8 of the Inter-American Convention to Prevent and Punish Torture, and Articles I.a and I.b, X and XI of the Inter-American Convention on Forced Disappearance of Persons. The Court also found a violation of the victims' families' rights to humane treatment, a fair trial and judicial protection under Articles 5, 8 and 25 of the American Convention, in conjunction with Article 1.1 thereof; and noncompliance, in regard to those families, with the obligation in Article 8 of the Inter-American Convention to Prevent and Punish Torture. Lastly, the Court ordered the appropriate reparations.

723. The time frame has not yet expired for the Commission to present observations on the State's report on compliance with the judgment.

Montero Aranguren et al. (Retén de Catia) Case

724. The Court continued to hear this case in 2006. On April 4, 2006, in the city of Buenos Aires, Argentina, a public hearing was held in which the State acknowledged its international responsibility for the events and accepted the claims put forward by the Commission and the representatives of the victims. On July 5, 2006, the Court rendered its judgment. Noting that the State's recognition was a positive contribution to the proceedings, it addressed the use of force by State security agents and prison conditions at Retén de Catia.

725. These considerations and the full acknowledgment of responsibility by the State led the Court to conclude that Venezuela had violated Articles 2, 4.1, 5.1, 5.2, 5.4, 8 and 25 of the

American Convention, all in conjunction with Article 1.1, to the detriment of the 37 victims in the case, as well as Article 5.1 in regard to their families. In the same decision the Court established the reparations for material and moral damages, compensation measures and safeguards against repetition of the events, as well as payment of costs and expenses. The full text of the judgment may be found at: http://www.corteidh.or.cr/docs/casos/articulos/seriec_150_esp2.doc.

726. Information from the State is pending.

Ruggeri Cova et al. (First Administrative Litigation Court) Case

727. On November 29, 2006, the Commission filed with the Court an application against Venezuela in case 12.489, Ana María Ruggeri Cova, Perkins Rocha Contreras and Juan Carlos Apitz Barbera, because of their removal as judges of the First Administrative Litigation Court on October 30, 2003, without observing the safeguards of independence and impartiality, without sufficient reason for the "inexcusable judicial error" they were said to have committed, and without effective judicial response to the legal action they filed challenging their removal.

728. Notice of the case was served on December 22, 2006, and the time frame for the victims to file their brief of petitions, arguments and evidence was pending.