

**Order of the
Inter-American Court of Human Rights*
of November 27, 2007
Case of Garrido and Baigorria v. Argentina
(Monitoring Compliance with Judgment)**

HAVING SEEN:

1. The Judgment on the merits rendered by the Inter-American Court of Human Rights (hereinafter referred to as "the Court" or "the Inter-American Court") on February 2, 1996, by means of which, *inter alia*, the Court

1. [Took] note of the acknowledgement by Argentina as to the facts exposed in the claim.
2. Also [took] note of Argentina's acknowledgement of international liability for the said facts.
3. Grant[ed] the parties a term of six months from the date of the [...] judgment to come to an agreement regarding reparations and compensations.

[...]

2. The reparations Judgment issued by the Court on August 27, 1998, by means of which it decided:

1. To set the amount that the Argentine State [had] to pay as compensation to the next of kin of Mr. Adolfo Garrido in \$110,000 United States dollars or its equivalent in national currency, and to set the amount to be paid also as compensation to the next of kin of Mr. Raúl Baigorria in \$64,000 United States dollars or its equivalent in national currency. These payments [had] to be made by the Argentine State in the proportion and under the conditions set forth in the Considering clauses of [the] judgment.
2. To set the amount that the State [had] to pay to the victims' next of kin as reimbursement of the costs incurred as a consequence of these proceedings in \$45,500 United State dollars or its equivalent in national currency, out of which \$20,000 United State dollars or its equivalent in national currency correspond[ed], to attorneys Carlos Varela Alvarez and Diego J. Lavado as professional fees.
3. That the Argentine State [had] to proceed to the search and identification of Mr. Baigorria's two children born out of wedlock, applying all the means within its scope of action.
4. That the Argentine State [had] to investigate the facts which led to the disappearance of Mr. Adolfo Garrido and Mr. Raúl Baigorria and prosecute and punish its perpetrators, abettors, accessories after the fact and all those who would have taken part in the facts.
5. That the payments stated in operative paragraphs 1 and 2 [had] to be made within six months from the notice of the [...] judgment.
6. That the compensations and reimbursements of the expenses stated in [the] judgment [would] be exempted from the payment of any national, provincial or municipal taxes or contributions.
7. That it [would] monitor the Compliance with [the] Judgment and only afterwards it [would] deem the case concluded.

*Judge Leonardo A. Franco disqualified himself from taking up this case, reason for which he did not participate in the discussion and signature of this Decision.

3. The writs submitted by the Argentine State (hereinafter referred to as "the State" or "Argentina"), by the Inter-American Commission on Human Rights (hereinafter referred to as "the Commission") and by the representatives of the victims´next of kin from March, 1999 until November, 2003, regarding the compliance with the judgment of this case.

4. The Court Decision dated November 27, 2002, by means of which it decided:

1. That the State [had] the obligation to take the measures [that would be] necessary to effect and immediately comply with the reparations judgment dated August 27, 1998 issued by the Inter-American Court of Human Rights in the Case of Garrido and Baigorria, according to what is set forth in Article 68(1) of the American Convention on Human Rights.

2. That the State [had] to submit before the Court, not later than March 30, 2003, a detailed report on the negotiations carried out in order to comply with the Court order included in Having Seen Clause number eight of the [...] Compliance Decision.

3. That the representatives of the victims and their next of kin, as well as the Inter-American Commission on Human Rights, [had] to submit their comments to the report of the State within the term of two months as from the reception of the above mentioned report.

[...]

5. The Court Decision dated November 27, 2003, by means of which it declared:

1. That the State [had] complied with the terms set forth in operative paragraphs 1 and 2 of the reparations Judgment issued by this Court on August 27, 1998, with respect to:

a) the payments of the amounts corresponding to the reparations of the next of kin of Mr. Adolfo Garrido and Mr. Raúl Baigorria, except for what refers to the compensation of the out-of-wedlock children of Mr. Raúl Baigorria, in accordance with the points presented in the Having Seen clause number eleven of the [...] Judgment; and

b) the reimbursement of the costs in favor of the above mentioned next of kin of Mr. Garrido and Mr. Baigorria and the professional fees of attorneys Carlos Varela Álvarez and Diego Lavado, according to what has been exposed in the Having Seen clause number eleven of the [...] Judgment.

2. That it [would] keep the proceedings of monitoring of compliance open regarding the following points pending fulfillment:

a) the location of the out-of-wedlock children of Mr. Raúl Baigorria and the deposit of the compensatory amount to which they are entitled as reparations, according to what has been exposed in Having Seen clauses number eight, nine and ten of the [...] Judgment; and

b) the investigation of the facts which led to the disappearance of Mr. Adolfo Garrido and Mr. Raúl Baigorria and the punishment of the responsible parties, in accordance with the what has been presented in Having Seen clauses number three to sixteen of the [...] Judgment.

[and, among other things, it decided:]

[...]

6. To continue to monitor the items pending compliance with the reparations Judgment dated November 27, 1998, according to what has been pointed out in operative part number two of the [...] Judgment.

[...]

6. The Court Decision dated November 17, 2004, by means of which it decided:

1. To request the State to submit, no later than January 31, 2005, a thorough report on the compliance with the reparations Judgment of August 27, 1998.

2. To request the Inter-American Commission on Human Rights to submit its comments to the State report within the term of six weeks, as from the date of its reception. Also, Mr. Diego Lavado and Mr. Carlos Varela Álvarez may forward their comments to the State report through the Commission, in case of considering so to be proper, within the term of four weeks as from the reception of the State report. In the event new legal representatives of the victims' next of kin have been appointed, they may submit their observations directly before the Court in the above mentioned term of four weeks.

3. To continue to monitor the compliance with the reparations Judgment dated August 27, 1998.

[...]

7. The writ of April 28, 2005, by means of which the Inter-American Commission on Human Rights submitted a document forwarded by Mr. Carlos Álvarez Varela, representative of the victim's next of kin, according to which "despite of the existence of a reparations judgment rendered by the [...] Court on August 27, 1998 [...], there is a possibility that domestic provisions regarding prescription are applied to this case."

8. The writ of August 18, 2005, by means of which the State forwarded a report on compliance, requested in the Decision issued by the Court on November 17, 2004 (*supra* Having Seen clause no. 6), the submission of which had been repeated in several opportunities by the Court Secretary (hereinafter referred to as the "Secretary"), as well as the comments by the Inter-American Commission to that report.

9. The note of the Secretary dated August 22, 2007, by means of which, "in order to assess the fulfillment of the reparations ordered in the Judgment, the execution of which is still pending, and so as to determine the applicability of Article 65 of the American Convention", the State was requested to submit, no later than September 14, 2007, a report on the compliance with the Judgment. The report so requested was submitted only on November 23, 2007, date on which the private hearing summoned for this case was held (*infra* Having Seen clauses no. 13 and 16).

10. The writ received by fax on October 18, 2007, by means of which Mr. Osvaldo Baigorria Balmaceda informed that "he a[ppears] as a party to this case in [his] capacity as petitioner and brother of [one of the victims]" and that he appointed Mr. Carlos Varela Álvarez as his legal representative.

11. The Decision of the President dated October 29, 2007, by means of which, exercising the powers of the Court to monitor the fulfillment of its decisions, in consultation with the other Judges of the Court, and according to Articles 67 and 68(1) of the American Convention and Articles 25(1) of the Statute and 14(1) and 29(2) of its Rules of Procedure, it was decided to summon the Inter-American Commission on Human Rights, the State, Mr. Carlos Varela Álvarez - in representation of Mr. Osvaldo Baigorria Balmaceda-, as well as duly appointed representatives of other next of kin of the victims, to a private hearing that would be held on November 23, 2007, from 9:00 to 10:30, so that the Court gathered the information provided by the State on the fulfillment of the points pending compliance with the Reparations Judgment issued in this case and so that it took note of the observations of the Inter-American Commission and the representatives of the victims' next of kin on the matter.

12. The writ of November 23, 2007, by means of which Mr. Carlos Varela Alvarez referred to the status of the fulfillment of the above mentioned Reparations Judgment and made some proposals on the matter, prior to the hearing.

13. The private hearing held by the Court in its headquarters in San José de Costa Rica on November 23, 2007.¹ During the said private hearing, the State, the Inter-American Commission and the representative referred to the points pending compliance in this case.

14. The appeal to the parties by Judge Cecilia Medina Quiroga, who presided the said private hearing, and who invited the Commission, the representative and the State to come to an agreement on a joint schedule regarding the measures and actions to be taken so as to achieve the complete compliance with the above mentioned Judgment, according to the proposal made by the representative in that sense, which was supported by the Commission and of which the State took note.

15. The transcripts signed by the representatives of the Commission, of the State and of Mr. Osvaldo Baigorria, submitted on November 23, 2007 before the Court after the above mentioned private hearing, by means of which they expressed:

Having the discussions concluded, the parties express the following:

1. The petitioner delivers the State representatives a document in which an action plan is proposed regarding the fulfillment of the reparations ordered by the Court.
2. The State acknowledges to have received the said document and agrees to submit it before the competent authorities with respect to each of the actions proposed, within the national scope and the scope of the Province of Mendoza.
3. Furthermore, the State agrees to summon a work meeting, during next December, to which the authorities mentioned in the precedent paragraph shall be invited, in order to assess said proposal and set a final action plan which shall be submitted to the Court and the Inter-American Commission on Human Rights.
4. Notwithstanding the above, the State agrees to request the penitentiary authorities of the province of Mendoza Mr. Raúl Baigorria Balmaceda's complete file, including his record of visits. Also, the State agrees to request a copy of his police record to the competent provincial authorities.
5. In that sense, the petitioner considers that, among others, the following provincial authorities must be summoned for the above mentioned meeting:
 - a. Mr. Governor;
 - b. Mr. Minister of Security;
 - c. Mr. Minister of Government;
 - d. Mr. President of the Supreme Court of Justice;
 - e. Mr. Attorney General of the Supreme Court.
6. The parties appreciate the kind willingness and spirit of cooperation expressed during the hearing summoned by the [...] Inter-American Court [...], which constitute a true reflection of the common interest in the search of justice.

16. The writ of November 23, 2007, by means of which the State submitted, in response to the request made through the Secretary note of August 22, 2007 (*supra* Having Seen

¹ Pursuant to Article 6(2) of the Rules of Procedure, the Court conducted the hearing with a commission of judges comprised of: Judge Cecilia Medina Quiroga, Vice President; Judge Manuel E. Ventura Robles; Judge Diego García-Sayán, and Judge Margarette May Macaulay. In the name and stead of the Inter-American Commission, Mr. Florentín Meléndez appeared at this hearing in his capacity as President of the Commission and delegate, and Mrs. Lilly Ching, in her capacity as consultant; by the representative of one of the victims' next of kin, Mr. Carlos Eduardo Varela Álvarez; and by the State, Ambassador Juan José Arcuri, as Agent, Mr. Jorge Nelson Cardozo, consultant of the Argentine Board of the Argentine Chancellery, and Mr. Alberto Javier Salgado, attorney of the Human Rights Department of the Argentine Chancellery.

clause No. 9), a report on the compliance with the Reparations Judgment pronounced in this case.

CONSIDERING:

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

2. That Argentina is a State Party to the American Convention since September 5, 1984 and it has acknowledged the Court jurisdiction on that same day.

3. That Article 68(1) of the American Convention sets forth that "[th]e States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." In order to achieve so, the States must guarantee the implementation –at domestic level- of what has been set forth by the Court in its decisions.²

4. That by virtue of the definite and unappealable nature of the Court judgments, according to what is set forth in Article 67 of the American Convention, these must be immediately and completely fulfilled by the State.

5. That the obligation to fulfill what has been set forth in the Court decisions corresponds to a basic principle of international liability of the State law, supported by international jurisprudence, according to which the States must comply with their international conventional obligations in good faith (*pacta sunt servanda*) and, as already pointed out by this Court and pursuant to Article 27 of the 1969 Vienna Convention on the Law of Treaties, they can not fail to assume the already acquired international liability due to reasons of domestic nature.³ Conventional obligations of the States Parties involve all of the State's powers and bodies.

6. That during the above mentioned private hearing the State, *inter alia*, expressed the following:

a) as to the search and identification of the two out-of-wedlock children of Mr. Raúl Baigorria, measures were implemented, but none of them has yielded any positive results: during 2001, publications were made in the different graphic means of highest circulation at both national and provincial level, summoning the alleged out-of-wedlock children of Mr. Baigorria to appear before the Ministry of Justice and

² Cf. IACHR. *Case of Baena-Ricardo et al v. Panama*. Jurisdiction. Judgment of November 28, 2003. C Series No. 104, par. 131; *Case of García-Asto and Ramírez-Rojas v. Peru*. Monitoring of Compliance with Judgment. Decision of July 12, 2007, Having Seen clause No. four, *Case of Molina-Theissen v. Guatemala*. Monitoring of Compliance with Judgment. Decision of July 10, 2007, Having Seen clause No. two.

³ Cf. IACHR. *International Liability for the Issue and Application of Laws in Violation of the Convention* (Articles 1 and 2, American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. A Series No. 14, par. 35; *Case of Baena-Ricardo et al v. Panama*. Monitoring of Compliance with Judgment. Judgment of the Inter-American Court of Human Rights of November 22, 2002, Having Seen clause No. three; *Case of García-Asto and Ramírez-Rojas*, *supra* note 3, Having Seen clause No. six, and *Case of Molina-Theissen*, *supra* note 3, Having Seen clause No. three.

Security of the Province of Mendoza, so as to make the compensation to which they were entitled as beneficiaries effective; attempts were made to find the whereabouts of the alleged mother of one of them, Ms. Juana Carmen Gibbs Alvarez, through the search in the last domiciles recorded in public offices and registries; nonetheless, it was not possible to contact her; also, an active agent of the prevention guard of the Ministry of Justice and Security interviewed Mr. Ricardo Baigorria Balmaceda, brother of the victim, at his domicile, and elaborated a record in which Ricardo stated that his brother "... never had a child and that he used to say so in order to have access to the exits benefit of the penitentiary." Furthermore, the State added that the existence of those children was never proved, and pointed out that there are not sufficient elements to even assume the existence of such children born out of wedlock, and considered that they do not exist. However, it accepted that there are still indirect search possibilities, for instance, through electoral and migration records. Finally, regarding the deposit of the compensatory amount corresponding to the alleged children of Mr. Baigorria granted as reparations, the same was deposited on July 28, 1999 in the *Banco de la Nación Argentina*, branch *Ejército de los Andes*, in account no. 62802492/09, in the name of the *Tesorería General de la Provincia de Mendoza* (General Treasury Office of the Province of Mendoza);

b) regarding the obligation to investigate the facts which led to the disappearance of Mr. Adolfo Garrido and Mr. Raúl Baigorria and prosecute and punish the perpetrators, abettors, accessories after the fact and all those who would have taken part in the facts:

- i. the Supreme Court of Justice of Mendoza, through Administrative Provision No. 14342, created an *ad hoc* Investigation Commission in order to carry out said investigation which, after several months, submitted a final report that was later published with divulging purposes and was presented in an official and public ceremony. As a consequence of the investigations of the *ad hoc* Commission, proceedings through an Impeachment Jury were instituted against the judge in charge of the investigation of the disappearance of Garrido and Baigorria, who was removed from his office due to the irregularities of the proceeding. Furthermore, it informed that "all police personnel allegedly involved in the facts had been removed from the police force;"
- ii. in July and on August 11, 2000, two excavations were made, one in the neighborhood called "La Favorita" and the other in the Papagayos circuit, by virtue of information given by the next of kin of one of the victims and by a witness of another proceeding who claimed to know where the bodies of Mr. Garrido and Mr. Baigorria had been buried, but there were no positive results. On October 2, 2002, by means of Provision No. 1329, the Ministry of Justice and Security of the province offered a \$5,000 reward to anybody providing precise information in order to determine the whereabouts of said citizens or their remains, as well as the individualization of the perpetrators, abettors or accessories after the fact. As a consequence of the reward offer, in November 2002, a witness of protected identity gave testimony and provided information of several holes where the bodies would allegedly be found. However, the excavations did not yield any results. The reward amount was recently increased to \$50,000, fact which has been published in graphic means of communication. Furthermore, he added that some of the holes are oil excavations of hundreds of meters where just one body can be placed and as they are of difficult and very expensive access, the provincial authorities are

reluctant to provide the necessary funds; that is why excavations were made only in those places which presented the greatest possibilities of finding the bodies;

- iii. on July 19, 2005, the Judge in charge of the 7th Trial Court informed that the investigation methodology was based in the *judicialization* of all the *ad hoc* Commission records. At present, due to the amendment of the code of criminal procedure of the province of Mendoza, the case passed, after two self-disqualifications, to the Guarantees Court No. 1, which informed that there is a possibility that the case continues its progress in the *Unidad Fiscal de Delitos Complejos* (Complex Crimes Prosecution Unit). With respect to the individualization of those responsible for the disappearances of Garrido and Baigorria, nobody has been accused or prosecuted to date. The trial court informed that "beyond the suspicion involving the police personnel mentioned in the report of the *ad hoc* Commission, the evidence gathered so far does not allow to assign any concrete criminal liability to anyone" and it stressed on the need to "act with the highest degree of care because in case of charging anyone with the investigated facts, that person's procedural situation would have to be solved within six days [and,] considering the quality of the evidence gathered, [...] the accused should have to be dismissed on the grounds of lack of evidence and eventually an extraordinary extension of the investigation term, the limit of which is six months, should have to be granted; if his/her procedural situation did not change after the above mentioned six-month term, a final dismissal should have to be ordered, which in the future would prevent to again submit the suspect to the prosecution process by virtue of the *non bis in idem* constitutional principle," and

c) finally, the State claimed that the investigation conducted by the *ad hoc* Commission, "which had the approval of the Supreme Court, the Inter-American Commission and the National Executive Power, [...] from the National State point of view, has legal weight to prosecute and punish those who were identified as responsible [and that there w]ere important, clear and conclusive testimonies against those responsible for the kidnapping and the disappearance of Mr. Garrido and Mr. Baigorria." It expressed that "the [resulting] evidence had been made available to the Judicial Power based on [a] [Supreme] Court Administrative Provision", but that it arouse doubts to the Judicial Power authorities with respect to the nature of that evidence. That is why it expressed that "if we do not continue to support this proceeding, both the Commission and the Court, the Judicial Power may continue to have doubts on whether that evidence is conclusive and necessary to render judgment [...]." It clarified that when the *ad hoc* Commission was created, in order to vest it with legal value before the courts, the Supreme Court was requested to approve the creation of the said Commission, approval which was effected through an Administrative Provision by means of which the Supreme Court declared the availability of Judicial Power members to hear testimony jointly with the members of the *ad hoc* Commission, who received more than 200 testimonial statements.

7. That representative Carlos Varela Alvarez, during the above mentioned private hearing, stated the following:

a) with respect to the investigation of the disappearances of Mr. Garrido and Mr. Baigorria, the next of kin caused the case file to move forward in the first place, and then the representatives. He pointed out that the government of Mendoza is

absolutely absent, in both the executive and the judicial power. Furthermore, the representative alleged that "those who are guilty have not been detained" and he stated that several police officers have failed to appear before the authorities due to the lack of political willingness. Also, he explained that the existing legal problem at domestic level with the evidence gathered by the *ad hoc* Commission is that Article 18 of the Argentine Constitution sets forth that no one can be tried by special Commissions; that the *ad hoc* Commission made its report available to the Judicial Power so that it "judicializes the case file", but the witnesses were never summoned to corroborate their statements nor was the documentary evidence received by the *ad hoc* Commission included in the case file. Only in 2007 was the report of the *ad hoc* Commission included in the criminal case file;

b) regarding the excavations in order to find the bodies of Garrido and Baigorria, the representative mentioned that an excavation plan was suggested, based on the statement of a witness who claimed to know where the bodies had been placed. Nevertheless, so far it has been impossible to find them;

c) regarding the search and identification of the two out-of-wedlock children of Mr. Raúl Baigorria, he informed that both them, in their capacity as representatives of the victims and their next of kin and the next of kin of Mr. Baigorria, who were examined, have expressed that they were not aware of the existence of those alleged children;

d) that other non-pecuniary integral reparation measures were necessary, such as public apologies, the publication of the *ad hoc* Commission report and the determination of the place where Garrido and Baigorria were kidnapped, and

e) that it is necessary to have a compliance schedule of the reparations so that the case is present in both the legal and the political agenda of the State.

8. That the Commission expressed the following in the above mentioned private hearing:

a) with respect to the justice-related aspect, it acknowledged that it is a complex case of forced disappearance and that the passing of time makes the investigations more difficult; that, however, does not justify that truth and justice are not achieved. It claimed that there is a delay and an evident non-fulfillment as there are no conclusive results at this point;

b) as to the location of the out-of-wedlock children of Mr. Baigorria, the existence of whom is not under discussion, it is ordering the execution of concrete actions in order to locate them. In this sense, it suggested the revision of the record of entry of Mr. Raúl Baigorria to the Mendoza Penitentiary so as to identify the people who had been authorized by Baigorria himself to visit him, and

c) that it supported the proposal of the representative to set a schedule of compliance and the need to come to an agreement on concrete issues regarding fulfillment. Also, it suggested a new follow-up meeting and a public hearing.

9. That the States Parties to the Convention must guarantee the compliance with the conventional provisions and their own effects (*effet utile*) within the scope of their

respective domestic laws. This principle applies not only with respect to substantive provisions of human rights treaties –that is to say, those which contain provisions on the protected rights - but also to procedural rules and regulations, such as those which refer to the compliance with the Court decisions. These obligations must be construed and applied in such a way that the protected guarantee is truly practical and efficient, taking the special nature of human rights treaties into account.⁴

10. That as to “the location of the out-of-wedlock children of Mr. Raúl Baigorria and the deposit of the compensatory amount awarded to them as reparations” (paragraph 86 and operative paragraphs first and third of the Reparations Judgment of August 27, 1998), the Court takes note of the deposit of the compensatory amounts in their benefit (*supra* Having Seen clause No. 6). Even though it is appropriate to urge the State to effect the measures agreed upon by the parties on the above mentioned transcription of November 23, 2007, as well as any other provision aimed for that matter, the Court enhances the fact that the State has already taken several measures in order to locate those children, particularly the alleged mother, yet without any positive results (*supra* Having Seen clause No. 6). Furthermore, the State informed that in a statement given by Mr. Ricardo Baigorria Balmaceda, brother of one of the victims, he expressed that his brother “never had a child and that he mentioned so while he was detained in the penitentiary as a justification to have access to the exits benefit” (*supra* Having Seen clause No. 6). On the other hand, the State expressed that, in its opinion, these people do not exist (*supra* Considering Clause no. 6) and the representative said that both them in their capacity as representatives of the victims and their next of kin, and the next of kin of Mr. Baigorria, who have been examined, have stated that they were not aware of the existence of these alleged children (*supra* Considering Clause No. 7).

11. That with respect to the obligation to investigate the facts which led to the disappearance of Mr. Adolfo Garrido and Mr. Raúl Baigorria and the punishment of those responsible for it, according to the information contributed with, after the report submitted in August, 1996 by the *Ad Hoc* Investigation Commission, created by means of an Administrative Provision of the Supreme Court of Justice of Mendoza, the judge in charge of the investigation was removed from his office; some excavations have been made in order to find the remains of the victims, without any positive results, and a public reward was offered for anyone providing information on that matter; that to date no one has been accused or prosecuted; and that the proceedings required to include the records of the *ad hoc* Commission to the investigation in the judicial venue had commenced, a process that the State refers to as “judicialization” (*supra* Having Seen clause No. 6). After noticing that no effective judicial investigations have been executed, this Court can not cease to insist on the fact that the investigation must be effected through all the legal means available and that it must be oriented to determine the truth and the investigation, the pursuit and the eventual prosecution and punishment of those responsible for the facts⁵, especially considering that nine years have passed since the rendering of the reparations Judgment and 17 years since the facts of this case took place. Particularly, the State can not fail to

⁴ Cf. IACHR. *Case of Ivcher-Bronstein v. Peru*. Jurisdiction. Judgment of September 24, 1999. C Series No. 54, par. 37; *Case of Gómez-Palomino v. Peru*. Monitoring of Compliance with Judgment. Decision of October 18, 2007, Having Seen clause No. Four, and *Case of García-Asto and Ramírez-Rojas*, *supra* note 3, Having Seen clause No. seven.

⁵ Cf. IACHR. *Case of the Pueblo Bello Massacre v. Colombia*. Merits, Reparations and Costs. Judgment of January 31, 2006. C Series No. 140, par. 143; *Case of Zambrano-Vélez et al v. Ecuador*. Merits, Reparations and Costs. Judgment of July 4, 2007. C Series No. 166, par. 123, and *Case of Escué-Zapata v. Colombia*. Merits, Reparations and Costs. Judgment of July 4, 2007. C Series No. 165, par. 106.

assume the already established international liability on the grounds of domestic law, as its conventional obligations are binding for all the powers and bodies of the State.

12. That the Court highly appreciates the use of the hearing held to monitor the points pending compliance in this case, which has been reflected by the good will and spirit of cooperation shown by the parties, which have agreed on the fact that some items of the above mentioned Judgment still remain non-fulfilled. Particularly, the Court appreciates that the representatives of the State, of the Commission and of one of the next of kin have expressed, by means of a minutes to such effect, the purpose and common commitment to comply with the above mentioned points pending fulfillment. That is why it encourages the State authorities to hold the scheduled meeting (*supra* Having Seen clause No. 15), and expects that the parties inform on the result of the said meeting and, if possible, on a schedule and action program regarding the compliance with the points pending fulfillment of the Reparations Judgment rendered in this case.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

Exercising its powers of monitoring of compliance with its decisions and in accordance with Articles 33, 62(1), 62(3), 67 and 68(1) of the American Convention on Human Rights, 25(1) and 30 of the Statute and 29(2) of its Rules of Procedure,

DECLARES:

1. That it shall keep the monitoring of compliance proceeding open with respect to the following pending items:

- a) the location of the out-of-wedlock children of Mr. Raúl Baigorria (paragraph 86 and operative paragraphs first and third of the Reparations Judgment dated August 27, 1998), and
- b) the investigation of the facts which led to the disappearance of Mr. Adolfo Garrido and Mr. Raúl Baigorria and the eventual punishment of those responsible for it (operative paragraph fourth of the Reparations Judgment dated August 27, 1998).

AND DECIDES:

1. To request the State to adopt all the necessary measures to immediately comply with the reparations ordered in the Judgment of August 27, 1998, and which are still pending fulfillment, in accordance with Article 68(1) of the American Convention on Human Rights.

2. To urge all state, national and provincial authorities to hold the meeting scheduled in

the minutes signed by the State, by Mr. Carlos Varela Álvarez and by the Commission (*supra* Having Seen Clause No. 15).

3. To request the State to submit, no later than February 15, 2008, a thorough report indicating all the measures implemented to comply with the reparations ordered by this Court which are still pending fulfillment. Particularly, the State shall inform the Court on the results of the meeting and, if possible, on a schedule and action plan regarding the compliance with the items pending fulfillment of the Reparations Judgment rendered in this case.

4. To request the representative and the Inter-American Commission on Human Rights to submit their comments to the report of the State within the term of two and four weeks, respectively, as from the date it is received. In the event other legal representatives of the victims´next of kin have already been appointed, they may submit their observations directly before the Court in the above mentioned term.

5. To continue to monitor the points pending compliance with the Reparations Judgment of August 27, 1998.

6. To serve notice of this Decision upon the State, the Inter-American Commission on Human Rights and Mr. Carlos Varela Álvarez.

Sergio García Ramírez
President

Cecilia Medina Quiroga

Manuel E. Ventura Robles

Diego García-Sayán

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Sergio García Ramírez
President

Pablo Saavedra Alessandri
Secretary