CONCURRENT OPINION OF JUDGE MONTIEL ARGÜELLO

01. I gave my affirmative vote to the resolutions of the previous Judgment on the Interpretation of Judgment of March 1, of this year, in the Case of the Serrano Cruz Sisters vs. El Salvador. The request for interpretation lodged by El Salvador refers to three issues:

a) The awarding of compensation for non pecuniary damages in favor of Mrs. María Victoria Franco who was deceased;
b) The assignment of the compensation amount to her children; and
c) The relation between the compensation amounts and the damage caused.

2. With respect to the first two issues, the State agent pointed out that in paragraph 13 of my Dissenting Opinion in the previously mentioned Judgment I had stated, "I deem that the right to claim compensation for non pecuniary damages is not assignable to the heirs...". That opinion is based on the fact, that to my judgment, the referred right is very personal in such a way that it cannot be assigned or seized by a creditor.

3. The thesis of the Court opposed that of the State, and awarded the compensation to Mrs. María Victoria Franco and, consequently the request of the agent of El Salvador is not for an interpretation of the Judgment but rather to appeal the same, which is inadmissible.

4. With regard to the awarding of the aforementioned compensation on behalf of the children of the deceased mother, the Judgment refers to all of them, including Ernestina and Erlinda; therefore it is deemed fit to precise the scope of this provision.

5. Finally, concerning the third issue, about the request for interpretation, the petitioner points out that the Court recognizes that since it does not have competence on the alleged forced disappearance of the Serrano Cruz sisters it cannot presume, as in other cases, that a violation to the right to life was committed, and the request also quotes paragraph 13 of my Dissenting Opinion, which states that in the instant case there has not been a violation of any right under the jurisdiction of the Court.

6. The Court did not endorse my thesis and decided that there had been a violation to the rights enshrined in articles 5, 8(1) and 25 of the American Convention on Human Rights. The decision of the Court regarding the existence of the violation and the amount of the compensation as reparation may not be considered a matter for interpretation inasmuch as it is clear, and consequently, the request is inadmissible.

Alejandro Montiel Argüello
Judge *ad hoc*

Pablo Saavedra Alessandri
Secretary