

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 27, 2012**

**CASE OF CABALLERO DELGADO AND SANTANA v. COLOMBIA
MONITORING COMPLIANCE WITH JUDGMENT**

HAVING SEEN:

1. The judgments on merits, and on reparations and costs (hereinafter “the judgments”) delivered by the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”) on December 8, 1995, and January 29, 1997, respectively.

2. The orders on monitoring compliance with the judgments that the Court issued on November 27, 2002, November 27, 2003, February 6, 2008, and November 17, 2009. In the latter, the Court declared that:

It w[ould] keep open the proceedings on monitoring compliance with regard to the following aspects that remain pending fulfillment:

a) The investigation and punishment of those responsible for the disappearance and presumed death of the victims, in accordance with considering paragraphs 23 to 27 of th[e] order, and

b) The finding of the mortal remains of the victims and their return to the next of kin, in accordance with considering paragraphs 31 to 34 of th[e] order.

3. The brief of March 31, 2010, and its attachments, in which the Republic of Colombia (hereinafter “the State” or “Colombia”) submitted information on compliance with the operative paragraphs of the judgments that remain pending. It attached to this brief a document certifying the payment of the difference of US\$500.00 (five hundred United States dollars) to Iván Andrés Caballero Parra and Ingrid Carolina Caballero.

4. The brief of May 13, 2010, and its attachments, in which the representatives of the victims (hereinafter also “the representatives”) presented their observations on the information provided by the State. In this brief, the representatives confirmed receipt of the payment of the said sum of US\$500.00 (five hundred United States dollars) (*supra* having seen paragraph 3).

5. The communication of the Secretariat of the Court (hereinafter also “the Secretariat”) of March 18, 2011, in which, on the instructions of the President of the Court, it asked the State to provide an updated report on the measures adopted to comply with the reparations that remain pending. In addition, it reminded the Inter-American Commission on Human Rights (hereinafter also “the Inter-American Commission” or “the Commission”) that the time frame for the presentation of its observations on the State’s report and on the information forwarded by the representatives had expired on May 18, 2010, without these observations having been received by the Court’s Secretariat.

6. The brief of April 4, 2011, in which the Inter-American Commission on Human Rights presented the said observations (*supra* having seen paragraph 5).
7. The brief of June 20, 2011, in which the State forwarded a report in response to the President's request (*supra* having seen paragraph 5).
8. The brief of July 14, 2011, in which the Inter-American Commission on Human Rights forwarded its observations on the information presented by the State.
9. The Secretariat's note of July 15, 2011, in which, on the instructions of the President of the Court, it asked the representatives to forward any observations they deemed pertinent on the State's last report, the time frame for this having expired on July 6, 2011.
10. The communication of July 22, 2011, and its attachments, in which the representatives presented the required observations (*supra* having seen paragraph 9).
11. The Secretariat's note of July 29, 2011, in which, on the instructions of the President of the Court, it asked the State to provide an updated report on compliance with the judgments, and the pertinent supporting documentation.
12. The brief of August 30, 2011, in which the State forwarded information in relation to the President's request (*supra* having seen paragraph 11).
13. The briefs of October 7 and 18, 2011, in which the representatives and the Commission, respectively, forwarded their observations on the last report presented by the State. The representatives asked the Court to convene a hearing to "determine mechanisms for implementing compliance with the obligations specified in the judgments and orders of the Court."

CONSIDERING THAT:

1. One of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.
2. Colombia has been a State Party to the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") since July 31, 1973, and accepted the binding jurisdiction of the Court on June 21, 1985.
3. Article 68(1) of the American Convention establishes that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." To this end, the States must ensure implementation of the Court's decisions in its judgments at the national level.¹
4. The States Parties to the Convention that have accepted the Court's binding jurisdiction must comply with the obligations established by the Court. This obligation includes the State's duty to inform the Court of the actions taken to comply with the Court's orders in its decisions. Prompt observance of the State's obligation to inform the Court of

¹ Cf. *Case of Baena Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003, Series C No. 104, para. 131, and *Case of Gutiérrez Soler v. Colombia. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 8, 2012, third considering paragraph.

the way in which it is complying with each measure ordered by the Court is essential to assess the status of compliance with the judgment as a whole.²

5. The obligation to comply with the decisions of the Court corresponds to a basic principle of the law on the international responsibility of the State, supported by international case law, according to which the States must comply with their international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has already indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, they may not invoke the provisions of its domestic law as justification for failure to assume the pre-established international responsibility. The treaty obligations of the States Parties are binding for all the powers and organs of the State.³

6. The States Parties to the Convention must ensure compliance with its provisions and their inherent effects (*effet utile*) within their respective domestic legal systems. This principle applies not only with regard to the substantive provisions of human rights treaties (that is, those that include provisions on the protected rights), but also with regard to procedural norms, such as those referring to compliance with the decisions of the Court. These obligations shall be interpreted and applied so that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.⁴

a) Obligation to investigate and to punish those responsible

7. Regarding the obligation to investigate and to punish those responsible for the disappearance and presumed death of the victims (*fifth operative paragraph of the judgment on merits*), the State reiterated its request that the Court not mention the information provided concerning the investigation of these facts in any public document. It indicated that “the investigation continues and measures are constantly being taken to explore all the alternatives that may lead to the identification, investigation and, as appropriate, punishment of those responsible.” Regarding the feasibility of the appeal for review of the criminal proceedings relating to this case, the State reiterated the information provided prior to the 2009 order (*supra* having seen paragraph 2), indicating that “there is no possibility that filing [it] would be successful.”

8. The representatives indicated that “the actions of the Prosecutor General’s Office since the end of 2009 and the beginning of 2010 reveal several activities that objectively reflect the interest and decision to advance the investigation,” and that this progress “must be accompanied by adequate protection for those who are participating in the criminal proceedings, because the witnesses remain afraid to testify. However, they stressed that the proceedings are still at the pre-trial stage and expressed their concern owing to the lack of procedural activity since April 22, 2010, which has resulted in non-compliance with the obligation to respect the principle of reasonable time in the investigations; consequently, they asked that the investigation be reactivated as soon as possible. In addition, they

² Cf. *Case of Barrios Altos v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of September 22, 2005, seventh considering paragraph, and *Case of Castañeda Gutman v. Mexico. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of January 18, 2012, sixth considering paragraph.

³ Cf. *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention (Arts. 1 and 2 of the American Convention on Human Rights)*. Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35, and *Case of Castañeda Gutman, supra* note 2, fourth considering paragraph.

⁴ Cf. *Case of Ivcher Bronstein v. Peru. Competence*. Judgment of September 24, 1999, Series C No. 54, para. 37; and *Case of Gutiérrez Soler v. Colombia, supra* note 1, fourth considering paragraph.

indicated that, in the investigation of the facts, the Prosecution had merely produced evidence that had been obtained already and, in the proceedings, “the decision to obtain evidence that should be obtained in an integrated manner is divided up in different court orders.” They also indicated that the information presented by the State is insufficient. Regarding the appeal for review, they reiterated previous observations regarding the inadmissibility of using mechanisms of domestic law, such as the preclusion of the criminal investigation, as a means of obstructing justice and compliance with the Court’s decisions. They added that, if the State’s argument about the impossibility of filing this appeal is accepted, not only would the Court’s orders be disregarded, but it would also confer “the effect of a final judgment on a decision of the military criminal justice system that investigated crimes which constitute grave human rights violations,” as well as ignoring the basic principle of international customary law, *pacta sunt servanda*.

9. The Commission “observ[ed] with concern that the information presented by [...] Colombia provides no additional information that is relevant to compliance with the judgments, but merely repeats information already submitted to the Court.” Regarding the appeal for review, it referred to the content of the Court’s order of November 17, 2009. It concluded that the information provided by the State failed to reveal “that it has adopted any measure to comply with the pending obligations.”

10. The Court has already indicated that the obligation to investigate, prosecute and, as appropriate, punish those responsible for human rights violations is among the positive measures that the States must adopt to guarantee the rights recognized in the Convention,⁵ in accordance with Article 1(1) thereof. This duty is an obligation of means and not of results, which must be assumed by the State as an inherent legal obligation and not as a mere formality preordained to be ineffective, or as a step taken by private interests that depends upon the procedural initiative of the victims or their next of kin, or on their offer of probative elements.⁶

11. The State informed the Court that, between January 2009 and August 2011, it had: (a) carried out a judicial inspection of an office of the National Police; (b) conducted a psychiatric evaluation of a witness; (c) ordered that several individuals be located, and found and interviewed some of them; (d) ordered that investigators be mandated to obtain a copy of the civil registry of deaths based on presumed decease, and related documents concerning the disappearance of Isidro Caballero Delgado; (e) made a judicial inspection of the file of the above-mentioned witness, and (f) ordered judicial inspections of different places and made those inspections. In addition, the State indicated that the “Prosecutor General’s Office, through the 15th Prosecutor of the Human Rights Unit, is trying to gather new evidence that will permit filing an appeal for review, allowing the proceedings to be reopened, as well as evidence that allows certain individuals to be investigated.

12. The Court observes that the information provided by the State since the last order on monitoring compliance lists a series of actions requested by the investigating body, without confirmation that these actions were implemented in some cases. In this regard, the Court finds that the information presented by the State on the activities carried out in this

⁵ Cf. *Case of Velazquez Rodriguez v. Honduras, Merits*. Judgment of the Inter-American Court of Human Rights of July 29, 1988. Series C No. 4, para. 167, and *Case of Torres Millacura et al. v. Argentina. Merits, reparations and costs*. Judgment of the Inter-American Court of Human Rights of August 26, 2011. Series C No. 229, para. 112.

⁶ Cf. *Case of Velazquez Rodriguez v. Honduras, supra* note 5, para. 177, and *Case of Gelman v. Uruguay, Merits and reparations*. Judgment of the Inter-American Court of Human Rights of February 24, 2011 Series C No. 221, para. 184.

investigation is insufficient and does not include details of those that were implemented, such as their purpose and results. Furthermore, it failed to forward copies of the main proceedings or any other document that would allow the Court to assess the actions taken and the alleged progress indicated in the reports, even though the Court has requested this documentation (*supra* having seen paragraph 10).

13. In addition, the Court observes that the representatives and the Inter-American Commission have indicated, among other matters, that the information presented by the State does not reveal substantial progress or concrete results, and that Colombia merely ordered procedures that had been implemented previously, such as taking statements from various individuals, or finding others; that some procedures that were ordered have not been carried out yet and that, during the investigation proceedings, the orders for procedures that should be taken together are divided into different decisions.

14. The Court recalls that it had requested the State to provide updated information on compliance with the pending measures in its last Order, as well as on two subsequent occasions (*supra* having seen paragraphs 5 and 11). Despite these requests, and that more than two years have elapsed since the Court's last order, and more than 15 years since the judgment on reparations and costs (*supra* having seen paragraph 1), the State has not presented substantial information that permits the Court to verify progress in compliance with this measure.

15. In this regard, Colombia must take all the necessary actions to comply promptly and effectively with the measures ordered by the Court in the judgments. This obligation includes the State's duty to provide information on the actions taken to comply with the operative paragraphs of the judgment. The Court finds it necessary to reiterate that prompt observance of the State's obligations to inform the Court of the way in which it is complying with each measure ordered by the Court is essential in order to assess the status of compliance with the judgment as a whole. Moreover, this is not fulfilled with the mere formal presentation of a document; but rather, constitutes a two-fold obligation that, for effective compliance, requires the formal presentation of a document within the established time frame, containing specific, true, detailed and updated information on the issues to which this obligation refers.⁷

2. Without adequate information from the State, this Court is unable to exercise its function of monitoring the execution of its judgments. It is worth recalling that providing sufficient information on the measures taken is a State obligation established by this Court.⁸ The General Assembly of the Organization of American States has reiterated that "the need for the States Parties to provide, in a timely fashion, the information requested by the Court in order to enable it to meet fully its obligation to report on compliance with its judgments."⁹

⁷ Cf. *Case of Bámaca Velásquez v. Guatemala. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of July 4, 2006, seventh considering paragraph, and *Case of Loayza Tamayo v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of September 22, 2006, seventh considering paragraph.

⁸ Cf. *Case of the Five Pensioners v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 17, 2004, fifth considering paragraph, and *Case of Blanco Romero v. Venezuela. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of November 22, 2011, thirty-eighth considering paragraph.

⁹ Cf. *inter alia*, General Assembly, Resolution AG/RES. 2587 (XL-O/10) approved at the fourth plenary session, held on June 8, 2010, entitled "Observations and recommendations on the Annual Report of the Inter-American Court of Human Rights," fourth operative paragraph, and General Assembly, Resolution AG/RES. 2652 (XL-O/11) approved at the fourth plenary session, held on June 7, 2011, entitled "Observations and recommendations on the Annual Report of the Inter-American Court of Human Rights," fifth operative paragraph.

16. In the instant case, in order to monitoring compliance with the judgments, it is essential that the State present a detailed, complete and updated report on the actions taken to comply with the measures of reparation ordered in the judgments that remain pending compliance (*supra* having seen paragraph 2), together with the corresponding supporting documents. Based on the foregoing, the Court requests Colombia to forward specific information on: (a) the current status of the investigations; in particular, the actions that Colombia has taken; (b) the purpose of the actions taken and the results obtained; (c) the lines of investigation, alternatives, and any other mechanisms that are available to the Prosecution and the domestic judicial organs in order to fulfill the State's obligation to investigate the facts of this case, and especially those that can expedite the investigation; (d) the need for and purpose of some actions, such as interviewing individuals who have already testified in the domestic investigations, and the connection between these actions and the lines of investigation; (e) the identification of any problems that prevent adequate compliance with the State's obligation to investigate and that cause the case to continue at the pre-trial investigation stage, which does not permit the trial to be initiated and, in particular, any problems that prevent the identification of the presumed authors. Additionally, even though Colombia affirms that the filing of an appeal for review has no possibility of succeeding, the Court requests the State to clarify the circumstances or the moment when this will be viable, based on the evidence that the Prosecution is gathering. The Court also emphasizes the importance that the State forward supporting documentation for all the information provided, so that the Court is able to verify the adoption of all available measures to investigate the facts.

b) Obligation to find the mortal remains of the victims and return them to the next of kin

17. Regarding the obligation to locate the mortal remains of the victims and return them to their next of kin (*fourth operative paragraph of the judgment on reparations and costs*), the State referred to the information it had provided on previous occasions and added that, under the National Search Plan entitled "Case of the disappeared persons Isidro Caballero and María Del Carmen Santana," among other measures, "explorations [had been carried out] on the Rivelandia and Bombay properties in the municipality of San Alberto Cesar"; however, "no results were obtained." In addition, it referred to specific investigative tasks ordered in August 2011 related to the first exhumation performed in the case. It indicated that it had conducted constant investigative activities in order to find the remains of the disappeared, despite which "the efforts made by the State have not obtained the expected results. Lastly, it indicated that "the Prosecution will continue making every effort to find the mortal remains of the victims and will continue providing information on any progress [in this regard]."

18. The representatives expressed their concern that the direction and control of the exploration process "is not[] headed by or subject to the permanent evaluation of the Prosecutor in charge of the investigation," but rather, he had delegated the responsibility for performing this procedure to the Unified Virtual Identification Center (CUVI). In addition, they underscored that, since March 2010, 16 months had passed without any activity in the search for the mortal remains of the victims.

19. The Commission indicated the lack of information regarding progress, except for some photographs taken in various cemeteries, and noted that the measures indicated by the State did not appear to have produced any immediate concrete results.

20. The Court takes note of the explorations mentioned by the State, carried out following the order of November 2009, which did not produce positive results or lead to progress in finding the remains of Isidro Caballero Delgado and María del Carmen Santana.

21. The last measure relating to the search took place in August 2011 and consisted of ordering investigative tasks to be conducted in order to establish the whereabouts of certain individuals involved in the case and in the first exhumation. To date, the State has not provided any information about the effective implementation of the actions that it indicates were ordered or their results, or on the planning of other activities or explorations in order to comply with this obligation. Despite the lack of information on substantial advances or results in this regard, Colombia does not indicate in its reports the steps it will take to comply with the search for the mortal remains of the victims. The Court emphasizes the need to continue the search ordered for the mortal remains of the victims in an organized and systematic manner. To that end, it reiterates the need to plan the tasks to locate the remains, taking into account the explorations that have been carried out, the evidence in the case file, and the observations of the representatives of the victims.¹⁰

22. Based on the above considerations, the Court finds that, in its next report, Colombia must refer to the aspects indicated in this order and in the briefs with the observations of the representatives and of the Commission regarding these measures, and that it inform the Court of the actions that will take in the near future in order to comply with this obligation. In particular, the Court asks the State to provide specific information on the measures taken to date and on the results of the measures ordered in August 2011, and to forward specific information on the plan of action to search for the mortal remains of the victims in this case.

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23. In its last report, the State indicated that “the civil party has not accompanied the implementation of the judicial measures taken in recent months as it had been doing.” In this regard, the Court considers that, even though it has established that the next of kin must have access and legal standing at all stages and levels of the investigations in accordance with domestic law and the provisions of the American Convention, the State’s compliance with the measures ordered by the Court cannot depend on the actions of the victims’ next of kin or their representatives.

24. Lastly, the Court takes note of the representatives’ request to hold a hearing to monitor compliance with the measures that remain pending. In this regard, once the written information requested from the State and the observations of the parties have been analyzed, the Court will assess the desirability of convening the parties to a monitoring hearing.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions, pursuant to Articles 33, 62(1), 62(3), 67 and 68(1) of the American Convention on Human Rights, 25(1) and 30 of

¹⁰ *Case of Caballero Delgado and Santana*. Order on monitoring compliance of November 17, 2009, thirty-second considering paragraph.

its Statute, and 31(2) and 69 of its Rules of Procedure,¹¹

DECLARES THAT:

1. In accordance with the considering paragraphs 1 to 24 of this order, the State is not fulfilling its obligation to provide the Court with specific, true, detailed and updated information on the measures taken in relation to the investigation and punishment of those responsible for the disappearance and presumed death of the victims in this case, and the search for their mortal remains.
2. The Court will maintain open the proceedings on monitoring compliance with the measures that remain pending in this case, namely:
 - a) The investigation and punishment of those responsible for the disappearance and presumed death of the victims, in accordance with considering paragraphs 7 to 16 of this Order, and
 - b) The search for the mortal remains of the victims and their return to their next of kin, in accordance with considering paragraphs 18 to 22 of this order.

AND DECIDES:

1. To require the State to adopt all necessary measures to comply promptly and effectively with the judgment on merits of December 8, 1995, the judgment on reparations and costs of January 29, 1997, and this order, in accordance with the provisions of Article 68(1) of the American Convention on Human Rights.
2. To request the State to present to the Inter-American Court of Human Rights, by August 15, 2012 at the latest, a report indicating all the measures adopted to comply with the reparations ordered by this Court that are pending compliance, in accordance with considering paragraphs 17 to 22 of this Order.
3. To request the victims' representatives and their next of kin, and the Inter-American Commission on Human Rights to present their observations on the State's report mentioned in the preceding operative paragraph, within four and six weeks, respectively, of receiving it.
4. To continue monitoring the operative paragraphs pending compliance of the judgment on merits of December 8, 1995, and the judgment on reparations and costs of January 29, 1997.
5. To require the Secretariat of the Court to notify this order to the Republic of Colombia, the representatives of the victims and the latter's next of kin, and the Inter-American Commission on Human Rights.

Judge Vio Gross informed the Court of his Concurring Opinion which accompanies this order.

¹¹ Rules of Procedure approved by the Court at its eighty-fifth regular session, held from November 18 to 28, 2009.

Diego García-Sayán
President

Manuel Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary

**CONCURRING OPINION OF JUDGE EDUARDO VIO GROSSI
WITH THE ORDER OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 27, 2012**

**CASE OF CABALLERO DELGADO AND SANTANA v. COLOMBIA
MONITORING COMPLIANCE WITH JUDGMENT**

With this opinion, the undersigned expresses his agreement with the order indicated above (hereinafter "the order"), in the understanding that, in keeping with the relevant norms and in view of the extended, and consequently more than prudent or reasonable, time that has elapsed since the delivery of the judgment in this case without the State concerned (hereinafter "the State") having complied with its fundamental elements, the Inter-American Court of Human Rights (hereinafter "the Court") must advise the General Assembly of the Organization of American States (hereinafter "OAS General Assembly") of this situation.

The foregoing is based on the following elements: (a) the specific provisions of the American Convention on Human Rights¹ and the Statute of the Court;² (b) the State concerned must comply with the judgments of the Court³ and the adoption of the pertinent measures in the event of non-compliance is the responsibility of the OAS General Assembly, the political authority;⁴ (c) once it has delivered the "*final and non-appealable*" judgment,⁵ the Court has no further powers other than the authority to deliver the judgment on reparations and costs, if it has not already done so,⁶ to interpret both judgments,⁷ to rectify any obvious mistakes, clerical errors, or errors in calculation in which it has incurred,⁸ to monitor compliance with the judgment,⁹ and to inform the OAS General Assembly in case of non-compliance;¹⁰ (d) it is not incumbent upon the Court to substitute for the possible inadequacies of the mechanism established in the Convention for cases of non-compliance with its judgments, but rather, in this eventuality, to submit to the OAS General Assembly "*proposals or recommendations on ways to improve the inter-American system of human rights,*"¹¹ and it corresponds to the States to adopt the amendments or modifications they deem appropriate;¹² (e) it is not admissible to transform the regulatory mechanism of monitoring compliance with a "*final and non-appealable*" judgment,¹³ into the prolongation of the case: (f) it is not a question of invoking the *pro homine* principle in this regard,¹⁴ because the mechanism of monitoring compliance with judgments is not a right recognized in the Convention, but rather an instrument established by the Rules of Procedure to allow the Court to improve its compliance with the obligation to inform the OAS General Assembly of non-compliance with its judgments, and (g) in accordance with the meaning of the term "*monitor/supervise*"¹⁵ and the provisions of the Rules of Procedure,¹⁶ the mechanism of

¹ Art. 65.

² Art. 30.

³ Art. 68(1) of the Convention.

⁴ Art. 65 of the Convention.

⁵ Art. 67 of the Convention.

⁶ Art. 66 of the Rules of Procedure of the Court.

⁷ Art. 67 of the Convention. Art. 68 of the Rules of Procedure of the Court.

⁸ Art. 76 of the Rules of Procedure of the Court.

⁹ Art. 69 of the Rules of Procedure of the Court.

¹⁰ Art. 65 of the Convention. Art. 30 of the Statute of the Court.

¹¹ Art. 30 of the Statute.

¹² Arts. 76 and 77 of the Convention.

¹³ Art. 67 of the Convention.

¹⁴ Art. 29 of the Convention.

¹⁵ Diccionario de la Lengua Española, Real Academia Española, edición 2001: *supervisar*: "*ejercer la inspección superior en trabajos realizados por otros*" [oversee the work performed by others].

monitoring judgment entails obtaining information on the latter, in order to inform the General Assembly of any eventual failure to comply with it.

A more extensive version of the foregoing, taking into consideration, as I have indicated previously,¹⁷ on the one hand, that strict respect by the Court for the norms that govern it is a requirement *sine qua non* for the proper safeguard of human rights and, on the other hand, case law as a subsidiary means for the determination of the rules of law¹⁸ and its obligatory nature only for the parties to the litigation and with regard to the case that has been decided,¹⁹ so that, consequently, it can be modified in other cases, can be found in the undersigned's Concurring Opinions to the orders of the Inter-American Court of Human Rights of November 22, 2011, *Case of Blanco Romero et al. v. Venezuela* and *Case of Servellón García et al. v. Honduras*, and of November 23, 2011, *Case of the Saramaka People v. Suriname*, *Monitoring compliance with judgment*.

Eduardo Vio Grossi
Judge

Pablo Saavedra Alessandri
Secretary

¹⁶ Art. 69.

¹⁷ Dissenting Opinions with regard to the judgment of the Inter-American Court of Human Rights, Merits, reparations and costs. *Case of Barbani et al. v. Uruguay*, of October 13, 2011, III. General considerations.

¹⁸ Arts. 62(1) and 3 of the Convention and 38(1) of the Statute of the International Court of Justice.

¹⁹ Arts. 63(1) of the Convention and 59 of the Statute of the International Court of Justice.