

## INTER-AMERICAN COURT OF HUMAN RIGHTS

### CASE OF THE MASSACRES OF EL MOZOTE AND NEARBY PLACES v. EL SALVADOR

JUDGMENT OF AUGUST 19, 2013

*(Interpretation of the Judgment on merits, reparations and costs)*

In the case of the *Massacres of El Mozote and nearby places*,

the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”), composed of the following judges: \*

Diego García-Sayán, President  
Leonardo A. Franco, Judge  
Margarette May Macaulay, Judge  
Rhadys Abreu Blondet, Judge  
Alberto Pérez Pérez, Judge, and  
Eduardo Vio Grossi, Judge;

also present,

Pablo Saavedra Alessandri, Secretary, and  
Emilia Segares Rodríguez, Deputy Secretary,

pursuant to Article 67 of the American Convention on Human Rights (hereinafter also “the American Convention” or “the Convention”) and Article 68 of the Rules of Procedure of the Court<sup>1</sup> (hereinafter “the Rules of Procedure”), decides the request for interpretation of the Judgment on merits, reparations and costs in this case delivered by the Court on October 25, 2012 (hereinafter also “the Judgment”), filed on March 10, 2013, by the representatives of the victims<sup>2</sup> (hereinafter “the representatives”).

#### I

### REQUEST FOR INTERPRETATION AND PROCEEDINGS BEFORE THE COURT

1. On October 25, 2012, the Court delivered the Judgment, which was notified to the parties and to the Commission on December 10 and 12 that year, respectively.
2. On March 10, 2013, the representatives submitted to the Court a request for interpretation of the Judgment. On the one hand, they indicated that the “territorial

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\* Judge Manuel E. Ventura Robles advised the Court that, for reasons beyond his control, he would be unable to attend the deliberation and signature of this Judgment.

<sup>1</sup> The Court’s Rules of Procedure approved by the Court at its eighty-fifth regular session held from November 16 to 28, 2009.

<sup>2</sup> The representatives of the victims in this case are the *Oficina de Tutela Legal del Arzobispado* (OTLA) and the Center for Justice and International Law (CEJIL).

limitation"<sup>3</sup> established by the Court in paragraph 56 of the Judgment "appears to contradict the Court's decision to apply Article 35(2) of the Rules of Procedure." Therefore, they considered that the Court should clarify "the inconsistencies that [would] arise from the territorial limitation established in paragraph 56 of its Judgment in relation to the State's obligation to identify all the victims of the massacres who were not determined in the Judgment." On the other hand, they considered that, in view of the fact that the Court had ordered the State to continue to implement fully the "Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote," the territorial limitation established in the Judgment "could lead to complications during the process of monitoring this measure." Consequently, they asked the Court to clarify the meaning, scope and relationship between full implementation of paragraph 56 of its Judgment and the elaboration of the said List, in order "to conclude that it was for the State, based on the investigations that it conducts into the facts of the case, and within the framework of the List requested by the Court, to determine those individuals who should be considered victims, without the said territorial limitations representing an obstacle to this." They added that the said clarifications would act not only as a measure of reparation for the victims by acknowledging them as such, but would provide greater certainty to the parties and would facilitate the monitoring of the Judgment by establishing clearly all the measures of reparation that the State must fulfill in the case. The representatives attached two annexes to this brief.<sup>4</sup>

3. On March 18, 2013, on the instruction of the President of the Court, the Secretariat of the Court forwarded the said communication to the Republic of El Salvador (hereinafter also "the Salvadoran State," "the State" or "El Salvador") and to the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission"). In addition, the State and the Inter-American Commission were informed that they could present any written arguments they deemed pertinent by April 18, 2013, at the latest.

4. On April 18, 2013, the State and the Inter-American Commission presented their respective arguments concerning the representatives' request for interpretation.

## II COMPETENCE

5. Article 67 of the Convention establishes that:

The judgment of the Court shall be final and not subject to appeal. In case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment.

6. According to this article, the Court is competent to interpret its judgments. Under Article 68(3) of the Rules of Procedure, in order to examine a request for interpretation and reach the corresponding decision the Court must, if possible, have the same composition that it had when it delivered the respective Judgment. On this occasion, the Court is

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<sup>3</sup> The representatives referred to what the Court had established in paragraph 56 of the Judgment as a "territorial limitation," because it determined that the Court would not consider as victims those persons who had suffered a possible violation of their rights in places that were not included within the factual framework of this case, unless the evidence showed that, at the time of the facts, they were in one of the places that were the subject of this case.

<sup>4</sup> Annex 1 entitled "Map identifying the area affected by the massacre," and annex 2 entitled "Map of the municipality of Arambala."

composed of most of the judges who delivered the Judgment whose interpretation has been requested by the representatives.

### **III ADMISSIBILITY**

7. The Court must verify whether the request presented by the representatives complies with the requirements established in the norms applicable to a request for interpretation of judgment, namely Article 67 of the Convention, cited above, and the pertinent parts of Article 68 of the Rules of Procedure, which stipulate that:

1. The request for interpretation referred to in Article 67 of the Convention may be made in connection with judgments on preliminary objections, on the merits, or on reparations and costs, and shall be filed with the Secretariat. It shall state with precision questions relating to the meaning or scope of the judgment of which interpretation is requested.

[...]

4. A request for interpretation shall not suspend the effect of the judgment.

5. The Court shall determine the procedure to be followed and shall render its decision in the form of a judgment.

8. Furthermore, Article 31(3) of the Rules of Procedure establishes that the “[j]udgments and orders of the Court may not be contested in any way.”

9. The Court observes that the representatives presented their request for interpretation of the Judgment within the 90-day period established in Article 67 of the Convention, because it was notified on December 10, 2012. Consequently, the request is admissible as regards the date on which it was presented. Regarding the other requirements, the Court will make the corresponding analysis when examining the content of this request for interpretation in the following chapter.

### **IV ANALYSIS OF THE ADMISSIBILITY OF THE REQUEST FOR INTERPRETATION**

10. The Court will now analyze the representatives’ request to determine whether, based on the norms (*supra* paras. 5 and 7) and the standards developed in its case law, it is in order to clarify the meaning and scope of any element of the Judgment on merits, reparations and costs. To this end, it will examine the issues raised by the representatives, as well as the allegations and arguments presented by both the State and the Commission.

#### *Arguments of the parties and of the Commission*

11. The representatives considered, first, that the territorial limitation established in paragraph 56 of the Judgment “appears to contradict the decision of the Court to apply Article 35(2) of the Rules of Procedure.” They based this assertion on the following arguments: (1) the massive nature of the events would require flexibility in the determination of the victims of the case, and (2) the State had acknowledged that the facts affected the places expressly excluded by the Court.

12. Regarding the first argument, they stated that the massacres mainly affected the places named in the Judgment; however, owing to their indiscriminate and massive nature,

they did not respect territorial limits, which would explain why the list of victims provided by the representatives stipulated that some individuals died in places nearby the places indicated. In this regard, they explained that the places that the Court had expressly excluded in its Judgment were: (1) adjoining, or very near the places that the Court itself had recognized as scenes of the massacre, or (2) territorial districts – cantons – in which the villages are located. In this regard, they affirmed that part of the village of Los Toriles (which the Court had recognized was affected by the massacre) is located in the canton of Tierra Colorada (expressly excluded) and adjoins the village of El Pinalito (expressly excluded), which also forms part of the canton of Tierra Colorada. Furthermore, they indicated that the lists presented “do not mention the village of La Guacamaya,” rather the reference to “La Guacamaya” in the lists “refers to the canton of this name.” The representatives explained that, in view of the impossibility of specifically determining the exact place in the canton where the victims were executed, “Tierra Colorada” and “Guacamaya” were indicated on the lists. They also explained that the village of El Pinalito adjoins the village of Los Toriles and “was also affected by the massacre, although to a lesser degree.” In addition, they clarified that Arambala “is not a department or a municipal capital,” but rather it is “a municipality in the northern part of the department of Morazán”; in other words, “part of the area affected by the massacre,” and that the canton of Tierra Colorada and some of its villages are located within the municipality of Arambala. Nevertheless, the reference to “Arambala” in the lists that were presented alluded “to the town (urban area) of Arambala.” Furthermore, the representatives specified during the proceedings before the Court that the lists they presented “are absolutely imperfect.” Regarding the second argument, they noted that, during the proceedings before the Court, the State had acknowledged its responsibility for the facts on several occasions and had referred to places that were expressly excluded in the Judgment.

13. Lastly, the representatives argued that, since the Court had ordered the State to continue to implement fully the “Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote,” the territorial limitation established in the Judgment “could lead to complications during the process of monitoring this measure.” Consequently, they asked the Court to clarify the meaning, scope and relationship between paragraph 56 of its judgment and the elaboration of the said List.

14. The State maintained that, indeed, the events had a massive dimension and affected populations and individuals who lived in different villages, cantons and municipalities, especially in the municipal jurisdictions of Meanguera and Arambala, department of Morazán. In addition, it confirmed that it was difficult to determine the borders of the political-administrative division of the territories affected by the massacres, specifically as regards being certain of the exact places where the human rights violations were perpetrated during the events that were the subject-matter of the Judgment. It added that, based on these considerations, the acknowledgements of international responsibility “tended to locate the events [...] in an extensive list of villages and cantons, without restricting them to a closed or strictly delimited list.” It also noted that the operation started in the town of Arambala and continued to El Mozote passing through the village of El Pinalito, in the canton of Tierra Colorada. Furthermore, it clarified that the village of El Mozote itself is located in the canton of La Guacamaya, in the municipality of Meanguera. In addition, it indicated that it understood that the “Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote” would be the technical instrument and the appropriate procedure for complying with the obligation established in the Judgment, consisting in the “clear determination of other individuals who should also be considered victims and, thus, beneficiaries of the reparations.”

15. Lastly, the State observed that, even though, the Court had not included in its Judgment individuals who had suffered the alleged violations in some specific places, the Court had established an exception to this criterion by determining that “the Court will not consider the persons who suffered a possible violation of their rights in the said places to be victims in this case, unless the evidence reveals that, at the time of the facts, they were in one of the places that are the object of this case.” In this regard, the State understood that the Court “consider[ed] that evidence might arise subsequently proving that the acts that violated human rights that were declared in the Judgment ha[d] also affected individuals who lived in the places initially excluded in paragraph 56 [of the Judgment], which would allow those individuals to acquire the status of victims and to accede to the reparations ordered.” Accordingly, the State considered that the Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote would permit, under the terms of the Judgment, “the inclusion of persons and next of kin who [had] suffered grave human rights violations and the determination of their status as victims, [...] even if the said acts were perpetrated in the village of El Pinalito, the canton of Tierra Colorada, the town of Arambala, the canton of Guacamaya, or other places that adjoined the villages which the [...] Court had expressly declared as places affected.” Lastly, the State considered that the exclusion of certain villages and places in the Judgment “should not be understood as absolute,” and indicated its willingness to consider as included in the Judgment, victims of grave human rights violations declared by the Court who were individualized with sufficient certainty in the future and whose rights had been violated in the town of Arambala, in the village of El Pinalito, and in the cantons of Tierra Colorada and Guacamaya.

16. The Commission recalled that the factual framework of the case was constituted based on the facts established in the Merits Report that, in this case, was composed of the report itself and three annexes which referred to the places identified by the representatives in their request. One of these annexes included “victims from the localities of Tierra Colorada, Arambala, El Pinalito and Guacamaya.” In this regard, the Commission indicated that it had taken into consideration that these places were nearby or formed part of the seven cantons and/or villages mentioned primarily in the Merits Report and that, owing to the massive and indiscriminate nature of the massacres, it had included these places in the annex to the report as part of the factual framework relating to the identification of the victims. Similarly, it recalled “that the total acquiescence expressed by the State [...] incorporated all the facts and legal considerations of the [Commission’s] report,” which included the said three annexes. Consequently, the Commission considered it relevant that the Court clarify this matter, because it could have significant implications in relation the identification of the victims of the case and the award of reparations, especially with regard to implementing the Single List of Victims in a way that was compatible with the exceptional nature of this case.

#### *Considerations of the Court*

17. In order to analyze the admissibility of the representatives’ request, the Court takes into consideration its consistent case law, clearly supported by law, that a request for interpretation of judgment may not be used as a means of contesting the decision whose interpretation is required. The purpose of this request is exclusively to determine the meaning of a judgment when one of the parties affirms that the text of its operative paragraphs or of its considerations is unclear or imprecise, provided that those considerations have an impact on the said operative paragraphs.<sup>5</sup> Consequently, the

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<sup>5</sup> Cf. *Case of Loayza Tamayo v. Peru. Interpretation of the judgment on merits*. Judgment of the Inter-American Court of Human Rights of March 8, 1998. Series C No. 47, para. 16, and *Case of Atala Riffo and*

modification or annulment of the respective Judgment cannot be requested by means of a request for interpretation.<sup>6</sup>

18. In addition, the Court has indicated the inadmissibility of using a request for interpretation to submit factual and legal issues that have already been brought up at the appropriate procedural opportunity and regarding which the Court has already adopted a decision,<sup>7</sup> or to seek that the Court re-assess matters that it has already decided in its Judgment.<sup>8</sup> Similarly, this mechanism cannot be used to try and expand the scope of a measure of reparation that has been ordered at the opportune moment.<sup>9</sup> Furthermore, the Court has also indicated that the formulation of abstract or hypothetical situations bears no relationship to the purpose of a request for interpretation of judgment.<sup>10</sup>

19. Regarding the determination of the victims in this case and the application of Article 35(2) of the Rules of Procedure,<sup>11</sup> in paragraphs 51, 56 and 57 of the Judgment, the Court established the following criteria:

51. The Court notes that it is difficult to identify and individualize each presumed victim owing to the scale of this case, which relates to massacres perpetrated in seven different places, to the nature of the events and the circumstances surrounding them, and to the time that has passed. Consequently, it finds it reasonable to apply Article 35(2) of the Court's Rules of Procedure in this case.

[...]

56. In addition, the Court observes that, from the explanation provided by the representatives in relation to the column headed "location" in their lists, this corresponds to "the specific place where the victims were executed" [...]; thus, some people included on the lists were victims of execution in the departmental capital of Arambala, or in the canton of Tierra Colorada, the village of Pinalito, and the village of Guacamaya. However, the factual framework of this case does not include events that occurred in these places. Consequently, the Court will not consider the persons who suffered a possible violation of their rights in the said places to be victims in this case, unless the evidence reveals that, at the time of the facts, they were in one of the places that are the object of this case.

57. Considering that the State is not opposed to persons other than those indicated by the Commission being included as presumed victims, owing to the particularities of this case, the Court will consider victims those persons identified and individualized by the Commission in its lists attached to the merits report and/or by the representatives in their lists attached to their final written arguments, who have suffered any human rights violation in the context of the massacres in the village of El Mozote, the canton of La Joya, the villages of Rancheria, Los Toriles and Jocote Amarillo, the canton of Cerro Pando, and a cave on Cerro Ortiz, provided that the Court has the necessary evidence to verify the identity of each of these individuals. Based on these criteria and the evidence that has been provided, this Court has been able to determine a

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*Daughters v. Chile. Request for interpretation of the judgment on merits, reparations and costs.* Judgment of November 21, 2012. Series C No. 254, para. 11.

<sup>6</sup> Cf. *Case of Loayza Tamayo v. Peru*, para. 16, and *Case of Atala Riffo and Daughters v. Chile.*, para. 11.

<sup>7</sup> Cf. *Case of Loayza Tamayo v. Peru*, para. 15, and *Case of Atala Riffo and Daughters v. Chile*, para. 33.

<sup>8</sup> Cf. *Case of Salvador Chiriboga v. Ecuador. Interpretation of the judgment on reparations and costs.* Judgment of August 29, 2011. Series C No. 230, para. 30, and *Case of Atala Riffo and Daughters v. Chile*, para. 34.

<sup>9</sup> Cf. *Case of Escher et al. v. Brazil. Interpretation of the judgment on preliminary objections, merits, reparations and costs.* Judgment of November 20 2009. Series C No. 208, para. 11.

<sup>10</sup> Cf. *Case of Cesti Hurtado v. Peru. Interpretation of the judgment on merits.* Judgment of November 19, 1999. Series C No. 62, para. 27, and *Case of Cantoral Huamaní and García Santa Cruz v. Peru. Interpretation of the judgment on preliminary objection, merits, reparations and costs.* Judgment of January 28, 2008. Series C No. 176, para. 16.

<sup>11</sup> According to Article 35(2) of the Court's Rules of Procedure, "[w]hen it has not been possible to identify one or more of the alleged victims who figure in the facts of the case because it concerns massive or collective violations, the Court shall decide whether to consider those individuals as victims."

number of victims that is much lower than those on the lists provided. Notwithstanding this, and considering that the State itself provided a list of 936 individualized victims, the Court considers it essential that, in the context of the Single List of Victims that is being drawn up [...], the State proceed to make a conclusive determination of other individuals who should also be considered victims and, as appropriate, beneficiaries of the reparations ordered by the Court. [...]

20. Now, in the context of the request for interpretation of the Judgment, the representatives, the State and the Commission have referred to the massive and indiscriminate nature of the massacres, as well as to the complexity represented by the borders of the political-administrative division of the territories and have indicated that some of the localities excluded by the Court in its Judgment “are adjoining, nearby or part of the seven places of the massacre specified in the Judgment.” The Court finds that the representatives’ request and the Commission’s arguments seek that the Court consider that places such as the canton of Tierra Colorada, the village of El Pinalito, the canton of Guacamaya and the town of Arambala are included within the factual framework of the case, with a view to the determination of victims, which would involve modifying the provisions of paragraph 56 of the Judgment, in which it is explained that: “the factual framework of this case does not include events that occurred in [...] the departmental capital of Arambala, or in the canton of Tierra Colorada, the village of Pinalito, and the village of Guacamaya.” In short, the Court notes that, under the appearance of a request for interpretation, basically, it is a disagreement with the Court’s decision that is being introduced by means of an assessment of factual and legal issues that have already been raised at the appropriate procedural opportunity and regarding which this Court has already adopted a decision. This would constitute a modification of what was established in paragraph 56 of the Judgment. Added to this, it should be noted that, in their request for interpretation, the representatives did not identify anyone who had been excluded as a victim by the considerations included in paragraph 56 of the Judgment. The Court reiterates that the formulation of abstract or hypothetical situations bears no relationship to the purpose of a request for interpretation of judgment. Consequently, this element of the request for interpretation is declared inadmissible, because there is no possibility that the judgment can be modified or expanded, pursuant to Articles 67 of the American Convention and 31(3) and 68 of the Court’s Rules of Procedure.<sup>12</sup>

21. Notwithstanding the foregoing decision, bearing in mind that one of the requirements for the admissibility of a request for interpretation is that it must seek the clarity or precision of the operative paragraphs of the Judgment or of considerations that have an impact on those operative paragraphs (*supra* para. 17), the Court finds it pertinent to proceed to analyze the considerations submitted by the representatives that relate to the implementation of the “Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote,” based on the provisions of the Judgment and given the complexity of determining who should be considered victims under this mechanism.

22. In this regard, the representatives indicated, on the one hand, that the territorial limitations established in paragraph 56 of the Judgment “w[ould be] incompatible with the indiscriminate nature of the massacres and with the [Court’s] decision to apply the provisions of Article 35(2) of its Rules of Procedure, as well as with the State’s obligation to identify all the victims of the events who were not determined by the Court.” On the other hand, they referred to the determination of victims at the domestic level by means of the “Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote” and considered it pertinent that the Court issue a clarification

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<sup>12</sup> Cf. *Case of Salvador Chiriboga v. Ecuador*, para. 31, and *Case of Atala Riffo and Daughters v. Chile*. para. 34.

concerning the scope of the State obligation in relation to the implementation of this measure.

23. Consequently, the Court will now proceed to analyze the two groups of arguments presented by the representatives in the context of the request for interpretation and, as appropriate, to provide the pertinent clarifications and explanations in order to contribute to the effective implementation of the measures of reparation ordered in the Judgment, without expanding the scope of these measures. The Court will merely clarify the formulation of its considerations and eliminate any doubts about the original scope of the Judgment as decided by the Court, which, it is recalled is final and may not be appealed (*supra* para. 5). To this end, the Court will divide its analysis into two parts regarding: (a) the territorial delimitation established in paragraph 56 of the Judgment for the determination of victims, and (b) the State's obligation to determine other persons who should be considered victims under the "Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote."

**A. Territorial delimitation established in paragraph 56 of the Judgment for the determination of victims**

24. With regard to the alleged contradiction asserted by the representatives between the application of Article 35(2) of the Rules of Procedure to the case and the determination of the territorial criteria contained in paragraph 56 of the Judgment, this Court finds it pertinent to recall that the said article of the Rules of Procedure constitutes an exception to the representatives' impediment to inform the Court of presumed victims other than those identified in the Commission's merits report.<sup>13</sup> In other words, it grants the Court the power to decide whether it will consider persons who are not included in the merits report as victims in cases of massive or collective violations. The exceptional circumstance contemplated in Article 35(2) of the Court's Rules of Procedure does not mean that there are no criteria whatsoever for the clear identification of the victims in a case before the Court,<sup>14</sup> or that the difficulties that arose in the proceedings before the Commission to identify one or some of the presumed victims should remain unresolved in the proceedings before the Court.<sup>15</sup> To the contrary, it is incumbent on the Court, in the exercise of its jurisdictional function and in order to ensure legal certainty, to adopt a decision on the case by handing down its judgment, which includes the persons who it will consider victims or, otherwise, the criteria for determining them.

25. The Court recalls that, when delivering its judgment in this case, in application of Article 35(2) of the Rules of Procedure, which establishes that "[w]hen it has not been possible to identify one or more of the alleged victims who figure in the facts of the case

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<sup>13</sup> Cf. *Case of the Massacres of Rio Negro v. Guatemala. Preliminary objection, merits, reparations and costs*. Judgment of September 4, 2012. Series C No. 250, paras. 49 and 51

<sup>14</sup> For example, in the *Case of Nadege Dorzema v. Dominican Republic*, even though it declared that the application of Article 35(2) of the Rules of Procedure was in order, the Court decided, with regard to the eight persons presented by the representatives and the Commission as "other victims not identified in the case, but supposedly named *ab initio* by the State," that they would not be considered presumed victims in the said Judgment, given that it had insufficient information to identify these individuals at that procedural stage, because there was no document among the evidence submitted by the parties that would allow it to determine clearly the name and conditions of the presumed victims, or their relationship to the facts of the case. Cf. *Case of Nadege Dorzema et al. v. Dominican Republic. Merits, reparations and costs*. Judgment of October 24, 2012. Series C No. 251, para. 34.

<sup>15</sup> The Rules of Procedure establish that the Court will decide at the opportune moment whether it considers them victims (Article 35(2)).

because it concerns massive or collective violations, the Tribunal shall decide whether to consider those individuals as victims," and since the State did not oppose the inclusion of persons other than those indicated by the Commission as presumed victims, it determined that the universe of presumed victims would be constituted by those persons identified and individualized by the Commission in its lists attached to the merits report and/or by the representatives in their lists attached to the brief with final arguments.

26. In this regard, it should be recalled that the lists of presumed victims and next of kin provided by the Commission and the representatives differed, inasmuch as the representative' lists included more people than those of the Commission and the latter included names that did not appear on the former. In addition, the said lists contained inconsistencies with regard to the names, ages, relationships, and location of the persons mentioned as survivors and displaced.<sup>16</sup>

27. In view of the foregoing, during the public hearing held in this case, the Commission and the representatives were expressly asked to provide information on this point and were given the opportunity to include any information and documentation they considered pertinent with their final written observations and arguments, respectively.<sup>17</sup> The Court took into account the answers provided when deciding this matter. In addition, the Court specifically asked the representatives to explain the meaning of the word "location" that appeared on its lists of victims; in other words, whether this word referred to the origin of the victims, or to the place where they were presumably executed; to which they responded that it referred "to the specific location in which the victims were executed."<sup>18</sup> Even though the representatives had several procedural opportunities to incorporate the documentation and information they considered pertinent, it was only now, in their request for interpretation that they forwarded the annexes entitled "Map identifying the area affected by the massacre" and "Map of the municipality of Arambala." In this regard, it should be noted that: (a) this information was forwarded for the first time with the request for interpretation; (b) it does not refer to supervening facts, and (c) no arguments of *force majeure* or grave impediment were presented in this regard. In other words, the evidence was not presented at the opportune procedural stage of the proceedings on merits. It is also pertinent to point out that, owing to the condition in which they were provided, it is not possible to verify whether these maps correspond to the period when the facts of the case took place.

28. Now, in order to make a clear determination of the victims of the human rights violations established in the Judgment, the Court took into consideration the description of the proven facts in the places in which the massacres were perpetrated, as established in the Commission's Merits Report and by the evidence provided by the parties and the Commission up until that time during the proceedings. Indeed, in its Merits Report, the Commission described, among the facts of the case and under the heading "The massacres," that "[t]he village of El Mozote, the canton of La Joya, the villages of Ranchería, Los Toriles and Jocote Amarillo, and the canton of Cerro Pando, places in which the facts of this case occurred, are located in the jurisdiction of Meanguera, in the northern part of the department of Morazán, El Salvador."<sup>19</sup>

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<sup>16</sup> Cf. *Case of the Massacres of El Mozote and nearby places v. El Salvador. Merits, reparations and costs.* Judgment of October 25, 2012 Series C No. 252, para. 52.

<sup>17</sup> Cf. *Case of the Massacres of El Mozote and nearby places v. El Salvador*, para. 45.

<sup>18</sup> Cf. *Case of the Massacres of El Mozote and nearby places v. El Salvador*, para. 47.

<sup>19</sup> IACHR, Merits Report No. 177/10, November 3, 2003, para. 50.

29. However, during the processing of this request for interpretation, the Commission has argued that, in one of the lists presented as annexes to its brief submitting the case, it had included “victims from the localities of Tierra Colorada, Arambala, El Pinalito and Guacamaya,” and that this annex was part of the factual framework of the case. In this regard, it is important to note that, even though the brief submitting the case included three annexes to the Merits Report, and that two of them mention the said places in a column headed “location,” the Commission never referred to the circumstances in which the events that took place in those places occurred or explained the relationship between this information contained in the lists with the facts and violations declared in its Merits Report during the proceedings on merits before the Court. The argument that these localities are nearby or are part of the places in which the massacres were perpetrated has only just been presented by the Commission in the context of the request for interpretation.

30. Thus, the Court considered to be victims those persons identified and individualized by the Commission and/or by the representatives in their lists who had suffered any human rights violation in the context of the massacres in the village of El Mozote, the canton of La Joya, the villages of Ranchería, Los Toriles and Jocote Amarillo, the canton of Cerro Pando, and a cave on Cerro Ortiz, provided that the Court had the necessary evidence to verify the identity of each of these persons. Based on the political-administrative division of the territory of the Republic of El Salvador, for the places indicated by the Commission as cantons (La Joya and Cerro Pando), the Court took into account the whole territorial extension, so that it included all the villages and hamlets that belonged to this area as part of the factual framework, in keeping with the evidence provided. To the contrary, with regard to those places specifically indicated in the Merits Report as villages (El Mozote, Ranchería, Los Toriles and Jocote Amarillo), the Court only considered the individual village and, if appropriate, the adjoining rural area. Thus, the Court notes that neither the representatives nor the Commission provided a satisfactory explanation for the difference in the designation in the Merits Report of the places where the massacres occurred; in other words, the reasons why, in the case of some localities, only the village was included, and in others mention was made of the canton, in keeping with the political-administrative division of the territory of El Salvador. This is why the Court determined that the persons included on the lists who had suffered a possible violation of their rights in “the departmental capital of Arambala, the canton of Tierra Colorada, the village of El Pinalito and the village of La Guacamaya” would not be considered by the Court as victims, unless the evidence revealed that these persons were in one of the places that are the object of this case at the time of the facts.

31. This Court underscores that, when it delimited, by person and by territory, the scope of the status as victims in paragraph 56 of the Judgment and explicitly excluded persons whose rights had been affected in localities that did not fall within the places specified in the Merits Report, it did so in order to be able to take a decision in this specific case that would provide legal certainty to the parties and would make it possible to determine the beneficiaries of the reparations ordered. Then, in the chapter of the Judgment on reparations, the Court acknowledged the constraints arising from the complexity of the case, and on this basis left open the possibility of including as victims other persons who were identified and individualized as such under the “Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote.”<sup>20</sup> Thus, the Court’s decision, far from being contradictory or incompatible with the application of Article 35(2) of the Rules of Procedure (*supra* paras. 11 and 22), is perfectly congruent, because it provides legal certainty, inasmuch as it establishes clearly the victims who have been

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<sup>20</sup> Cf. *Case of the Massacres of El Mozote and nearby places v. El Salvador*, paras. 310 and 311.

identified in this case and establishes criteria for the State to determine other persons who could acquire this status and who should be covered by the reparations ordered.

**B. *Obligation of the State to determine other persons who should be considered victims under the “Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote”***

32. Regarding the reparations ordered, in the section entitled “A. Injured Party,” the Court established the following:

306. The Court reiterates that, in the terms of Article 63(1) of the Convention, the injured party is the party that has been declared a victim of the violation of any right recognized in the Convention. Therefore, the Court considers as “injured parties” those persons included in the lists of: (i) victims who were executed; (ii) the surviving victims; (iii) the next of kin of the victims who were executed, and (iv) the victims forcibly displaced, that are included as Annexes identified in the Appendixes “A”, “B”, “C” and “D” to this Judgment. As victims of the violations declared in Chapters VII and VIII, they will be beneficiaries and recipients of the measures that the Court establishes in this chapter.  
[...]

310. The Court observes that, owing to the particular characteristics of the case, and for the reasons already indicate in this Judgment (*supra* paras. 59 and 51), it has not been possible to identify and individualize all the victims. Consequently, the Court considers that, in the instant case, there is a reasonable justification to apply the exception established in Article 35(2) of the Court’s Rules of Procedure in order to include other persons as victims even when they have not been identified and individualized previously by this Court, by the Inter-American Commission or by the representatives (*supra* para. 57). To this end, the Court assesses positively the State’s initiative to create the “Single List of the Victims and Next of Kin of the Victims of Grave Human Rights Violations during the Massacre of El Mozote.” Accordingly, this Court establishes that the State must continue with the full implementation of the “Single List of the Victims and Next of Kin of the Victims of Grave Human Rights Violations during the Massacre of El Mozote”; to this end, it must adopt the necessary measures to ensure its sustainability and the budgetary allocation to guarantee its effective operation. In addition, the Court considers it pertinent that, within one year of notification of this Judgment, the State present the results of the identification of the victims who were executed, the surviving victims, the next of kin of the executed victims, and the victims forcibly displaced of the massacres of El Mozote and nearby places, conducted within the framework of the “Single List of the Victims and Next of Kin of the Victims of Grave Human Rights Violations during the Massacre of El Mozote,” so that these persons may request and receive the corresponding reparation in the terms of th[e] Judgment.

311. The foregoing does not impede or exclude the possibility that, when the one-year time frame has expired, the process of identifying the victims continue, and that any new victims be added to the “Single List of the Victims and Next of Kin of the Victims of Grave Human Rights Violations during the Massacre of El Mozote,” and be considered beneficiaries of the reparations established in this Judgment to be made by the State, when they submit this request to the Salvadoran authorities, outside the established time frame. The State must provide information to the Court about the persons who have requested reparations in the context of the said mechanism. To this end, the Court will make the pertinent assessment in the exercise of its authority to monitor th[e] Judgment.

33. Correlatively, the second operative paragraph of the Judgment orders that:

2. The State must continue to implement fully the “Single List of Victims and Next of Kin of Grave Violations of Human Rights during the Massacre of El Mozote” and adopt the necessary measures to ensure its permanence and the budgetary allocation for its effective functioning, in accordance with paragraphs 310 and 311 of th[e] Judgment.

34. In this regard, the Court finds it pertinent to recall that, in addition to the shortcomings in the lists of presumed victims provided (*supra* para. 26), the lists presented by the Commission failed to relate each of the persons listed to the evidence of their

existence or to the human rights violation alleged against them. Furthermore, the representatives' lists, even though they referred to the documentation that proved their existence – for example, certificate of birth or baptism – did not provide a reference to the evidence where this document appeared and did not include any reference to the evidence of the human rights violation alleged to the detriment of each of these persons. Consequently, and also as a result of the scale of the massacres and the time that has elapsed since they were perpetrated, numerous difficulties arose in this case in relation to the individualization, identification and determination of the executed victims, surviving victims, next of kin of executed victims, and forcibly displaced victims. Given this situation, the Court was forced to make a detailed and laborious examination of the evidence provided by the Commission and the representatives in order to assemble the necessary evidence to prove the existence and identity and, on this basis, the precise identification of the victims who were executed, survived, next of kin, and forcibly displaced, as well as to consider proved that they had suffered some kind of human rights violation in the context of the massacres in the village of El Mozote, the canton of La Joya, the villages of Ranchería, Los Toriles and Jocote Amarillo, the canton of Cerro Pando, and a cave on Cerro Ortiz. After declaring the human rights violations, the Court proceeded to establish the corresponding reparations, considering that “injured party” corresponded to those persons who had been adequately identified as a victim of one of the violations that had been declared and, to this end, it took into account the evidence provided up until that time.<sup>21</sup> The persons whose names appear in Annexes “A”, “B”, “C” and “D” of the Judgment comply with the foregoing presumption.

35. In this regard, the Court noted in the Judgment that it had been able “to determine a number of victims that is much lower than those on the list provided,” and that the State itself had provided a list of 936 individualized victims. In addition, the Court included as Annex “E” to the Judgment a list of persons regarding whom there were indications as to their possible status as presumed victims, even though they were not on the lists provided.<sup>22</sup> Given the possible existence of other victims and next of kin who, in the terms of the Judgment, could not be adequately identified in these international proceedings, the Court adopted provisions, contained in paragraphs 310 and 311, for the clear determination of other persons who should also be considered victims and, as appropriate, beneficiaries of the reparations.

36. It is the Court's opinion that a ruling, whatever this may be, must be interpreted systematically; in other words, taking into account its complete content. Furthermore, its considerations or decisions should not be understood in isolation from the rest of the Judgment. Accordingly, based on a systematic reading of the Judgment, it is possible to make an interpretation that manages to correlate its considerations and to harmonize them with the operative paragraphs. Thus, the delimitation of the seven places specified in the Judgment should not be understood as contradictory to other parts thereof that extend the measures of reparation to persons who, in the future, may be identified and individualized through the full implementation of the “Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote.” Consequently, the Court clarifies, by interpretation, on the basis of paragraphs 310 and 311 and the second operative paragraph of the Judgment, that the State's obligation concerning the identification of the executed victims, surviving victims, next of kin of the executed victims, and those forcibly displaced during the massacres of El Mozote and nearby places, under the said Single List of Victims, permits the inclusion of persons even if the events of the

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<sup>21</sup> Cf. *Case of the Massacres of El Mozote and nearby places v. El Salvador*, paras. 51 to 53, 55 and 306.

<sup>22</sup> Cf. *Case of the Massacres of El Mozote and nearby places v. El Salvador*, para. 57.

massacres occurred in nearby or adjoining places to the sites that the Court declared as placed affected in paragraph 57 of the Judgment, provided that the State understands this to be so, in accordance with its acknowledgements of responsibility.

37. In this regard, it is important to emphasize that, during the proceedings on merits before the Court, the State acknowledged, consistently, that the facts of the massacre were perpetrated in other places, among which it also mentioned the village of El Pinalito and the town of Arambala.<sup>23</sup> Moreover, in its arguments on the reparations, it indicated that the said Single List of Victims "will provide the basis to identify not only the persons but also the geographical areas and the population towards which many of the measures of a social nature will be directed."<sup>24</sup> Similarly, in the context of the request for interpretation of the Judgment, the State has reiterated this position and recognized as places affected by the facts of this case the town of Arambala, the village of El Pinalito and the cantons of Tierra Colorada and Guacamaya, while indicating its willingness to consider as victims those persons who may be individualized and who were victims of violations of their human rights in those places (*supra* para. 15).

38. If a dispute arises between the parties regarding the way in which the State should implement this measure, the Court considers, as it has previously,<sup>25</sup> that satisfactory implementation of the measures of reparation will be evaluated during the stage of monitoring compliance with the Judgment. Therefore, the Court will assess any information and observations that the parties may present in this regard at that stage.

## V APPLICATION OF ARTICLE 76 OF THE RULES OF PROCEDURE

39. Based on the information provided by the representatives and the State, and in application of Article 76 of its Rules of Procedure,<sup>26</sup> the Court proceeds, on its own motion, to rectify the error of the expression "departmental capital of Arambala" used in paragraph 56 of the Judgment, for the correct expression of "town (urban area) of Arambala." Also, for the purpose of the eventual publication and dissemination of the Judgment, the Court orders that an amended version of the Judgment with the pertinent rectification be forwarded to the parties and the Commission.

## VI OPERATIVE PARAGRAPHS

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<sup>23</sup> Cf. *Case of the Massacres of El Mozote and nearby places v. El Salvador*, paras. 19, 20 and 57.

<sup>24</sup> *Case of the Massacres of El Mozote and nearby places v. El Salvador*, para. 309.

<sup>25</sup> Cf. *Case of Ticona Estrada et al. v. Bolivia*. Interpretation of the Judgment on merits, reparations and costs. Judgment of July 1, 2009. Series C No. 199, para. 26, and *Case of Atala Riffo and Daughters v. Chile*, para. 27.

<sup>26</sup> Article 76. Rectification of errors in judgments and other decisions: "The Court may, on its own motion or at the request of any of the parties to the case, within one month of the notice of the judgment or order, rectify obvious mistakes, clerical errors, or errors in calculation. The Commission, the victims or their representatives, the respondent State, and, if applicable, the petitioning State shall be notified if an error is rectified." The Court recalls that, although, based on Article 76 of the Rules, the parties may request a correction of obvious mistakes, clerical errors, or errors in calculation "within one month of the notice of the judgment or order in question" that period does not apply to any corrections that might make the Court *motu proprio*. Cf. *Case of Escher et al. v. Brazil. Monitoring compliance with judgment*. Order of the Court of May 17, 2010, fifteenth considering paragraph.

40. Therefore,

## **THE COURT**

pursuant to Article 67 of the American Convention on Human Rights and Articles 31(3) and 68 of the Rules of Procedure,

## **DECIDES:**

Unanimously,

1. To declare inadmissible the part of the request for interpretation filed by the representatives of the victims that seeks to include places that were excluded by the Court, because this would involve modifying the provisions of paragraph 56 of the Judgment on merits, reparations and costs delivered on October 25, 2012, in accordance with paragraphs 17 to 20 of this Judgment on interpretation.

2. To declare admissible the request for interpretation regarding the implementation of the "Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote" and, consequently, to clarify by interpretation, based on paragraphs 310 and 311 and the second operative paragraph of the Judgment on merits, reparations and costs delivered on October 25, 2012, that the State's obligation to identify the executed victims, surviving victims, next of kin of executed victims, and forcibly displaced victims of the massacres of El Mozote and nearby places, under the "Single List of Victims and Next of Kin of Victims of Grave Human Rights Violations during the Massacre of El Mozote," permits the inclusion of persons even if the facts of the massacre occurred in places near or adjoining the sites that the Court declared as places affected in paragraph 57 of the Judgment, provided that the State understands this in accordance with its acknowledgements of responsibility, pursuant to paragraphs 21 to 38 of this Judgment on interpretation.

3. To proceed to amend the error of the expression "departmental capital of Arambala" used in paragraph 56 of the Judgment on merits, reparations and costs, to the correct expression of "town (urban area) of Arambala," in accordance with paragraph 39 of this Judgment on interpretation.

4. To require the Secretariat of the Court to notify this Judgment to the State of El Salvador, the representatives of the victims and the Inter-American Commission on Human Rights.

Done, at San José, Costa Rica, on August 19, 2013, in the Spanish and English languages, the Spanish version being authentic.

Diego García-Sayán  
President

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary