

**Order of the  
Inter-American Court of Human Rights  
of November 21, 2007**

**Case of the Moiwana Village v. Suriname**

**Monitoring Compliance with Judgment**

**HAVING SEEN:**

1. The Judgment on the preliminary objections, merits, reparations and costs delivered in the Case of the Moiwana Village v. Suriname by the Inter-American Court of Human Rights (hereinafter "the Court" or "the Tribunal") of June 15, 2005 (hereinafter "the Judgment" or "the Moiwana Judgment"), in which it:

DECLARE[D],

Unanimously, that:

1. The State violated the right to humane treatment enshrined in Article 5(1) of the American Convention on Human Rights, in relation to Article 1(1) of that treaty, to the detriment of the Moiwana community members, in the terms of paragraph 103 of this [J]udgment.
2. The State violated the right to freedom of movement and residence enshrined in Article 22 of the American Convention, in relation to Article 1(1) of that treaty, to the detriment of the Moiwana community members, in the terms of paragraph 121 of this [J]udgment.
3. The State violated the right to property enshrined in Article 21 of the American Convention, in relation to Article 1(1) of that treaty, to the detriment of the Moiwana community members, in the terms of paragraph 135 of this [J]udgment.
4. The State violated the rights to judicial guarantees and judicial protection enshrined in Articles 8(1) and 25 of the American Convention, in relation to Article 1(1) of that treaty, to the detriment of the Moiwana community members, in the terms of paragraphs 163 and 164 of this [J]udgment.
5. This judgment constitutes, *per se*, a form of reparation, in the terms of paragraph 192 of this [J]udgment.

AND DECIDE[D],

Unanimously, that:

1. The State shall implement the measures ordered with respect to its obligation to investigate the facts of the case, as well as identify, prosecute, and punish the responsible parties, in the terms of paragraphs 202 – 207 of this [J]udgment.
2. The State shall, as soon as possible, recover the remains of the Moiwana community members killed during the events of November 29, 1986, and deliver them to the surviving community members, in the terms of paragraph 208 of this [J]udgment.
3. The State shall adopt such legislative, administrative, and other measures as are necessary to ensure the property rights of the members of the Moiwana community in relation to the traditional territories from which they were expelled, and provide for the members' use and enjoyment of those territories. These measures shall include the

creation of an effective mechanism for the delimitation, demarcation and titling of said traditional territories, in the terms of paragraphs 209 – 211 of this [J]udgment.

4. The State shall guarantee the safety of those community members who decide to return to Moiwana Village, in the terms of paragraph 212 of this [J]udgment.

5. The State shall establish a community development fund, in the terms of paragraphs 213 – 215 of this [J]udgment.

6. The State shall carry out a public ceremony, whereby Suriname recognizes its international responsibility and issues an apology, in the terms of paragraphs 216 – 217 of this [J]udgment.

7. The State shall build a memorial in a suitable public location, in the terms of paragraph 218 of this [J]udgment.

8. The State shall pay the compensation ordered in paragraph 187 of the instant judgment to the Moiwana community members for material damages, in the terms of paragraphs 178 – 181 and 225 – 231 of this [J]udgment.

9. The State shall pay the compensation ordered in paragraph 196 of the instant judgment to the Moiwana community members for moral damages, in the terms of paragraphs 178 – 181 and 225 – 231 of this [J]udgment.

10. The State shall pay the compensation ordered in paragraph 223 of the instant judgment for costs, in the terms of paragraphs 223 – 231 of this [J]udgment.

11. The Court will monitor compliance with this judgment and will close this case once the State has fully implemented all of the provisions. Within one year of the date of notification of this judgment, the State shall furnish the Court with a report on the measures taken in compliance therewith, in the terms of paragraph 232 of said [J]udgment.

2. The communication dated January 9, 2006, by which the State submitted the names of the persons that will act as members of the Implementation Committee of the Development Fund.

3. The judgment on interpretation of the Moiwana Judgment delivered by the Court on February 8, 2006, in which it:

DECIDE[D],

Unanimously,

1. To resolve the issues submitted by the State of Suriname and the Representatives, as well as to clarify aspects of the judgment on preliminary objections, merits and reparations of June 15, 2005 in the *Case of Moiwana Village* set out therein, in the terms of paragraphs 13 through 19 of th[e] decision.

2. To continue to monitor the State's compliance with the judgment of June 15, 2005 in the *Case of Moiwana Village*, in the terms of paragraph 232 of said judgment.

4. The brief dated July 14, 2006, in which the State forwarded its first report on the measures taken in compliance with the Judgment and declared that:

a) in order to guarantee "an effective and efficient implementation" of the Judgment a number of entities have been created by the State. Those entities have different composition and responsibilities related to the fulfillment of the above-mentioned rulings:

- a. the Ministerial Coordination Team;
- b. the Commission of Legal Experts on Human Rights;

- c. the Multidisciplinary Working Group Implementation of Moiwana Judgment, in charge of the integral implementation of the Judgment;
  - d. the *Stichting Fonds Ontwikkeling Moiwana Gemeenschap* (The Foundation Fund Development for Moiwana Community), a private foundation that is charged with the development of the village, for which the State has reserved an amount of US \$1,200,000 that will be available on the basis of reimbursement per project. The Board of the Foundation has been established with one representative of the Moiwana surviving relatives, one representative of the State and a joint representative. The Foundation was registered on April 4, 2006;
  - e. the National Commission on Land Rights (NCLR), responsible for an integral approach to the land rights issue in Suriname and for the implementation of the aspect of the Judgment concerning the land rights issue in Moiwana; and
  - f. a Coordination Team, in charge of preparing the investigation and judicial process of several specific punishable acts, among them those perpetrated in Moiwana in 1986.
- b) the expenses incurred to implement the necessary measures to comply with the Judgement fall on the State and involve the Ministry of Finance, the Ministry of Foreign Affairs, the Ministry of Regional Development, and the Ministry of Justice and Police;
  - c) reparations for material and moral damages have been prepared and "expectations are that the payment will be made at the latest on the 14<sup>th</sup> of July for the people that have been identified by the institutions involved." The data of fifteen surviving relatives are not yet completed and nine have died in the meantime;
  - d) with regard to the compensation for costs, the State will proceed to the payment of US \$27,000 to Stichting Moiwana and of US \$10,000 to Forest Peoples Programme "at the latest on the 14<sup>th</sup> of July." With regard to the payment to Association Moiwana (US \$8,000), the State affirms that "the payments will only be made on the basis of reimbursement of expenses. As per [that] day, the 14<sup>th</sup> of July 2006, no statement of expenses [has been] submitted to the Working Group";
  - e) the monument in memory of the victims will be built in a 60-day working period starting in August 2006, after the rainy season. The Working Group is implementing this project in close cooperation with the Directorate of Culture. On the 5<sup>th</sup> of July 2006, the Council of Ministers approved the design – a "further elaboration of a design made by Moiwana youth" – as well as the accompanying budget to cover the approximate costs of US \$160,000. An agreement was reached about the location and soon an agreement was to be signed with the artist. On July 15, 2006, during a ceremony for public apology, a model of this project was to be shown;
  - f) preparations for a ceremony of public apology have been made and the ceremony is to take place on July 15, 2006. The "preparations [...] were made in close consultation with the representatives of the surviving relatives" and "in accordance with the Auka culture the public apology will be accompanied by rituals and ceremonies"; and
  - g) regarding the recovery of the remains of the victims for delivery to the surviving community, "the data mentioned in the Judgement cannot be completely confirmed by the persons involved." Consultations to relevant entities and persons are being conducted, however "[t]he information must be qualified as: fragmented and contradictory. To fill these gaps the Working Group is collecting additional data."

5. The letter dated July 20, 2006, in which the Secretariat of the Court (hereinafter "the Secretariat") requested the State to submit any audio and/or video records of the public ceremony celebrated by state authorities in which the State presumably recognized its international responsibility and issued an apology to the victims.

6. The brief dated August 17, 2006, in which the representatives of the victims and their family members (hereinafter "the Representatives") submitted their comments on the first report of the State (*supra* Having Seen paragraph 4) and their specific requests. Accordingly, the Representatives stated that:

- a) Suriname has made a number of good faith efforts to implement certain aspects of the Judgment;
- b) they recognize the public apology was held on July 15, 2006, the design of the monument is progressing, and most of the victims have received compensation;
- c) despite those efforts, some deficiencies are taking place and the Representatives do not feel fully consulted in some of the issues at stake. Furthermore, Suriname has misconstrued the Court's order with regard to the payment to Association Moiwana;
- d) Suriname has failed to comply with the order made by the Court to carry out an effective, swift investigation and judicial process, and to fulfill its obligation to investigate and punish the responsible parties. Moreover, other than mentioning the establishment of a "Coordination Team", "in charge of preparing the investigation and judicial process of several specific punishable acts perpetrated in 1986 in Moiwana", the State has not made further statements concerning this Court's above-mentioned order. Suriname's failure to provide any meaningful information on this matter in its report to the Court is highly disturbing given the centrality of the denial of justice to most of the violations found by the Court in its Judgment;
- e) statements made by the Attorney General on several occasions appear to suggest that the State will be unable to carry out an investigation and subsequent judicial process without a roster of eye-witnesses and seem to put the onus for moving the process forward on the victims rather than acknowledging that this is primarily the responsibility of the State. They also ignore that there is ample documentary and other evidence, which could conform the basis of a judicial process.
- f) additionally, the option of establishing a mechanism by which the victims' testimony can be taken with guarantees for their safety has failed and is no longer under discussion. Investigation and prosecution of those responsible for obstructing the criminal investigation can be made without the testimony of the victims themselves, however the State is not addressing this issue at all;
- g) without completing an investigation of the massacre to clarify the facts, Suriname cannot "remove all obstacles[...] that perpetuate impunity". Because the 1992 Amnesty Law will preclude all prosecutions except in the case of crimes against humanity and war crimes, the applicability of this Law can only be determined once the facts of the case and the bases for suspect liability have been ascertained;
- h) Suriname's ongoing failure to comply with its obligation to investigate the massacre, prosecute and punish those responsible, and compensate the victims continues to be the major source of fear for the victims. Indeed, continuing delays in the investigation cause additional harm to the victim's moral and

mental integrity and serve as a powerful reminder that their rights are not being taken seriously by the State;

- i) investigation and punishment is the necessary precondition for the victims to return to their traditional territory and for reconciliation with the victims' deceased kin and ancestral spirits. This is, therefore, the most critical part of obtaining justice;
- j) regarding to the payment of cost award to Association Moiwana, the Court's Judgment required that Suriname pay US \$8,000, which corresponds to the past and future costs of the Association, and in no way conditioned payment of this sum on the submission of receipts and expenses to the State;
- k) to date, neither Stichting Moiwana nor the Forest Peoples Programme has received the award of costs ordered by the Court. Bank account details were submitted by the Forest Peoples Programme, at the request of the State, in June 2006 and the State gave its assurances that the funds would be transmitted no later than July 14, 2006;
- l) the Committee to oversee use of the developmental fund ordered by the Court has been established as a foundation called Stichting Fonds Ontwikkeling Moiwana Gemeenschap (SFOMG). Suriname reports that the sum of US \$1,200,000 as ordered by the Court "will be made available on the basis of reimbursement per project." While it is unclear from the Court's Judgment if this mode of payment is acceptable, the victims believe that the SFOMG should control the funds at its disposal and should not have to submit proposals and requests to the State for each activity it undertakes. Moreover, the Moiwana community should benefit from the interest that will accrue on the US \$1,200,000 and this cannot occur should the State continue to hold these funds. Therefore, these funds should be deposited into an account in the name of the SFOMG, and the Representatives request that the Court order that this be done without delay;
- m) despite two statements in its report to the Court to the effect that the State is fully responsible for financing implementation of the Court's Judgment, Suriname has not provided any operating costs to permit the SFOMG to carry out its mandate and activities. The State has also refused to pay the travel and other costs of Andre Ajintoena, who is the representative chosen by the victims to be a member of the SFOMG. The victims' representative must be able to fully participate in the decision-making process of the SFOMG and the State is responsible for funding this participation. The Representatives request that the Court order the State to provide the SFOMG with an operating budget that will cover, *inter alia*, its basic operations and the travel and related expenses of Mr. Ajintoena;
- n) while a National Commission on Land Rights was established in charged with the implementation of the aspect of the Judgment "concerning the land rights issue in Moiwana", the Representatives wish to bring some points to the Court's attention:
  - i. there was no prior consultation with any indigenous or tribal people or organization about the NCLR's composition or mandate;
  - ii. while there is one indigenous and one maroon person among the members, both are government employees and there are no freely chosen representatives of indigenous peoples or maroons on the NCLR;
  - iii. the NCLR has been in existence now for eight months and to the date it has held only few brief meetings with indigenous and tribal people's representative and, despite the request, has not made public its terms of reference nor sought to consult with regard to the manner in which it will discharge its mandate;

- iv. the NCLR has no funds to fulfill its mandate; and
  - v. the mandate of the NCLR is merely to investigate the situation and advise the government with regard to policy or approaches towards land rights rather than to undertake any concrete action. Further executive and legislative action would be required to give effect to any recommendation produced by the NCLR;
- o) the property rights of the Moiwana community and the Cottica N'djuka people as a whole can only be effectively recognized and protected after Suriname has adopted legislative measures to that end which recognize the legal personality of indigenous and tribal peoples and their communities for the purposes of holding and exercising rights, which at this moment do not exist under Surinamese law;
  - p) the existence of the NCLR does not relieve the State of its obligation to comply with the specific order of the Court to secure the ownership rights of the Moiwana community in relation to their traditional territories from which it was expelled. Nor does it relieve the State of its obligations to ensure that the victims and their neighboring indigenous communities are consulted about legislative and administrative measures and consent to delimitation, demarcation and titling.
  - q) the Representatives requested the Court to order that:
    - i. Suriname provide detailed information on any progress it may have made in carrying out an investigation and initiating a judicial process within a specific period of time;
    - ii. the State agree with the victims and representatives on a mechanism by which their testimony can be taken, with due guarantees for their safety, and that the nature of this mechanism be reported in writing to the Court within a specific period of time;
    - iii. Suriname immediately transfer the award costs, plus accrued interest, to Association Moiwana, Strichting Moiwana and the Forest Peoples Programme;
    - iv. the State immediately transfer the sum of US \$1,200,000, or at minimum, a first annual installment of this amount, to a bank account in the name of the SFOMG, and that an annual operating budget which covers travel and related expenses for Mr. Ajintoena, be separately allocated to the SFOMG;
    - v. NCLR meet with the Moiwana community and its representatives, the representatives of the Cottica N'djuka people and the neighboring indigenous peoples' communities to discuss implementation of the Court's orders set forth in paragraph 209-211 of the Judgment.

7. The brief dated August 31, 2006, and its attachments, in which the Inter-American Commission on Human Rights (hereinafter "the Commission") submitted its comments on the State's first report on the measures taken in compliance with the Judgment. The Commission observed that:

- a) the State has complied with several key measures, including a public apology by the President of Suriname in the name of the State, and the payment of compensation to many of the survivors and family members. Compliance with these requirements of the Court is of unprecedented historical importance in Suriname and represents an important vindication for the victims;
- b) with respect to the obligation to investigate, prosecute and punish those responsible, the State has provided no information to demonstrate concrete measures taken or advances realized. Information from and since the attack, as

well as that collected in the process of litigation of the present case before the Court, make reference to significant information that requires investigation by the pertinent State authorities. It is crucial that the State undertake its role with due diligence. The lack of compliance with this obligation continues to obstruct the survivors' and family members' capacity to retake their lives as a community with the necessary ties to their traditional lands.

- c) in regard to the recovery and transfer of the remains of those killed in the attack, the State has provided no information indicating that the necessary efforts, such as the use of the latest technological and scientific methods available, are underway. The application of the Court's requirements in this regard depends on the State applying due diligence; it does not depend on the family members of those killed, who should be duly consulted in terms of how such remains are to be treated and returned for final disposition according to their cultural norms;
- d) in relation to the adoption of legislative, administrative and other measures necessary to ensure the property rights of the community in relation to the traditional territories from which they were expelled, to date, the totality of information available indicates only that a National Commission on Land Rights was created to submit general recommendations on the land situation in Suriname. Indications suggest that this National Commission has no funding, has no specific mandate *vis-à-vis* the implementation of the Court's Judgment, and has not met with the Moiwana survivors or family members or their representatives. Nor is it clear what effect the recommendation of the National Commission on the Land Rights would ultimately have once they will be submitted, or what timeline might apply to any possible implementation. Accordingly, the Commission is unable to identify any concrete steps toward timely compliance with this aspect of the Court's Judgment;
- e) given the terms of the Court's Judgment requiring the implementation of a community development fund, the Commission understands that it is the tripartite implementing body that is to have the decisive role in how the programs are designed and implemented, and how the funds are to be disbursed;
- f) news media reports indicate that there has been full compliance with the Judgment's order to hold a public ceremony of recognition and apology by the State;
- g) with respect to the construction of a public memorial, the Commission notes that compliance has not been achieved within the time period stipulated by the Court, but respective reports indicate concrete progress on this aspect of the Judgment;
- h) regarding the payment of compensation for material and moral damages, the Commission wishes to recognize the efforts made by the State to comply with this aspect of the Court's Judgment in a timely manner with respect to the majority of the beneficiaries. The Commission lacks detailed information in order to confirm how many beneficiaries have yet to be paid, and the form in which those funds are presently being held.
- i) the payment of compensation for costs to the organizations established in the Judgment has not been done to date. The terms of the Judgment indicate the amounts each organization is to receive. The amount to be paid to Association Moiwana is definitive and is not subject to the presentation of further proof to the State.
- j) the Commission requests that the Court maintain supervision of compliance with its Judgment and require that the State provide detailed information on the

concrete measures taken with respect to the aspects of the Judgment which remain pending.

8. The communication dated September 20, 2006, received two days later at the Secretariat, by which Suriname responded to the written comments made by the Commission to the State's first report and declared that:

- a) the Judgment given by the Court was not for the attacks and killings that took place in November 1986 in the Maroon Village Moiwana, since these occurrences took place before the State became a party to the American Convention and accepted jurisdiction of the Court in November 1987. By ruling as it did, the Court in effect accepted the Commission's request for the Tribunal to confer jurisdiction *ex post facto* over the events of November 1986;
- b) the National Commission on Land Rights (NCLR) has a mandate that includes the issue of land rights of the community in Moiwana. However, the State must coordinate a national land rights policy and cannot approach one tribal group individually without regard to the remainder of the country. The NCLR has conducted several meetings, but they have been postponed because of flooding in the interior of the country. The State will make certain to comply with this aspect of the Judgment shortly;
- c) the State is responsible under international law for the implementation of the Judgment of the Court. The State has allocated US \$ 1,200,000 as ordered for the community development fund but reserves the right to make certain that funds are disbursed effectively according to the specified plans and proposals aimed at housing, health, and education. The State will release the funds for these projects when it is satisfied that the community development fund has performed its required duties to develop and present such project proposals;
- d) the State requests information regarding which members of the Moiwana community will return in order to ensure that development can be brought effectively to the community as a whole;
- e) the State will not make funds from the community development fund available to cover the costs of the Representatives' travel expenses. The Board of community development fund has not submitted a detailed proposal indicating the total amount of such costs, nor are such costs covered by the Judgment. When these costs are submitted as part of the detailed project proposals, the State will transfer funds for those purposes;
- f) in the meantime, the State will place the US \$ 1,200,000 in an account by which the Moiwana community will benefit from the accrued interest;
- g) the Department of Finance indicates that the funds to be transferred to the organizations as required by the Judgment will be disbursed within few days after the date of this communication; and
- h) the State will transfer US \$ 8,000 as ordered to the Association Moiwana. The travel expenses of its Chairman should be covered by this amount and not by the funds allocated to the community development fund, as they are "future costs of the Association Moiwana".

9. The letter dated May 2<sup>nd</sup>, 2007, in which the Secretariat requested the State to submit, before May 21, 2007, any audio and/or video records of the public ceremony, as previously requested (*supra* Having Seen paragraph 5) and required the State to provide, in its second report, specific information on the following points:



- a) whether the payments for compensation for material and moral damages, as well as the legal costs and fees, have been paid, and the documents that proves those payments;
- b) the reach and scope of the mandate of the National Commission on Land Rights, as well as the Presidential Order that established it;
- c) whether some community members eventually decided to return to Moiwana Village, and if so, what are the guarantees of safety that the State will offer; and
- d) whether the agreement with the artist who will construct the memorial has been signed and whether other positive steps have been taken in order to enable the process.

10. The communication dated May 21, 2007, and its attachments received on May 30, 2007, by which the State submitted its second report on the measures taken towards compliance with the Moiwana Judgement and declared that:

- a) regarding the official ceremony held on July 15, 2006, the State was sending with this report two DVD's showing the public apology by the State;
- b) the State has completed:
  - i. the payment for costs to Association Moiwana, transferred on January 15, 2007; and
  - ii. the payment for costs to the Forest Peoples Programme, transferred on December 15, 2006.
- c) regarding payments of compensation for material and moral damages to the 130 victims living in Suriname and French Guiana, the State included a letter from the Ministry of Finance to the Governor of the Central Bank of Suriname, dated August 10, 2006, requesting the transfer of US\$ 13,000 per person to fifteen persons for a total payment of US\$ 195,000, as well as a letter from said Bank to the Minister of Finance, dated August 24, 2006, confirming that fifteen payments of between SRD 35,230.00 and SRD 951,210.00 have been made between July 11, 2006 and August 15, 2006, to a total of sixty-one persons, for a total of SRD 2,149,030.00.
- d) the Moiwana monument is near completion. Due to heavy rains, the technical deliverance has been delayed past the contracted date. The State included with its report:
  - i. Missive No. 261 from the Vice-President and Chairman of the Council of Ministers, dated July 11, 2006, agreeing to the commission of the monument to artist Marcel Pinas for US\$ 159,478.27 to be charged to the budget of the Ministry of Justice and Police for the fiscal year 2006;
  - ii. the commission of artist agreement between the artist and the State, signed November 3, 2006, which establishes a contract for \$159,478.27 to complete the monument within 60 working days;
  - iii. a computer disc with photographs representing the beginning of construction of the monument; and
  - iv. DVD reproductions of the public ceremony [see (a) above], which include video images of a model of the monument.
- e) regarding the National Commission on Land Rights, the State attaches to its second report:
  - i. Presidential Order No. PB 02/2006, dated February 1<sup>st</sup> 2006, which establishes the National Commission on Land Rights for the duration of one year counting from January 4, 2006; appoints nine members to the Commission; establishes the remuneration to be made to Commission

- members; and orders a report by the NCLR to be made to the President of Suriname every three months; and
- ii. Presidential Order No. PB 07/2007, dated April 2007, amending the Order PB 02/2006 by extending the term of the Commission from January 5, 2007 until December 3, 2007; and
- f) regarding the safety of the community members who will decide to return to the Moiwana village, the State has taken the following measures:
- i. in the neighboring villages of Moengo and Albina, there are existing Police Departments. The Department in Moengo is being renovated;
  - ii. new accommodations are being built, and old accommodations are being renovated, for police officers in these villages; and
  - iii. the Institute of Neighborhood Police Officers was established in 2005. Once the Moiwana village is built, a Neighborhood Police Officer will be installed to help guarantee the safety of the community members.
11. The brief dated July 13, 2007, by which the Representatives submitted their observations on the State's second report and declared, *inter alia*, that:
- a) there has been little demonstrable progress made since the last report submitted by the State;
  - b) however, the victims have received the compensation ordered by the Court and the award of costs have been disbursed and received;
  - c) the State's second report did not provide any information about the Court's order to "immediately carry out an effective investigation and judicial process";
  - d) the victims have expressed concern about remarks made by a former leader of the army, in a public meeting on July 9, 2007, in which he stated, among others, that "he still has contact with the Army, more so even than the present Minister of Defence; that it is unacceptable that the Army is being blamed for the Moiwana massacre; that there will be big problems if the government continues to handle the case the way it has to date; and that a full investigation of the massacre must be conducted and should have been conducted previously". The fact that such statements are being made in public meetings and then reported in the press, while the State has done nothing to comply with the Court's order to investigate and initiate a judicial process, is deeply disturbing to the victims and greatly aggravates their feelings of fear and anxiety;
  - e) regarding the safe return of the victims, statements about the construction and renovation of police stations in the neighbourhood of Moiwana village are "of little comfort (and little practical effect) when the very persons who ordered and later admitted responsibility for the attack on their village continue to hold high political office and make public statements such as those reported above";
  - f) the State has done nothing to locate and return the remains of those persons killed on November 19, 1986, nor has it consulted with the victims in this respect;
  - g) regarding the development fund, the Representatives observe that the functioning of the SFOMG is not even mentioned in the State's second report. The State has yet to explain where the SFOMG will obtain fund to implement activities in order to obtain the "reimbursement per project" referred to in the State's first report;
  - h) the Representatives indicate that the sum of US\$ 327,000.00 has been transferred to the SFOMG to-date, out of the total of US\$ 1,200,000.00 ordered by the Court;

- i) Suriname's second report provides no meaningful information about why the mandate of the NCLR was extended by almost one year, and no information is given about the activities of the NCLR to date. However, the Representatives have been informed that the NCLR intends to present the State with a draft legislative framework for addressing indigenous and tribal peoples' property rights by December 3, 2007, which will be followed by an extensive consultation process with indigenous and tribal peoples. Once this process will be completed, the Government will have to accept or amend the proposal, legislate and then implement the legislation, which could take a number of years more to reach its conclusion;
- j) given that the State shall comply with its obligation to regulate land rights issues in Moiwana within a "reasonable time", and that the above-mentioned process may continue for years to come, the Representatives consider that Suriname has yet to provide any timetable or other indication of when it will comply with this order;
- k) until the territories from which the Moiwana community was expelled have been delimited, demarcated and titled, the SFOMG cannot begin to implement the activities of the development fund, which require housing and other public services for those who decided to return. Houses and a school and health centre cannot be constructed until the location of the land and territory in question is ascertained, agreed upon, legally recognized and secured, which requires the involvement and consent of all parties, including the neighbouring indigenous communities. The State has thus far failed to consult with the victims and the affected indigenous and Maroon communities to that respect;
- l) the Representatives are not aware that unusual weather phenomena, as the State claims, are to be blamed for the delay in completing the monument commemorating those killed at Moiwana; and
- m) they requested the Court to order that:
  - i. the State provide detailed information on any progress it may have made in carrying out an investigation and initiating a judicial process within a specific period of time. In this regard, the State shall be required to provide a timetable containing verifiable benchmarks by which progress may be assessed;
  - ii. the State agree with the victims and representatives on a mechanism by which their testimony can be taken, with due guarantees for their safety, and that the nature of this mechanism be reported in writing to the Court within a specific period of time;
  - iii. the State immediately begin dialogue with the victims about the return of the remains and that it seek and obtain technical support to locate said remains within a specific period of time;
  - iv. the State immediately transfer the sum of US\$ 1,200,000.00 to a bank account in the name of SFOMG and that an annual operating budget including travel and related expenses for Mr. Ajintonea be separately allocated to the SFOMG;
  - v. the NCLR meet with the Moiwana community, the representatives of the Cottica N'djuka people and the neighbouring indigenous peoples' communities to discuss implementation of the Court's orders set forth in paragraph 209-211 of the Judgment; and
  - vi. the State provide the Court with a timetable of the latter's orders as set forth in paragraphs 209-211 of the Judgment within a 90 day period.

12. The brief dated July 25, 2007, in which the Inter-American Commission forwarded its observations on the State's second report and observed, *inter alia*, that:

- a) the State's second report did not include any information regarding the work of the Coordination Team mentioned in the State's first report, or any other aspect of the State's compliance with its obligation to investigate, prosecute and punish those responsible. The Commission is deeply concerned that after more than twenty years, the attack on the Moiwana Village, which included the death and the displacement of the survivors, has not been investigated;
- b) as in its first report, the State did not include any information regarding its obligation to recover and transfer the remains of those killed in the attack. The Commission underscores the importance of this obligation, especially in light of the Moiwana community's deeply held religious and cultural traditions and its reverence for proper burials for the dead;
- c) the State's report did not include copies or summaries of the Land Right Commission's reports or activities. While the Commission appreciates the State's efforts to address the issue of land rights in general, there is no information to date to indicate that such Commission would contribute to identify and title the traditional territories of this group;
- d) with regards to the guarantees of safety for those who decide to return to Moiwana, the Commission highlights the importance of an ongoing dialogue between the parties to form part of an eventual return. Given the lack of detailed information about this process, the Commission is unable to conclude whether the State has taken meaningful steps to comply with this aspect of the Judgment at this time;
- e) the State's second report makes no mention of the Foundation Fund Development or its activities. The Commission is concerned that, a year after its creation, no information has been provided to indicate that any projects addressing health, housing and educational needs have been funded;
- f) the Commission appreciates the State's efforts in the construction of a public memorial and hopes that it will continue to adopt all the measures necessary to comply with this obligation in the immediate future; and
- g) regarding the payment of compensation for material and moral damages and costs, the Commission notes that although the documents provided by the State along with its second report do not contain the names of the individuals to whom payments have been made, the Representatives have indicated that the State has complied with this obligation to their satisfaction. Therefore, the Commission recognizes and values the State's actions and considers that it has fully complied with this aspect of the Judgment.

**WHEREAS:**

1. Monitoring compliance with its decisions is an inherent power of the judicial functions of the Court.
2. Suriname became a State Party to the American Convention on Human Rights (hereinafter "the Convention") and recognized the jurisdiction of the Court on November 12, 1987.
3. Pursuant to Article 68(1) of the American Convention, "[t]he State Parties to the Convention undertake to comply with the judgment of the Court in any case to

which they are parties." Therefore, State Parties must ensure that the rulings set out in the decisions of the Court are implemented at the domestic level.<sup>1</sup>

4. In view of the definitive and conclusive nature of the judgments of the Court, pursuant to Article 67 of the Convention, the State must promptly and completely comply with them within the term set for this purpose.<sup>2</sup>

5. The obligation to comply with the rulings of the decisions of the Court accords with a basic principle of law regarding the international responsibility of the State. That is, States must fulfill their international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has previously stated and is set forth in Article 27 of the 1969 Vienna Convention on the Law of Treaties, they cannot refuse to fulfill the previously established international responsibility for domestic reasons.<sup>3</sup> Treaty obligations of the State Parties are binding to all authorities and bodies of the State.

6. The State Parties shall guarantee the compliance with treaty obligations and their effective protection (*effet utile*) in their respective domestic laws. This principle applies not only with regards to substantive rights contained in human rights treaties (that is, those containing provisions on protected rights), but also with regard to procedural rules, such as those related to the compliance with judgments of the Court. Those obligations should be interpreted and applied in such a way that the guarantee is truly practical and effective, taking into account the special nature of human rights treaties.<sup>4</sup>

7. The State Parties to the Convention that have also recognized the jurisdiction of the Court have the duty to comply with the obligations established by the Court. Accordingly, Suriname shall adopt all necessary measures to give effect to the orders of the Court in its Judgment on preliminary objections, merits, reparations and costs delivered by the Court on June 15, 2005 (*supra* Having Seen paragraph 1). This obligation includes the duty to inform the Court about the measures adopted to comply with the orders of the Court in said decisions. The State's duty to update the Court on the steps it has taken to comply with each of the orders made in the

---

<sup>1</sup> Cf. *Case of Baena-Ricardo et al. v. Panama*. Competence. Judgment of November 28, 2003. Series C No. 104, para. 131; *Case of García-Asto and Ramírez-Rojas v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 12, 2007, Considering paragraph fourth, and *Case of the Sawhoyamaya Indigenous Community v. Paraguay*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of February 02, 2007, Considering paragraph second.

<sup>2</sup> Cf. *Case of Barrios Altos v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 22, 2002, Considering paragraph second; *Case of the Sawhoyamaya Indigenous Community v. Paraguay*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of December 14, 2007, Considering paragraph third, and *Case of the "White Van" (Paniagua-Morales et al.) v. Guatemala*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of October, 2007, Considering paragraph third.

<sup>3</sup> Cf. *Case of the Constitutional Court v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 17, 2004, Considering paragraph third; *Case of García-Asto and Ramírez-Rojas v. Peru*. *supra* note 1, Considering paragraph sixth, and *Case of Sawhoyamaya Indigenous Community v. Paraguay*. *supra* note 1, Considering paragraph third.

<sup>4</sup> Cf. *Case of Ivcher-Bronstein v. Peru*. Competence. Judgment of September 24, 1999. Series C No. 54, para. 37; *Gómez-Palomino v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of October 18, 2007, Considering paragraph fourth, and *García-Asto and Ramírez-Rojas v. Peru*. *supra* note 1, Considering paragraph seventh.

Judgment is fundamental to the evaluation of the status of compliance with the Judgment.<sup>5</sup>

8. Providing sufficient information on compliance with the Judgment is a duty of the State, repeatedly stated by this Court.<sup>6</sup>

\*  
\*       \*  
\*

9. Upon considering the compliance with the Judgment, and after analysing the information provided by the State, the Commission and the Representatives, including the video reproductions of the ceremony submitted by the State (*supra* Having Seen paragraph 9 (a)), the Court has ascertained that the State has fully complied with the Judgment's order to hold a public ceremony of recognition and apology, in conformity with Operative Paragraph 6 of the Judgment. The Court stresses the importance of this act and the public apology made by the President of the Republic of Suriname, and emphasizes the relevance of holding the ceremony with the attendance of survivors and families of the victims and of having organized the event based on close consultation with the representatives of the victims and their families.

\*  
\*       \*  
\*

10. Regarding the obligation to build a memorial in a suitable public location ordered by the Court in the Operative Paragraph 7 of its Judgment, the Court observes that the project is being positively developed and that efforts are being made to achieve the completion of this obligation. The Court observes that at key stages of the development of this project the victims' representatives have been consulted, as requested by the Court in paragraph 218 of said Judgment. The Court further recognizes the steps taken to complete the monument, including the approval of the design and budget by the Council of Ministers, the agreement about the location of the monument, the commission of the artist and the beginning of its construction.

11. The Judgment's order established a one-year period for the completion of the memorial counting from the date of notification of the Judgment, a period that expired on July 14, 2006. The Court recognizes that some difficulties could arise in completing the construction project, but needs further updates on the progress of the completion of the monument as this aspect of the Judgment nears fulfilment.

\*  
\*       \*  
\*

---

<sup>5</sup> Cf. Case of Barrios Altos v. Peru. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 17, 2004, Considering paragraph seventh; Case of Gómez-Palomino v. Peru. *supra* note 9, Considering paragraph fifth, and Case of García-Asto and Ramírez-Rojas v. Peru. *supra* note 5, Considering paragraph eighth.

<sup>6</sup> Cf. Case of Neira Alegría et al v. Peru. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 28, 2002. Compliance with Judgment. November 28, 2002 Order of the Court, Considering paragraph ninth; Case of Palamara-Iribarne v. Chile. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 30, 2007, Considering paragraph seventh, and Case of Cantos v. Argentina. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 12, 2007, Considering paragraph twelfth.

12. Regarding the Judgment's order on the State's obligation to investigate the facts of the case and to identify, prosecute and punish the responsible parties, the State has not supplied sufficient information pertaining to this obligation. The State also has failed to update the Court regarding this aspect of the order in its second report to the Court (*supra* Having Seen paragraph 9), as advanced in an earlier communication (*supra* Having Seen paragraph 8). With respect to this, the Court finds it necessary to remind the State of the importance that compliance with this order has for the family members of the victims and the society as whole, as a means to fulfill the right to truth regarding the facts of the attack on the Moiwana village on November 29, 1986. The Representatives stress the unique importance of the investigation for the Moiwana community in a moral and spiritual sense and emphasize that the State's failure to fulfill this obligation is highly disturbing given its centrality to the denial of justice and perpetuation of impunity regarding most of the violations found by the Court in its Judgment. The Court also recognizes that the Representatives maintain that the failure to investigate the facts and to identify, prosecute, and punish the responsible parties continues to be a major source of fear for the victims and their families (*supra* Having Seen paragraph 6(d)).

13. The only information provided pertaining to this aspect of the Court's order is the creation of a Coordination Team by the Attorney General on December 16, 2005, in charge of preparing the investigation and judicial process of several specific punishable acts. The Court finds it regrettable that almost two years after the creation of this body the State has not yet provided any information on concrete measures and progresses achieved. The Representatives emphasize that there is ample documentary and other evidence available to the State which could form the basis of a judicial process (*supra* Having Seen paragraph 6(e)). Moreover, it is appropriate to remind the State that, as stated in the Judgement, "the effective search for truth is the State's responsibility, and decidedly does not depend upon the initiative of victims and their family members or upon their submission of evidence" (para. 146). As long as the facts are not clarified and those responsible are not identified, prosecuted and eventually punished, a full reparation of the damages caused to the surviving victims and their family members will not be possible. Concomitantly, without compliance with this obligation, the remains of the victims might not be found, identified and given to their families, and the community will not be able to perform the burial ceremonies according to their traditional customs. Also, if they do not obtain justice they will not be able to return to their ancestral lands, as the victims' families believe that this failure has caused anger in the spiritual world, which has already manifested itself in the form of illness, disease and misfortune. Furthermore, the lack of justice and information about the events of the attacks to the Moiwana community in November 1986 continue to cause the victims and their relatives to fear for their personal safety, preventing them from returning to their traditional lands. The Court considers that there is no evidence of compliance with Operative Paragraph 1 of the Judgment.

\*  
\*       \*  
\*

14. In connection with the failure to comply with Operative Paragraph 1 of the Judgment (*supra* Whereas paragraph 12-13) and with the interrelation that exists between the different orders of the Judgment for full compliance, there is no compliance with Operative Paragraph 4 of the Judgment. The Court finds that there is still no guarantee of safety of those members of the Moiwana community who would like to return to their land. Moreover, it is not clear whether the construction or

renovation of police stations in the vicinity of Moiwana, as informed by the State, constitute effective measures toward compliance with this obligation.

\*  
\*            \*

15. The State indicated in its first report that it has carried out consultations with some entities and individuals involved in the case in order to recover the remains of the victims and hand them over to the surviving relatives (*supra* Having Seen paragraph 4 (g)). However, according to the Representatives, the State has done nothing to locate and return the remains of the victims, nor has it consulted with the victims in this respect (*supra* Having Seen paragraph 11 (f)). The Court considers that there is not enough information from the State regarding this Judgment's order to confirm that it has employed all the technical and scientific means possible, taking into account the relevant standards in the field, to recover promptly the remains of the victims killed during the attack of the Moiwana Village in 1986 (*supra* Having Seen paragraph 7(d)). The Tribunal stresses the importance of complying with this obligation indicated at Operative paragraph 2 of the Judgment, especially in light of the Moiwana community's traditions. Furthermore, there is no information from the State regarding the Court's order to analyse, within a reasonable timeframe, the human remains found at the grave site in 1993, and to communicate the results to the representatives of the victims.

\*  
\*            \*

16. Regarding Operative Paragraph 3 of the Judgment, concerning the duty to adopt legislative, administrative, and other measures as necessary to ensure the property rights of the members of the Moiwana community in relation to their traditional territories from which they were expelled, the State informed the Court of the creation of a National Commission on Land Rights (NCLR) and addressed the difficulties that the coexistence of different ethnic and tribal groups may cause in the delimitation, demarcation and titling of traditional territories (*supra* Having Seen paragraph 8(b)). The Court takes note of these facts, and recognizes the efforts that the State is taking, including the appointment of Commission members, the extension of its term until the end of 2007, and the establishment of some operative rules (*supra* Having Seen paragraph 10 (e)). However, it also takes into consideration the concerns expressed by the Representatives and the Commission, such as a lack of information with regard to the manner in which it has and will discharge its mandate; the fact that it has not met with Moiwana survivors to take the necessary measures to achieve the aims for which it has been created and its capability to give effect to this specific order of the Court (*supra* Having Seen paragraph 6(n)). Consequently, the Court emphasizes the lack of specific measures taken by the State towards full compliance with this aspect of the Court's order. Without the delimitation, demarcation and titling of the Moiwana community's traditional territories, the SFOMG might not be able to adequately implement the activities of the development fund (*infra* Considering paragraph 18-19), since it is important that the location of the land and territory in question be ascertained, agreed upon, legally recognized and secured in order to adequately proceed to the implementation of health, housing and education programmes. At this point, and according to its rulings in the Judgment on interpretation of the Judgment delivered by the Court on February 8, 2006 (*supra* Having Seen paragraph 3),



[...] the Court deems pertinent to point out that, by recognizing the right of the Moiwana community members to the use and enjoyment of their traditional lands, the Court has not made any determination as to the appropriate boundaries of the territory in question. Rather, in order to render effective “the property rights of the members of the Moiwana community in relation to the traditional territories from which they were expelled,” and having acknowledged the lack of “formal legal title”, the Court has directed the State, as a measure of reparation, to “adopt such legislative, administrative and other measures as are necessary to ensure” those rights, after due consultation with the neighboring communities. If said rights are to be properly ensured, the measures to be taken must naturally include “the delimitation, demarcation and titling of said traditional territories”, with the participation and informed consent of the victims as expressed through their representatives, the members of the other Cottica N'djuka villages and the neighboring indigenous communities. In this case, the Court has simply left the designation of the territorial boundaries in question to “an effective mechanism” of the State’s design.<sup>7</sup>

\*  
\*            \*

17. Although the State has emphasized the importance of the creation of a Foundation for the Development of the Moiwana Community (SFOMG) to be directed to health, housing and education programmes for the Moiwana community members, as requested by the Court in its Judgment, the Fund has not clearly complied with the requirements nor developed the functions established in paragraphs 213-215 and Operative Paragraph 5 of said Judgment. The Court recognizes that a tripartite implementation committee, the SFOMG, has been established to give an operative character to the Community Development Fund and representatives of the Moiwana community and the State together with a joint representative have been appointed. However, and although the Court has granted a five year term for the completion of the specific elements of the referred programmes, the Court notes that a year after the creation of said Committee, no information has been provided to indicate that any projects addressing health, housing and educational need have been funded, as expressed by the Commission.

18. That the State informs that budgets will be submitted prior to any further transfers, that funds “will be made available on the basis of reimbursements per project” and that “in the meantime the amount [will be] place[d] on an account by which the community will benefit from the interest the account will accrue.” According to the Representatives, the SFOMG should control the funds at its disposal and these should be deposited in an account in its name to ensure that the Moiwana community benefit from the accrued interest. They indicated that the sum of US\$327,000.00, out of the total of the US\$1,200,000.00 ordered by the Court, has already been transferred to the SFOMG. However, it is unclear if the SFOMG has been provided with the necessary operating costs to carry out its mandate and activities. Particularly, the State alleges that the travel expenses of the victims’ representative should be covered by the amount awarded to the Association Moiwana and not by the Community Development Fund, as they should be considered “future costs of the Association Moiwana”. The Court stresses that, according to the Judgment, the implementation committee is the organ in charge of the determination of the health, education and housing programmes, and therefore should be the one with authority to determine how to allocate the funds and implement the programmes. For this reason, the Court considers that there should be a margin of flexibility that needs to be respected, and concludes that, within this competence, the State shall guarantee that the Committee can perform all necessary operative and logistical matters of its mandate. To this

---

<sup>7</sup> *Case of the Moiwana Community v. Suriname*. Interpretation of the Judgment of Merits, Reparations and Costs. Judgment of February 8, 2006. Series C No. 145, para 19.

effect, the State should ensure the release of funds in order to establish an operating budget for the use of the implementation committee in its process of administration and planning. In particular, the participation of the victims' representative in the decision-making process of said committee should not be hindered by the lack of such operative budget, which shall cover all expenses of the members of the implementation committee when acting in their official capacities, regardless of their membership in organizations which have been granted compensation for costs in other parts of the Court's Judgment. Also, the State should ensure that the Moiwana community benefit from the accrued interests on the funds awarded.

\*  
\*            \*

19. The State informed that it has made payments as compensation for material and moral damages (*supra* Having Seen paragraph 10 (c)), although the documents provided do not contain the names of the individuals to whom the payments have been made, nor the list of all the payments that have been made in complying with this order. However, the Representatives have expressed that the victims have received the compensation ordered by the Court (*supra* Having Seen paragraph 11 (b)). The Court therefore considers that the State has fully complied with Operative Paragraphs 8 and 9 of the Judgment.

\*  
\*            \*

20. The State has asserted it completed payments for costs to the Forest Peoples Programme on December 15, 2006, and to Association Moiwana on January 15, 2007 (*supra* Having Seen paragraph 10b)). The Court notes that no clear information has been provided regarding the payment for costs corresponding to the organization Moiwana '86. However, the Representatives confirmed that "awards of costs have been disbursed and received" (*supra* Having Seen paragraph 11 (b)) and the Commission therefore considered that the State has fully complied with this aspect of the Judgment. The Tribunal considers that Suriname has complied with Operative Paragraph 10 of the Judgment.

**NOW THEREFORE:**

**THE INTER-AMERICAN COURT OF HUMAN RIGHTS,**

By virtue of its authority to monitor compliance with its own decisions and pursuant to the provisions of Articles 33, 62(1), 62(3), 67, and 68(1) of the American Convention on Human Rights, Articles 25(1) and 30 of the Statute of the Court, and Article 29(2) of its Rules of Procedure,

**DECLARES,**

1. That, in accordance with the consideration found in Whereas paragraph 9, the State has fully complied with the Operative Paragraph 6 of the Judgment on

preliminary objections, merits and reparations delivered by the Court on June 15, 2005, regarding its obligation to hold a public ceremony of recognition and apology.

2. That, in accordance with the consideration found in Whereas paragraphs 17-19, the State has fully complied with Operative Paragraphs 8 and 9 of the Judgment, regarding the order to effect the payment of compensation to the Moiwana community members for material and moral damages.

3. That, in accordance with the consideration found in Whereas paragraph 20 *supra*, the State has fully complied with Operative Paragraph 10 of the Judgment regarding the order to effect the payment of compensation for costs to Forest Peoples Programme and Association Moiwana.

4. That the Tribunal will keep open the proceedings for monitoring compliance with the orders pending fulfillment, namely the obligations to:

- a) implement the necessary measures to investigate the facts of the case, as well as to identify, prosecute, and eventually punish the responsible parties (Operative Paragraph 1 of the Judgement);
- b) recover of the remains of the Moiwana community members killed during the events of November 29, 1986, as soon as possible, and deliver them to the surviving community members (Operative Paragraph 2 of the Judgement);
- c) adopt legislative, administrative, and other measures necessary to ensure property rights of the members of the Moiwana community in relation to the traditional territories from which they were expelled, and provide for the members' use and enjoyment of those territories (Operative Paragraph 3 of the Judgment on preliminary objections, merits, reparations and costs, and Operative Paragraph 1 of the Interpretation Judgement);
- d) guarantee the safety of those community members who decide to return to Moiwana Village (Operative Paragraph 4 of the Judgement);
- e) establish a community development fund (Operative Paragraph 5 of the Judgement); and
- f) build a memorial in a suitable public location (Operative Paragraph 7 of the Judgment).

**AND DECIDES,**

1. To require the State to take the necessary measures to fully and immediately comply with the Operative Paragraphs pending fulfillment of the Judgment on the preliminary objections, merits, reparations and costs, delivered by the Court on June 15, 2005 and this Order, according to the provisions of Article 68(1) of the American Convention on Human Rights.

2. To require the State to submit to the Court, before March 25, 2008, a detailed report on the actions taken in order to comply with the reparations ordered by the

Court which are still pending, as set forth in Whereas paragraphs 10 to 16 and Declares paragraph 4 of this Order. In particular, the report shall contain detailed information about, but should not be limited to, the following:

- a. with respect to the obligation to investigate the facts of the case and to identify, prosecute, and eventually punish the responsible parties, the State shall inform the Court of its efforts to ensure a mechanism by which the victims can give their testimony with due guarantees for their safety and the effective advancements of the judicial process;
  - b. with respect to the recovery of the remains of the victims and their delivery to the surviving community members, the State shall inform the Court of the specific efforts taken to employ all technical and scientific means available to recover the remains with due diligence. The State shall also report on the status of its analysis of the human remains found at the grave site in 1993;
  - c. with respect to the adoption of such legislative, administrative, and other measures as are necessary to ensure property rights of the members of the Moiwana community in relation to their traditional territories, the State shall inform the Court of the composition and specific mandate of the National Commission on Land Rights as well as the status of its deliberations in developing a national policy. The State shall also inform the Court about the measures it has taken to achieve the "informed consent of the victims" in this deliberative process;
  - d. with respect to the community development fund, the State shall inform the Court about the progress of the implementation committee in developing concrete plans and proposals created with the goal of providing for the health, housing and education of the Moiwana community and provide information about any such projects that have been funded. The State shall also inform the Court on the funds transferred and the measures taken in order to establish an operative budget to guarantee that the Committee can perform all necessary operative and logistical matters of its mandate; and
  - e. with regard to the memorial, the State shall inform the Court about the status of the project's completion, including any additional photographs or other descriptions as they become available.
3. To request the Representatives of the victims and their family members and the Inter-American Commission on Human Rights to file comments on the above-mentioned brief of the State within four and six weeks, respectively, as from the date of receipt of the report.
  4. To continue monitoring compliance with the unfulfilled orders of the Judgment on the preliminary objections, merits, reparations and costs of June 15, 2005.
  5. To require that the Secretariat of the Court notify this Order to the State, the Inter-American Commission on Human Rights, and the Representatives of the victims.

Sergio García Ramírez  
President

Cecilia Medina Quiroga

Manuel E. Ventura Robles

Diego García-Sayán

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri  
Secretary

So ordered,

Sergio García Ramírez  
President

Pablo Saavedra Alessandri  
Secretary