

**Order of the
Inter-American Court of Human Rights*
of February 6, 2008
Case of Caballero Delgado and Santana v. Colombia
(Monitoring of Compliance with Judgment)**

HAVING SEEN:

1. The Judgment on the Merits and the Judgment on Reparations and Costs, handed down in the case Caballero Delgado and Santana by the Inter-American Court of Human Rights (hereinafter, "the Inter-American Court" or "the Tribunal") on December 8, 1995 and January 29, 1997, respectively.

2. The Orders of monitoring of compliance issued by the Inter-American Court on November 27, 2002, and November 27, 2003. Through the latter, the Tribunal declared:

1. That the State has complied partially with the provisions of the first and second operative paragraph of the judgment on reparations, as regards:

a) payment of the amounts corresponding to reparations and reimbursement of the expenses of María Nodelia Parra Rodríguez, as mentioned in subparagraph (a) of the sixth considering paragraph of [the] Order; and

b) payment of the amount corresponding to the reparations for compensation for non-pecuniary damage in favor of Ana Vitelma Ortiz, mother of María del Carmen Santana, except for the amount relating to interest on arrears, as mentioned in subparagraph (c) of the sixth considering paragraph of [the] Order.

2. That it will keep the proceeding on monitoring compliance in this case open, as regards the following matters that are pending compliance:

a) payment of the interest accrued on arrears in favor of Ana Vitelma Ortiz, mother of María del Carmen Santana, as indicated in subparagraph (c) of the sixth considering paragraph of [the] Order;

b) transfer of half the sum corresponding to the reparations invested in the Certificate of Deposit in United States dollars and the interest on this certificate at the date of its maturity, to the account to be opened in the name of the minor, Ingrid Carolina Caballero Martínez, who will reach the age of consent at that time, as indicated in subparagraph (b) of the sixth considering paragraph of [the] Order;

c) investment in a new Certificate of Deposit in United States dollars of the sum corresponding to half the reparations and interest invested in the CD that matures on September 1, 2004, in favor of the representatives of the minor, Iván Andrés Caballero Parra;

d) Investigation and punishment of those responsible for the disappearance and alleged death of the victims, as indicated in the eleventh and twelfth considering paragraph of [the] Order; and

e) Location of the victims' remains and their delivery to the next of kin, as indicated in the fourteenth considering paragraph of [the] Order.

* Judge Manuel E. Ventura Robles informed the Court that, for reasons of *Force Majeure*, he could not be present during the deliberation and signing of this Order.

3. The briefs dated April 5, 2004; April 12, 2005; April 24, 2006; September 15, 2006; and November 1, 2007, through which the State of Colombia (hereinafter "the State" or "Colombia") submitted information on the status of compliance with the judgment on the merits and the judgment on reparations and costs issued in this case. In its last brief, the State reported:

regarding monetary reparations:

a) with regard to the payment of interest accrued on arrears for Mrs. Ana Vitelma Ortiz, the State reported that by Order of the Ministry of National Defense, dated February 22, 2006, it "reliquidated and ordered the payment" of the interest to the beneficiary in the amount of \$2,517,202.19 Colombian pesos, amount which was delivered through representatives;

b) regarding the transfer of half the amount for the reparations to be included in the Term Certificate of Deposit in dollars of the United States of America and its yield up through the date of its expiration, to the account that will be opened in the name of minor Ingrid Carolina Caballero Martínez, the State reported and submitted documentation on the consignments made to the beneficiary in her savings account in Bancolombia. The State asserts that they were made in the following way:

i. on February 17, 2006, \$58,890,000.00 Colombian pesos were deposited;

ii. on February 23, 2006, \$32,751.90 Colombian pesos were deposited for returns on exchange rate differences; and

iii. on February 28, 2006, \$120,457.00 Colombian pesos were deposited for yields;

c) as to investment in a new Certificate of Deposit (hereinafter, "CD") in dollars of the United States of America in the amount corresponding to half the reparations and yields included in the CD that expired on September 1, 2004, in the name of the representatives of Iván Andrés Caballero Parra, the State reported that a one-year extension was authorized by the Trust of account No. 673204010 of Bancafé Internacional. In addition, the State submitted information on the CD's terms, including the exchange rate for renewing the CD and the yield, and noted that the "CD will remain in Bancafé Internacional until maturation and until Iván Andrés Caballero becomes an adult."

regarding the investigation and punishment of those responsible for the disappearance and presumed death of the victims:

d) that "there is right now an active investigation in the Human Rights Unit of the State Prosecutor's office";

e) that "since 2005, the Ministry of Foreign Relations has been requesting that the Attorney General of the Nation examine the possibility of filing an appeal for review of the decisions of acquittal that have been issued" on the facts of this case. In that regard, the State said that "there have been meetings with the Attorney General of the Nation, the State Prosecutor, and

the Colombian Commission of Jurists, the purpose being to find a solution to the legal inconveniences that arise from the filing of an appeal for review in this case”, and “signaled its willingness to continue working on the search for legal pathways that allow compliance with this obligation”; and

regarding finding the remains of the victims and delivering them to their next of kin:

f) since previous searches have produced negative results, a new search for the mortal remains is under consideration.

4. The briefs of June 15, 2004, February 3, 2005, June 13, 2005, September 26, 2006, and January 14, 2008, in which the representatives of the victims and their next of kin (hereinafter “the representatives”) submitted their comments on the information filed by the State and which referred to the status of compliance with the Judgment. In their last brief the representatives observed:

regarding monetary reparations:

a) with regard to Ana Vitelma Ortiz, they reported that the Defense Minister ordered the payment of interest, which had been received by the Colombian Commission of Jurists in 2006, but that had yet to be handed over to the beneficiary. In that regard, in their last report, the representatives indicated that they were able to make contact with Mrs. Ana Vitelma Ortiz and that they were waiting for her to give them her bank account number in order to process the payment to her;

b) in the case of Ingrid Carolina Caballero Martínez, the representatives indicated that they do not have the information necessary to confirm the State’s assertions, as they do not represent said person;

c) with regard to Iván Andrés Caballero Parra, the representatives indicated that, considering the information supplied by the State on the conditions under which the new CD was invested in, “the necessary measures were not taken, such as required by the Court, to make the investment in a way that would guarantee the greatest benefit to the minor”. Specifically, they referred to the different exchange rates with the dollar and to the interest rate, regarding which they indicated that, “the rate of the agreed-upon CD for Iván Andrés was 2.125% annually, compared to the original CD which was 6.25% annually. This means that the CD was not extended – rather that it was re-created under conditions clearly less favorable to the interests of the [beneficiary]”. Finally, they added that it was “incomprehensible” that the CD was still in force in the Bank, “given that Iván Andrés, as was known by the State, became an adult on December 12, 2006”, and that although that date was reached, the State “has not redeemed the CD, nor turned over the interest that the money may have produced during the last year”;

with regard to the criminal investigation:

d) since the Order of the Court dated November 27, 2003, the State has not supplied the Tribunal with substantive information on the measures it has taken to single out, prosecute, and punish those responsible for these acts. Regarding the meetings called with the purpose of seeking the removal of

internal obstacles that impede the explanation of the facts and the determination of those responsible, the representatives "indicate[d] that these commitments do not relieve the State of its responsibility to take, as its duty, domestic legal actions that lead to compliance with what the Court has ordered"; and

with regard to the search for the remains:

e) they stated that the conditions under which the mentioned search procedures were carried out were neither the most appropriate nor effective for obtaining results, and that "[n]one of these searches has borne fruit due to the lack of planning, organization, and foresight with which they have been carried out". Likewise, they stated their "worry that the scheduling of [a new] search is not preceded by evaluation and planning in relation to previous searches. This oversight could lead once more to failure [...] and consequently to the dilution of the hope of a prompt recovery".

5. The briefs dated November 5, 2004, August 12, 2005, August 10, 2006, November 12, 2006, and January 25, 2008, through which the Inter-American Commission of Human Rights (hereinafter "the Commission" or "the Inter-American Commission") filed its comments on the information submitted by the State and addressed the status of compliance with the Judgment.

6. The Order dated December 10, 2007, through which the President of the Inter-American Court of Human Rights called a private hearing for the monitoring of compliance at the seat of the Tribunal, with the objective of listening to the State, to the Inter-American Commission, and to the representatives of the victims and their next of kin on the implementation of reparations still pending compliance.

7. The declarations and the information contributed by the parties in the private hearing for the monitoring of compliance, held February 4, 2008.¹

CONSIDERING:

1. That monitoring the compliance with its decisions is an inherent jurisdictional power of the Court.

2. That Colombia ratified the American Convention on Human Rights (hereinafter, "the American Convention" or "the Convention") on July 31, 1973, and recognized jurisdictional authority of the Inter-American Court, in accordance with Article 62 of the Convention, on June 21, 1985.

¹ In keeping with Article 6(2) of the Rules, the Court held the hearing with a commission of Judges comprised of: Judge Cecilia Medina Quiroga, President; Judge Leonardo A. Franco, and Judge Margarette May Macaulay. Attendees of the hearing included: a) on behalf of the Inter-American Commission of Human Rights: Manuela Cuvi Rodríguez and Karin Mantel, aids; b) on behalf of the State of Colombia: Clara Inés Vargas Silva, Director of Human Rights and DIH, Ministry of Foreign Relations; Francisco Javier Echeverri, Director of International Matters, Attorney General of the Nation's Office; Alex Salgado Lozano, Legal Director, Ministry of National Defense; Luis Fernando Marín, Prosecutor, Attorney General of the Nation's Office; Juana Inés Acosta, Coordinator of the Inter-Institutional Operative Group, Ministry of Foreign Relations; and Sonia Uribe, Coordinator of the Constitutional Operative Group (Grupo Operativo Constitucional), Ministry of National Defense; and c) on behalf of the representatives of the victims and their next of kin: Gustavo Gallón Giraldo and Luz Marina Monzón, both with the Colombian Jurists Commission.

3. That, pursuant to Article 68(1) of the American Convention, “[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties”. For such purpose, the States are required to guarantee the implementation of the Court’s decisions at the domestic level.²

4. That by virtue of the final and non-appealable nature of the Judgments of the Court, as established in Article 67 of the American Convention, they must be promptly complied with by the State in their entirety.

5. That the obligation to comply with the rulings of the Court conforms to a basic principle of the law on the international responsibility of States, backed by international jurisprudence, under which States are required to fulfill their international treaty obligations in good faith (*pacta sunt servanda*) and, as previously held by the Court and provided for in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot, for reasons of domestic order, escape from their pre-established international responsibility. The treaty obligations of States Parties are binding on all the States’ powers and organs.³

6. That the States Parties to the Convention must guarantee the compliance with provisions under the convention and their own effects (*effet utile*) at the internal level. This principle applies not only with regard to the substantive provisions of the human rights treaties (that is to say, those which express provisions regarding the protected rights,) but also with regard to the procedural rules, such as those referring to the compliance with the decisions of the Court. These obligations must be interpreted and applied so that the protected guarantee is truly practical and efficient, taking into account the special nature of the human rights treaties.⁴

7. That the States Parties to the Convention that have acknowledged the adjudicatory jurisdiction of the Court are obliged to comply with the obligations established by the Tribunal. This obligation includes the State’s duty to inform the Court of the measures adopted to comply with that ordered by the Tribunal in said decisions. The timely observance of the State’s obligation to inform the Tribunal of how it is complying with each of the points ordered by the latter is fundamental for the evaluation of the status of compliance of the Judgment in its totality.⁵

² Cf. ICHR. *Case of Baena-Ricardo et al v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 131; ICHR. *Case of López Álvarez v. Honduras*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights, February 6, 2008, seventh Considering paragraph; and ICHR. *Case of Servellón García et al. v. Honduras*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights, January 29, 2008, third Considering paragraph.

³ Cf. ICHR. *International responsibility for the issuing and application of laws that violate the Convention (Articles 1 and 2, American Convention on Human Rights)*. Consultative Opinion OC-14/94, December 9, 1994. Series A, No. 14, paragraph 35; ICHR. *Case of Cantoral Benavides v. Peru*. Monitoring Compliance with Judgment, Order of the Inter-American Court of Human Rights, February 7, 2008, fifth Considering paragraph; and ICHR. *Case of López Álvarez v. Honduras*. Monitoring Compliance with Judgment, *supra* note 2, eighth Considering paragraph.

⁴ Cf. ICHR. *Case of Ivcher Bronstein. Competence*. Judgment, September 24, 1999. Series C, No. 54, paragraph 37; ICHR. *Case of Cantoral Benavides v. Peru*. Monitoring Compliance with Judgment, *supra* note 3, ninth Considering paragraph; and ICHR. *Case of López Álvarez v. Honduras*. Monitoring Compliance with Judgment, *supra* note 2, ninth Considering paragraph.

⁵ Cf. ICHR. *Case of Barrios Altos v. Peru*. Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 22, 2005, seventh Considering paragraph; ICHR. *Case of Cantoral Benavides v. Peru*. Monitoring Compliance with Judgment, *supra* note 3, nineteenth Considering

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8. That regarding the payment of interest accrued in arrears in the name of Mrs. Ana Vitelma Ortiz, the State reported that in 2006, it transferred the amount owed to the account of her representatives, the Colombian Commission of Jurists, and requested that this obligation be considered complied with.

9. That the representatives confirmed the transfer made by the State and in the hearing for monitoring of compliance reported that after various attempts to contact the beneficiary, they were able to transfer said payment to the beneficiary's bank account. They reported that the obligation is satisfied.

10. That the Inter-American Commission finds that the State has made the payment and requests that the Court consider this operative paragraph complied with.

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11. That regarding the reparation ordered to Ingrid Carolina Caballero Martínez, the State requested that Court consider this obligation to be complied with, in light of the transfer made in 2006 to the savings account of the beneficiary (*supra* Having Seen, paragraph 3.b).

12. That the representatives indicated that they could not confirm this information because they do not represent said person.

13. That the Commission appreciated the action taken by the State; that notwithstanding, in the hearing for monitoring of compliance, it indicated that the amount that had been transferred to said beneficiary could be less than what it should have been under the Judgment on reparations and costs. Consequently, the Commission deemed it necessary for the State to clarify this situation and submit information in this regard.

14. That in accordance with what the State has reported and the documentation it has presented, it is noted that Colombia made efforts toward complying with this obligation. In essence, the Tribunal observes that the State ordered the banking institution to make a transfer of 50% of the Certificate of Deposit to the savings account of Ingrid Carolina Caballero Martínez because said person had reached the age of consent. The Court considers the State's actions on this aspect of the Sentence to be positive. However, in evaluating compliance with this measure of reparations, the Tribunal deems it necessary for the State to detail the total amount transferred to said beneficiary in its next report, informing the Inter-American Commission on this aspect as well (*supra* Considering paragraph 13). Likewise,

considering that Ingrid Carolina Caballero Martínez does not have legal representation, it's necessary for the State to orchestrate the measures necessary for the Tribunal to have a document through which the beneficiary can submit her comments regarding said measure of reparation.

15. That regarding the reparation due to Iván Andrés Caballero Parra, during the hearing for the monitoring of compliance, the State indicated that the Certificate of Deposit "has always been the same, but has been extended" and that the drop in the yield is due to a drop in international rates and the devaluation of the dollar. Also, the State indicated that recently, in a brief dated January 14, 2008, the representatives informed the State that said person had reached the age of consent on December 12, 2006. In that sense, the State filed documentation which records that on January 31, 2008, it requested the information necessary for redeeming the Certificate of Deposit in the name of said person from the Colombian Commission of Jurists. The State confirmed that the payment owed to Iván Andrés Cballero Parra is an obligation subject to conditions, that is, that the party in question must inform the State of having reached the age of consent and submit the documentation necessary for the redeeming of the CD. Therefore, the State maintained that it is not responsible for paying interest on arrears since the beneficiary reached the age of consent. Finally, as to the payment of the interest of said Certificate on behalf of the legal representation of Iván Andrés Caballero Parra, in the hearing for the monitoring of compliance the State submitted copies of receipts for the transfers that had been made from January 2007 to January 2008 to an account belonging to said person.

16. That the representatives maintained a lack of information in this regard and that they did not take the measures necessary to make the investment in a way that would guarantee the greatest benefit for Iván Andrés Caballero Parra. They indicated that the Certificate of Deposit had not been extended, rather it had been newly invested under conditions less favorable to said person's interests. In addition, in the hearing for the monitoring of compliance, the representatives maintained that the State must pay interest in arrears from December 12, 2006, as this payment is an obligation with a deadline, which was reached when Iván Andrés Caballero Parra reached the age of consent; therefore, as of the expiration of that deadline, the arrears went into effect automatically. Also in the public hearing, the representatives submitted a brief from January 18, 2008, in which Mrs. María Nodelia Parra, mother of Iván Andrés Caballero Parra, reported that they had not received "interest in December 2006, during the year 2007, and what has passed of 2008" and that "the interest corresponding to the period since the trust was closed" should be paid. Finally, the representatives in the hearing requested a copy of the security in question and the documentation related to it.

17. That the Commission expressed that more information was needed on the reparation owed to Iván Andrés Caballero Parra. Likewise, it indicated that the date that the beneficiary reached the age of consent was the moment in which the State should have complied with its obligation, it being clear that the State was the one who had to comply with that obligation. Regarding the interest in arrears, it indicated that the Court should take it into consideration before declaring compliance on this operative paragraph, taking into account what was indicated by the Judgment on reparations.

18. That the State also is carrying out the necessary actions for compliance with this obligation according to the information and documentation it provided. The Tribunal comments that there is a discrepancy between the State and the

representatives as far as whether interest in arrears is due as of the date on which the beneficiary reached the age of consent. In that regard, the Court finds that it is the State's responsibility to comply with the reparations ordered by the Judgment in a timely fashion, which includes making payment of damages by the deadline, in this case, the date on which Iván Caballero Parra reached the age of consent. The Inter-American Court deems it necessary that in its next report, the State submit information on this operative paragraph that is still pending compliance.

19. That in regard to the interest on the Certificate of Deposit, the representatives stated that it has not been received by the legal representative of Iván Andrés Caballero Parra. The Tribunal received the documentation supplied by the State in the monitoring hearing on the transfers made and deems it necessary to receive current information on this from the representatives and from the Inter-American Commission.

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20. That regarding the criminal investigation on the facts in this case, in the hearing for the monitoring of compliance, the State recalled the various investigative measures taken in the past, which did not produce results, and reported that there is an investigation underway in the Human Rights Unit of the State Prosecutor's office. Likewise, the State mentioned that there have been meetings with the Commission of Colombian Jurists to evaluate the legal aspects related to the future filing of an appeal for review. Regarding said appeal, during the monitoring hearing, the State reported that at this time such filing was not possible and that it was an extraordinary judicial action that is subject to specific causes of action provided for by law. The State reported that it was working toward meeting the legality requirements and stated that the fact that the Judgment on the Merits in this case did not find violations of Articles 8 and 25 of the American Convention could be an obstacle to the success of said appeal. This is because the Code of Criminal Procedure requires that an international judicial body has declared a "protuberant" lack of compliance of the State's obligation to investigate human rights violations impartially and in a serious manner. The State argued that it is making its best effort to strengthen the arguments for an eventual appeal for review and that it would present said appeal when all the necessary elements are in place. Otherwise, it could be counterproductive to the State's compliance with its obligation to investigate. Finally, during the hearing, the State noted its willingness and openness to work with the representatives on this subject.

21. That in the hearing, the representatives stressed the lack of results of the investigations that have been carried out. They state that even if the Judgment on the Merits and the Judgment on Reparations and Costs form the normative framework that binds the State, the Orders for the monitoring of compliance issued by the Court form an integral part of the framework for compliance with the obligations established in said Judgments. They called the Tribunal's attention to the fact that the State reported that for the moment it would not file the appeal for review due to its understanding that the appeal's legality requirements have not been met. That is to say, the State would be alleging domestic law in order to avoid taking up, in a serious manner, the investigations in this case. The representatives expressed that the State should consider filing this appeal related to the criminal investigations in this case, both in civilian and military jurisdictions. In addition, they

recognized that while the intervening state's attorney shows interest in the investigation, the State has still not complied with what the Court has ordered. They proposed, as an additional mechanism, a special review commission to analyze and motivate the investigation.

22. That in the hearing, the Inter-American Commission stated its concern that 12 years have passed since the Judgment on the merits for the case was handed down, and expressed its conviction that a coherent and good-faith interpretation of the Orders of the Tribunal could allow the overcoming of domestic obstacles so that the State could abide by this obligation. The Commission stated that it is understood that obstacles of domestic law cannot be put forward as impeding compliance with international obligations. Likewise, regarding the halting of the procedure in one of the investigations related to this case, the Commission stated that the military justice system is not satisfactory for bringing to trial violations of human rights like the forced disappearances of Isidro Caballero Delgado and María del Carmen Santana Ortiz. The Commission requested more detailed information on this aspect of the case.

23. That the Court acknowledges the information supplied by the State and regrets that the clarifying of the facts and identifying of those responsible still has not been achieved. The Inter-American Court deems it appropriate to request that in its next report, the State report on the advances made in the investigations related to this case. Likewise, the Tribunal finds it necessary for the State to present more information regarding the appeal for review that is under consideration, particularly on its viability in this case, in which the Tribunal found violation of the right to life and personal liberty, as established in Articles 4 and 7 of the American Convention on Human Rights, with regard to Article 1(1) of said treaty, and that, in accordance with its case law on said violations, the State has an obligation to investigate the facts.

24. That the Tribunal has ruled clearly on Colombia's obligation to investigate the facts, and has declared that the State has not complied with that obligation and that it remains pending compliance. In that regard, in relation with the responsibility to investigate, the Tribunal deems it appropriate to recall that in its Order dated November 27, 2003, it found:

That the Court, as determined by its case law, considers it inadmissible to invoke provisions of domestic law to try and prevent the investigation and punishment of those responsible for human rights violations. Any interpretation to the contrary would deny the *effet util* of the provisions of the American Convention with regard to the domestic law of the States Parties and would deprive the international proceeding of one of its principal functions, because, instead of being conducive to justice, it would foster the impunity of those responsible for such violations [...]

That judgment C-004 of 2003 of the Constitutional Court of Colombia [...] finds that it is admissible to file an action for judicial review "against the preclusion of the investigation, the termination of the proceeding, and an acquittal in proceedings concerning human rights violations [...], provided that [...] a decision of an international body that monitors and controls human rights, formally accepted by" Colombia has declared the State responsible for the human rights violations. The Court deems it extremely important for Colombia to adopt all necessary measures to clarify the facts by carrying out judicial proceedings that lead to the identification and punishment of those responsible. The next of kin of the victim should have full access and capacity to intervene at all stages and in all instances of these investigations, in accordance with domestic law and the provisions of the American Convention [...].

In accordance with the foregoing, Colombia cannot invoke provisions of domestic law, such as the procedural figure of preclusion of the criminal investigation, in order to prevent access to justice and to obstruct compliance with the decisions of this Court concerning the investigation and punishment of those responsible for serious human rights violations, in the terms of the treaty obligations assumed by the States[...].

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25. That in regard to locating the remains of the victims, during the monitoring hearing, the State reported on a search carried out from January 20 to 24, 2008. The State said that the search was carried out keeping in mind the comments of the representatives on previous attempts and based on international protocol. Still, the search was unfruitful. The State said that it will continue making its best efforts to find the remains of the victims.

26. That the representatives recalled the problems with previous search attempts and expressed their concerns about the search of January 2008. They indicated that they were notified of said measure on January 14, 2008, that the search was carried out unexpectedly, and that there was a lack of strategic planning, all circumstances that contributed to the result. Likewise, during the hearing, the representatives submitted a copy of the National Plan for the Search for Disappeared Persons, indicating that this tool was not used during the last search, and that it should be used in the future. Finally, they requested the formation of a commission of experts to collaborate in the planning and guidance of future searches.

27. That the Commission emphasized that more than 11 years passed before the State, in 2006, made a new search for remains. It indicated that the representatives made inquiries on that search, indicating that inquiries were also made in relation to the latest search. The Commission appreciated that the State carried out searches, however it took into account the comments of the representatives, in particular on the need to use domestic legislative tools such as the National Plan for the Search for Disappeared Persons, pointing out as well the need to do a close analysis of the failures of previous searches.

28. That the Court appreciates the carrying out of the most recent search. The Tribunal takes into considerations the statements made by the representatives of the victims regarding the need for strategic planning in the task of locating the remains of the victims. Likewise, the Tribunal notes that the representatives have proposed the formation of a commission of experts with the purpose of strengthening the search, and that the National Plan for the Search for Disappeared Persons is considered in this case. The Inter-American Court deems it necessary for the State, in its next report, to address the aspects pointed out by the representatives and report on the actions it will take in the future to abide by this obligation.

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29. That the Inter-American Court appreciates that the State has complied with the payment owed to Mrs. Ana Vitelma Ortiz and that it has taken several steps

toward complying with the remaining monetary reparations ordered by the Tribunal. Likewise, it appreciates the filing of information on the remaining measures of reparation still pending compliance.

30. That the Court finds it essential that the State present current information on the operative paragraphs of the Judgment on the merits, and the Judgment on reparations and costs, dated December 8, 1995, and January 29, 1997, respectively, still pending compliance, listed hereafter:

- a) the transfer of half the amount corresponding to the reparations consisting of the Certificate of Deposit in dollars of the United States of America and its yield through its maturation date, to the account that will be opened in the name of minor Ingrid Carolina Caballero Martínez, who will reach the age of consent at that time (*related to the first operative paragraph in the Judgment on Reparations and Costs*);
- b) investment in a new Certificate of Deposit in dollars of the United States of America to the amount that corresponds to half the reparations and yield consisting of the CD that matured on September 1, 2004, in the name of the representatives of the minor Iván Andrés Caballero Parra (*related to the first operative paragraph of the Judgment on Reparations and Costs*);
- c) the investigation and punishment of those responsible for the disappearance and presumed death of the victims (*related to the fifth operative paragraph in the Judgment on the Merits*); and
- d) the finding of the remains of the victims and their delivery to the next of kin (*related to the fourth operative paragraph of the Judgment on Reparations and Costs*).

31. That the Court will consider the general status of compliance with the Judgment on the Merits and the Judgment on Reparations and Costs once it has received the necessary information on the operative paragraphs that are still pending compliance.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions and in accordance with Articles 67 and 68(1) of the American Convention on Human Rights, Article 25(1) of its Statute and Article 29(2) of its Rules of Procedure,

DECLARES:

1. That the State has complied with that indicated in the first operative paragraph of the Judgment on Reparations and Costs, which includes:

- a) the payment of interest accrued in arrears to Mrs. Ana Vitelma Ortiz, mother of Miss María del Carmen Santana;

2. That the monitoring of compliance procedure will remain open on the following operative paragraphs still pending compliance:

- a) the transfer of half the amount corresponding to the reparations consisting of the Certificate of Deposit in dollars of the United States of America and its yield through the date of its maturity, to the account that will be opened in the name of minor Ingrid Carolina Caballero Martínez, who will reach the age of consent at that time, in keeping with that stated in Considering paragraph 14 of this Order;
- b) the investment in a new Certificate of Deposit in dollars of the United States of America, in the amount corresponding to half the reparations and yield from the CD that matures on September 1, 2004, to the representatives of minor Iván Andrés Caballero Parra, in keeping with that contained in Considering paragraphs 18 and 19 of this Order;
- c) the investigation and punishment of those responsible for the disappearance and presumed death of the victims, in keeping with that contained in Considering paragraphs 23 and 24 of this Order; and
- d) the locating of the remains of the victims and their delivery to the next of kin, in keeping with that contained in Considering paragraph 28 of this Order.

AND RESOLVES:

- 1. To urge the State to adopt all necessary measures to promptly and effectively comply with the judgments dated December 8, 1995, on the Merits; and January 29, 1997, on Reparations and Costs, handed down by the Inter-American Court of Human Rights in the case of Caballero Delgado and Santana, in accordance with that contained in Article 68(1) of the American Convention on Human Rights.
- 2. Require the State to submit to the Inter-American Court of Human Rights, no later than June 30, 2008, a report on action taken toward complying with what the Tribunal has ordered in its judgments, specifically on the operative paragraphs still pending compliance, as established in the second declarative point in this Order.
- 3. To require that that the representatives of the victims and their next of kin, as well as the Inter-American Commission of Human Rights, present their comments on the State's report mentioned in the previous operative paragraph, within four and six weeks, respectively, as of the receipt of the report.
- 4. To continue monitoring the operative paragraphs of the Judgment on the Merits dated December 8, 1995, and of the Judgment on Reparations and Costs dated January 29, 1997, that are still pending compliance.
- 5. To require the Secretary of the Court to notify the State, the Inter-American Commission of Human Rights, and the representatives of the victims and their next of kin, of this Order.

Cecilia Medina Quiroga
Presidenta

Diego García-Sayán

Sergio García Ramírez

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretario

So ordered,

Cecilia Medina Quiroga
Presidenta

Pablo Saavedra Alessandri
Secretario