

D. Status of compliance with the recommendations of the IACHR

45. Complete compliance with the decisions of the Inter-American Commission is essential for ensuring that human rights have full force in the OAS member states, and for helping to strengthen the Inter-American system for the protection of human rights. For that purpose, the IACHR, in this section, analyzes the status of compliance with the recommendations in the reports adopted by the Commission in the last thirteen years.

46. On several occasions the OAS General Assembly has encouraged Member States to follow-up on the recommendations of the Inter-American Commission on Human Rights, as it did in its resolution AG/RES. 2672 (XLI-O/11), "Observations and Recommendations on the Annual Report of the Inter-American Commission on Human Rights," (operative paragraph 3.b). Likewise, in its resolution AG/RES. 2675 (XLI-O/11), "Strengthening of Human Rights Systems pursuant to the mandates arising from the Summits of the Americas," instructed the Permanent Council to continue to consider ways to promote the follow-up of the recommendations of the Inter-American Commission on Human Rights by Member states of the Organization (operative paragraph 3.d).

47. Both the Convention (Article 41) and the Statute of the Commission (Article 18) explicitly grant the IACHR the authority to request information from the member states and to produce such reports and recommendations as it considers advisable. Specifically, Article 48 of the IACHR Rules of Procedure provides the following:

1. Once the Commission has published a report on a friendly settlement or on the merits in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties and holding hearings in order to verify compliance with friendly settlement agreements and its recommendations. 2. The Commission shall report on progress in complying with those agreements and recommendations as it deems appropriate.

48. In compliance with its powers under the Convention and the Statute and with the above-cited resolutions, and pursuant to Article 48 of the Rules of Procedure, the IACHR requested information from the States on compliance with the recommendations made in the reports published on individual cases included in its annual reports from 2000 through 2013.

49. The table the Commission is presenting includes the status of compliance with the recommendations made by the IACHR in the cases that have been decided and published in the last eleven years. The IACHR notes that compliance with different recommendations is meant to be successive and not immediate and that some recommendations require a reasonable time to be fully implemented. The table, therefore, presents the current status of compliance, which the Commission acknowledges as being a dynamic process that may evolve continuously. From that perspective, the Commission evaluates whether or not compliance with its recommendations is complete and not whether it has been started.

50. The three categories included in the table are the following:

a. Total compliance (those cases in which the state has fully complied with all the recommendations made by the IACHR. Having regard to the principles of effectiveness and fully observed those recommendations where the state has begun and satisfactorily completed the procedures for compliance);

- b. Partial compliance (those cases in which the state has partially observed the recommendations made by the IACHR either by having complied with only one or some of them or through incomplete compliance with all of them);
- c. Compliance pending (those cases in which the IACHR considers that there has been no compliance with the recommendations because no steps have been taken in that direction; because the state has explicitly indicated that it will not comply with the recommendations made; or because the state has not reported to the IACHR and the Commission has no information from other sources that would suggest otherwise).

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 11.307, Report No. 103/01, María Merciadri de Morini (Argentina) ¹	X		
Case 11.804, Report No. 91/03, Juan Ángel Greco (Argentina)		X	
Case 12.080, Report No. 102/05, Sergio Schiavini and María Teresa Schnack (Argentina)		X	
Case 12.298, Report No. 81/08 Fernando Giovanelli (Argentina)		X	
Case 12.159, Report No. 79/09, Gabriel Egisto Santillán Reigas (Argentina)		X	
Case 11.732, Report No. 83/09, Horacio Aníbal Schillizzi (Argentina)		X	
Case 11.758, Report No. 15/10, Rodolfo Correa Belisle (Argentina)		X	
Case 11.796, Report No. 16/10, Mario Humberto Gomez Yardez (Argentina) ²	X		
Case 12.536, Report No. 17/10, Raquel Natalia Lagunas and Sergio Antonio Sorbellini (Argentina)		X	
Petition 242-03, Report No. 160/10, Inocencia Luca Pogoraro (Argentina)		X	
Petition 4554-02, Report No. 161/10, Valerio Castillo Báez (Argentina) ³	X		
Petition 2829-02, Report No. 19/11, Inocencio Rodríguez (Argentina)		X	
Petition 11.708, Report No. 20/11, Aníbal Acosta and L. Hirsch (Argentina)	X		
Petition 11.833, Report No. 21/11, Ricardo Monterisi (Argentina) ⁴	X		
Petition 12.532, Report No. 84/11, Penitencierías de Mendoza (Argentina)		X	

¹ See IACHR, *Annual Report 2008*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 38-40.

² See IACHR, *Annual Report 2011*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 159-164.

³ See IACHR, *Annual Report 2013*, Chapter II, Section D: Status of compliance with the recommendations of the IACHR, paras. 165 – 175.

⁴ See IACHR, *Annual Report 2012*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 180-183.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Petition 12.306, Report No. 85/11, Juan Carlos de la Torre (Argentina)		X	
Petition 11.670, Report No. 168/11, Menéndez and Caride (Argentina) ⁵		X	
Case 12.324, Report No. 66/12, Rubén Luis Godoy (Argentina)		X	
Case 12.182, Report No. 109/13, Florentino Rojas (Argentina)		X	
Cases 12.067, 12.068 and 12.086, Report No. 48/01, Michael Edwards, Omar Hall, Brian Schroeter Jeronimo Bowleg (Bahamas)		X	
Case 12.265, Report 78/07 Chad Roger Goodman (Bahamas)		X	
Case 12.513, Report 79/07 Prince Pinder (Bahamas)			X
Case 12.053, Report No. 40/04, May Indigenous Community of the Toledo District (Belize)			X
Case 12.475, Report No. 97/05, Alfredo Díaz Bustos (Bolivia)		X	
Case 12.516, Report No. 98/05, Raúl Zavala Málaga and Jorge Pacheco Rondón (Bolivia) ⁶	X		
Petition No. 269-05, Report No. 82/07, Miguel Angel Moncada Osorio and James David Rocha Terraza (Bolivia) ⁷	X		
Petition No. 788-06, Report No. 70/07, Víctor Hugo Arce Chávez (Bolivia) ⁸	X		
Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil)		X	
Cases 11.286, 11.406, 11.407, 11.412, 11.413, 11.415, 11.416 and 11.417, Report No. 55/01, Aluísio Cavalcante <i>et al.</i> (Brazil)		X	
Case 11.517, Report No. 23/02, Diniz Bento da Silva (Brazil)		X	
Case 10.301, Report No. 40/03, Parque São Lucas (Brazil)		X	
Case 11.289, Report No. 95/03, José Pereira (Brazil)		X	
Case 11.556, Report No. 32/04, Corumbiara (Brazil)		X	

⁵ See IACHR, *Annual Report 2013*, Chapter II, Section Status of compliance with the recommendations of the IACHR, paras. 225-252.

⁶ See IACHR, *Annual Report 2009*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 109-114.

⁷ See IACHR, *Annual Report 2009*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 115-19.

⁸ See IACHR, *Annual Report 2009*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 120-124.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 11.634, Report No. 33/04, Jailton Neri da Fonseca (Brazil)		X	
Cases 12.426 and 12.427, Report No. 43/06, Raniê Silva Cruz, Eduardo Rocha da Silva and Raimundo Nonato Conceição Filho (Brazil) ⁹	X		
Case 12.001, Report No. 66/06, Simone André Diniz (Brazil)		X	
Case 12.019, Report No. 35/08 Antonio Ferreira Braga (Brazil)			X
Case 12.310, Report No. 25/09 Segastião Camargo Filho (Brazil)			X
Case 12.440, Report No. 26/09 Wallace de Almeida (Brazil)			X
Case 12.308, Report No. 37/10, Manoel Leal de Oliveira (Brazil)			X
Case 12.586, Report No. 78/11, John Doe (Canada)		X	
Case 11.771, Report No. 61/01, Samuel Alfonso Catalán Lincoleo (Chile)		X	
Case 11.715, Report No. 32/02, Juan Manuel Contreras San Martín <i>et al.</i> (Chile) ¹⁰	X		
Case 12.046, Report No. 33/02, Mónica Carabantes Galleguillos (Chile) ¹¹	X		
Case 11.725, Report No. 139/99, Carmelo Soria Espinoza (Chile)		X	
Petition 4617/02, Report No. 30/04, Mercedes Julia Huenteao Beroiza <i>et al.</i> (Chile)		X	
Case 12.142, Report No. 90/05, Alejandra Marcela Matus Acuña <i>et al.</i> (Chile) ¹²	X		
Case 12.337, Report No. 80/09, Marcela Andra Valdés Díaz (Chile) ¹³	X		
Petition 490-03, Report No. 81/09 "X"(Chile) ¹⁴	X		
Case 12.469, Report No. 56/10, Margarita Barberia Miranda (Chile)		X	
Case 12.281, Report No. 162/10, Gilda Rosario Pizarro <i>et al.</i> (Chile) ¹⁵	X		

⁹ See IACHR, *Annual Report 2008*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 162-175.

¹⁰ See IACHR, *Annual Report 2007*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 187-190.

¹¹ See IACHR, *Annual Report 2007*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 191-194.

¹² See IACHR, *Annual Report 2008*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 216-224.

¹³ See IACHR, *Annual Report 2010*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 298-302.

¹⁴ See IACHR, *Annual Report 2010*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 303-306.

¹⁵ See IACHR, *Annual Report 2011*, Chapter III, Section Status of compliance with the recommendations of the IACHR, paras. 337-345.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 12.195, Report No. 163/10, Mario Alberto Jara Oñate (Chile) ¹⁶	X		
Case 12.232, Report No. 86/11, María Soledad Cisternas (Chile) ¹⁷	X		
Case 11.654, Report No. 62/01, Riófrío Massacre (Colombia)		X	
Case 11.710, Report No. 63/01, Carlos Manuel Prada González and Evelio Antonio Bolaño Castro (Colombia)		X	
Case 11.712, Report No. 64/01, Leonel de Jesús Isaza Echeverry (Colombia)		X	
Case 11.141, Report No. 105/05, Villatina Massacre (Colombia)		X	
Case 10.205, Report No. 53/06, Germán Enrique Guerra Achuri (Colombia) ¹⁸	X		
Case 12.009, Report No. 43/08, Leydi Dayan Sanchez (Colombia)		X	
Case 12.448, Report No. 44/08, Sergio Emilio Cadena Antolinez (Colombia) ¹⁹	X		
Petition 477-05, Report No. 82/08 X and family (Colombia) ²⁰	X		
Petition 401-05, Report No. 83/08 Jorge Antonio Barbosa Tarazona <i>et al.</i> (Colombia)		X	
Case 10.916, Report No. 79/11, James Zapata Valencia y José Heriberto Ramírez (Colombia)		X	
Case 12.476, Report No. 67/06, Oscar Elias Biscet <i>et al.</i> (Cuba)		X	
Case 12.477, Report No. 68/06, Lorenzo Enrique Copello Castillo <i>et al.</i> (Cuba)			X
Case 12.174, Report No. 31/12, Israel Geraldo Paredes Acosta (Dominican Republic) ²¹			
Case 11.421, Report No. 93/00, Edison Patricio Quishpe Alcívar (Ecuador)		X	

¹⁶ See IACHR, *Annual Report 2011*, Chapter III, Section Status of compliance with the recommendations of the IACHR, paras. 346-354.

¹⁷ See IACHR, *Annual Report 2012*, Chapter III, Section Status of compliance with the recommendations of the IACHR, paras. 408-412.

¹⁸ See IACHR, *Annual Report 2010*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 329-333.

¹⁹ See IACHR, *Annual Report 2009*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 274-280.

²⁰ See IACHR, *Annual Report 2010*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 339-444.

²¹ Ver IACHR, Friendly Settlement Report No. 31/12, Case 12.174, Israel Gerardo Paredes Acosta. (Dominican Republic), March 20, 2012.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 11.439, Report No. 94/00, Byron Roberto Cañaverl (Ecuador)		X	
Case 11.445, Report No. 95/00, Ángelo Javier Ruales Paredes (Ecuador) ²²	X		
Case 11.466, Report No. 96/00, Manuel Inocencio Lalvay Guamán (Ecuador)		X	
Case 11.584, Report No. 97/00, Carlos Juella Molina (Ecuador)		X	
Case 11.783, Report No. 98/00 Marcia Irene Clavijo Tapia, (Ecuador)		X	
Case 11.868, Report No. 99/00, Carlos Santiago and Pedro Andrés Restrepo Arismendy (Ecuador)		X	
Case 11.991, Report No. 100/00, Kelvin Vicente Torres Cueva (Ecuador)		X	
Case 11.478, Report No. 19/01, Juan Clímaco Cuellar <i>et al.</i> (Ecuador)		X	
Case 11.512, Report No. 20/01, Lida Ángela Riera Rodríguez (Ecuador)		X	
Case 11.605, Report No. 21/01, René Gonzalo Cruz Pazmiño (Ecuador)		X	
Case 11.779, Report No. 22/01 José Patricio Reascos (Ecuador)		X	
Case 11.992, Report No. 66/01, Dayra María Levoyer Jiménez (Ecuador)		X	
Case 11.441, Report No. 104/01, Rodrigo Elicio Muñoz Arcos <i>et al.</i> (Ecuador)		X	
Case 11.443, Report No. 105/01, Washington Ayora Rodríguez (Ecuador)		X	
Case 11.450, Report No. 106/01, Marco Vinicio Almeida Calispa (Ecuador)		X	
Case 11.542, Report No. 107/01, Angel Reiniero Vega Jiménez (Ecuador)		X	
Case 11.574, Report No. 108/01, Wilberto Samuel Manzano (Ecuador)		X	
Case 11.632, Report No. 109/01, Vidal Segura Hurtado (Ecuador)		X	
Case 12.007, Report No. 110/01 Pompeyo Carlos Andrade Benítez (Ecuador)		X	
Case 11.515, Report No. 63/03, Bolívar Franco Camacho Arboleda (Ecuador)		X	

²² See IACHR, *Annual Report 2008*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 283-286.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 12.188 , Report No. 64/03, Joffre José Valencia Mero, Priscila Fierro, Zoreida Valencia Sánchez, Rocío Valencia Sánchez (Ecuador)		X	
Case 12.394, Report No. 65/03, Joaquín Hernández Alvarado, Marlon Loor Argote and Hugo Lara Pinos (Ecuador)		X	
Case 12.205, Report No. 44/06, José René Castro Galarza (Ecuador)		X	
Case 12.207, Report No. 45/06, Lizandro Ramiro Montero Masache (Ecuador)		X	
Case 12.238, Report No. 46/06 Myriam Larrea Pintado (Ecuador)		X	
Petition 533-01, Report No. 47/06 Fausto Mendoza Giler and Diógenes Mendoza Bravo (Ecuador)		X	
Case 12.487, Report No. 17/08, Rafael Ignacio Cuesta Caputi (Ecuador)			X
Case 12.525, Report No. 84/09, Nelson Iván Serano Sáñez (Ecuador)			X
Petition 533-05, Report No. 122/12, Julio Rubén Robles Eras (Ecuador)		X	
Case 12.631, Report No. 61/13, Karina Montenegro et al. (Ecuador)		X	
Case 12.249, Report No. 27/09, Jorge Odir Miranda Cortez <i>et al.</i> (El Salvador)		X	
Case 12.028, Report No. 47/01, Donnason Knights (Grenada)		X	
Case 11.765, Report No. 55/02, Paul Lallion (Grenada)		X	
Case 12.158, Report No. 56/02 Benedict Jacob (Grenada)		X	
Case 11.625, Report No. 4/01, María Eugenia Morales de Sierra (Guatemala)		X	
Case 9207, Report No. 58/01, Oscar Manuel Gramajo López (Guatemala)		X	
Case 10.626 Remigio Domingo Morales and Rafael Sánchez; Case 10.627 Pedro Tau Cac; Case 11.198(A) José María Ixcaya Pixtay <i>et al.</i> ; Case 10.799 Catalino Chochoy <i>et al.</i> ; Case 10.751 Juan Galicia Hernández <i>et al.</i> and Case 10.901 Antulio Delgado, Report No. 59/01 Remigio Domingo Morales <i>et al.</i> (Guatemala)		X	
Case 9111, Report No. 60/01, Ileana del Rosario Solares Castillo <i>et al.</i> (Guatemala)		X	
Case 11.382, Report No. 57/02, Finca “La Exacta” (Guatemala)		X	
Case 11.312, Report No. 66/03, Emilio Tec Pop (Guatemala)		X	

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 11.766, Report No. 67/03, Irma Flaquer (Guatemala)		X	
Case 11.197, Report No. 68/03, Community of San Vicente de los Cimientos (Guatemala)		X	
Petition 9168, Report No. 29/04, Jorge Alberto Rosal Paz (Guatemala)		X	
Petition 133-04, Report No. 99/05, José Miguel Mérida Escobar (Guatemala)		X	
Case 10.855, Report No. 100/05, Pedro García Chuc (Guatemala)		X	
Case 11.171, Report No. 69/06, Tomas Lares Cipriano (Guatemala)		X	
Case 11.658, Report No. 80/07, Martín Pelicó Coxic (Guatemala)		X	
Case 11.422, Report No. 1/12, Mario Alioto López sánchez (Guatemala)		X	
Case 12.546, Report No. 30/12, Juan Jacobo Arbenz Guzmán (Guatemala)		X	
Petition 714-06, Report No. 123/12, Angelica Jerónimo Juárez (Guatemala) ²³	X		
Case 12.264, Report No. 1/06, Franz Britton (Guyana)			X
Case 12.504, Report 81/07 Daniel and Kornel Vaux (Guyana)			X
Case 11.335, Report No. 78/02, Guy Malary (Haiti)			X
Petition 11.805, Report No. 124/12, Carlos Enrique Jaco (Honduras) ²⁴	X		
Case 12.547, Report No. 62/13, Rigoberto Cacho Reyes (Honduras)	X		
Cases 11.826, 11.843, 11.846 and 11.847, Report No. 49/01, Leroy Lamey, Kevin Mykoo, Milton Montique y Dalton Daley (Jamaica)		X	
Case 12.069, Report No. 50/01, Damion Thomas (Jamaica)		X	
Case 12.183, Report No. 127/01, Joseph Thomas (Jamaica)		X	
Case 12.275, Report No. 58/02, Denton Aitken (Jamaica)		X	
Case 12.347, Report No. 76/02, Dave Sewell (Jamaica)		X	
Case 12.417, Report No. 41/04, Whitley Myrie (Jamaica)			X
Case 12.418, Report No. 92/05, Michael Gayle (Jamaica)		X	
Case 12.447, Report No. 61/06, Derrick Tracey (Jamaica)		X	

²³ See IACHR, Friendly Settlement Report No. 123/12, Petition 714-06 (Angelica Jerónimo Juárez), November 12, 2012.

²⁴ See IACHR, Friendly Settlement Report No. 124/12, Case 11.805 (Carlos Enrique Jaco), November 12, 2012.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 11.565, Report No. 53/01, González Pérez Sisters (Mexico)			X
Case 11.807, Report 69/03, José Guadarrama (Mexico) ²⁵	X		
Petition 388-01, Report 101/05 Alejandro Ortiz Ramírez (Mexico) ²⁶	X		
Case 12.130, Report No. 2/06, Miguel Orlando Muñoz Guzmán (Mexico)			X
Petition 161-02, Report No. 21/07, Paulina del Carmen Ramírez Jacinto (Mexico) ²⁷	X		
Case 11.822, Friendly Settlement Report No. 24/09, Reyes Penagos Martínez <i>et al.</i> (Mexico)		X	
Case 12.228, Report No. 117/09, Alfonso Martín del Campo Dodd (Mexico)			X
Case 12.642, Report No. 90/10, Jose Ivan Correa Arevalo (Mexico)		X	
Case 12.660, Report No. 91/10, Ricardo Ucan Seca (Mexico) ²⁸	X		
Case 12.623, Report No. 164/10, Luis Rey Garcia (Mexico) ²⁹	X		
Petition 318-05, Report No. 68/12, Gerónimo Gómez López (Mexico) ³⁰	X		
Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma <i>et al.</i> (Mexico)		X	
Case 11.381, Report No. 100/01, Milton García Fajardo (Nicaragua)		X	
Case 11.506, Report No. 77/02, Waldemar Gerónimo Pinheiro and José Víctor Dos Santos (Paraguay)			X
Case 11.607, Report No. 85/09, Víctor Hugo Maciel (Paraguay)		X	
Case 12.431, Report No. 121/10, Carlos Alberto Mojolí (Paraguay) ³¹	X		

²⁵ See IACHR, *Annual Report 2007*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 552-560.

²⁶ See IACHR, *Annual Report 2007*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 562-562.

²⁷ See IACHR, *Annual Report 2012*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 833-844

²⁸ See IACHR *Annual Report 2012*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 876-881.

²⁹ See IACHR *Annual Report 2011*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 982-987.

³⁰ Ver IACHR, Friendly Settlement Report No. 68/12, Petition 318-05, (Gerónimo Gómez López), Mexico. July 17, 2012.

³¹ See IACHR *Annual Report 2012*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 904-908.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 12.358, Report No. 24/13, Octavio Rubén González Acosta (Paraguay)	X		
Petición 1097-06, Report No. 25/13, Miriam Beatriz Riquelme Ramírez (Paraguay)	X		
Case 11.800, Report No. 110/00, César Cabrejos Bernuy (Peru) ³²	X		
Case 11.031, Report No. 111/00, Pedro Pablo López González <i>et al.</i> (Peru)		X	
Cases 10.247 and others, Report No. 101/01, Luis Miguel Pasache Vidal <i>et al.</i> (Peru)		X	
Case 11.099, Report No. 112/00, Yone Cruz Ocalio (Peru)		X	
Case 12.035; Report No. 75/02, Pablo Ignacio Livia Robles (Peru) ³³	X		
Case 11.149, Report No. 70/03 Augusto Alejandro Zúñiga Paz (Peru) ³⁴	X		
Case 12.191, Report No. 71/03, María Mamerita Mestanza (Peru)		X	
Case 12.078, Report No. 31/04, Ricardo Semoza Di Carlo (Peru)		X	
Petition 185-02, Report No. 107-05, Roger Herminio Salas Gamboa (Peru) ³⁵	X		
Case 12.033, Report No. 49/06, Rómulo Torres Ventocilla (Peru) ³⁶	X		
Petition 711-01 <i>et al.</i> , Report No. 50/06, Miguel Grimaldo Castañeda Sánchez <i>et al.</i> (Peru); Petition 33-03 <i>et al.</i> , Report No. 109/06, Héctor Núñez Julia <i>et al.</i> (Peru); Petition 732-01 <i>et al.</i> , Report 20/07 Eulogio Miguel Melgarejo <i>et al.</i> ; Petition 758-01 and others, Report No. 71/07 Hernán Atilio Aguirre Moreno <i>et al.</i> (Peru)		X	
Petition 494-04, Report No. 20/08 Romeo Edgardo Vargas Romero (Peru)		X	

³² See IACHR *Annual Report 2005*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 928-935.

³³ See IACHR, *Annual Report 2007*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 332-335.

³⁴ See IACHR, *Annual Report 2007*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 336 and 337.

³⁵ See IACHR, *Annual Report 2013*, Chapter II, Section D: Status of compliance with the recommendations of the IACHR, paras. 1094 and 1107.

³⁶ See IACHR, *Annual Report 2007*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 613-616.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Petitions 71-06 et al, Report No. 22/11, Gloria José Yaquetto Paredes et al (Peru)		X	
Case 12.269, Report No. 28/09, Dexter Lendore (Trinidad and Tobago)			X
Case 9903, Report No. 51/01, Rafael Ferrer Mazorra et al.(United States)			X
Case 12.243, Report No. 52/01, Juan Raul Garza (United States)			X
Case 11.753, Report No. 52/02, Ramón Martínez Villarreal (United States)			X
Case 12.285, Report No. 62/02, Michael Domingues (United States) ³⁷	X		
Case 11.140, Report No. 75/02, Mary and Carrie Dann (United States)			X
Case 11.193, Report No. 97/03, Shaka Sankofa (United States)		X	
Case 11.204, Report No. 98/03, Statehood Solidarity Committee (United States)			X
Case 11.331, Report No. 99/03, Cesar Fierro (United States)			X
Case 12.240, Report No. 100/03, Douglas Christopher Thomas (United States)		X	
Case 12.412, Report No. 101/03, Napoleon Beazley (United States)		X	
CASE 12.430, Report No. 1/05 Roberto Moreno Ramos, (United States)			X
Case 12.439, Report No. 25/05, Toronto Markkey Patterson (United States)		X	
Case 12.421, Report No. 91/05, Javier Suarez Medina (United States)			X
Case 12.534, Report No. 63/08 Andrea Mortlock (United States)			X
Case 12.644, Report No. 90/09 Medellín, Ramírez Cárdenas and Leal García (United States)			X
Case 12.562, Report No. 81/10, Wayne Smith, Hugo Arnedariz et al. (United States)			X
Case 12.626, Report No. 80/11, Jessica Lenahan (Gonzales) (United States)		X	
Case. 12.776, Report No. 81/11, Jeffrey Timothy Landrigan (United States)			X
Case 11.575, 12.333 y 12.341, Report No. 52/13, Clarence Allen Jackey et al.; Miguel Ángel Flores, James Wilson Chambers (United States)			X

³⁷ See IACHR Annual Report 2005, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 185-186.

CASE	TOTAL COMPLIANCE	PARTIAL COMPLIANCE	PENDING COMPLIANCE
Case 12.854, Report No. 53/13, Iván Teleguz (United States)			
Case 11.500, Report No. 124/06, Tomás Eduardo Cirio (Uruguay) ³⁸	X		
Petition 228-07, Report No. 18/10, Carlos Dogliana (Uruguay) ³⁹	X		
Case 12.553, Report No. 86/09, Jorge, José and Dante Peirano Basso (Uruguay)		X	
Petition 12.555, Report No. 110/06, Sebastián Echaniz Alcorta and Juan Víctor Galarza Mendiola (Venezuela)			X
Case 11.706, Report No. 32/12, Yanomami indigenous people of Xaximu (Venezuela)		X	
Case 12.473, Report No. 63/13, Jesús Manuel Cárdenas et al. (Venezuela)		X	

Case 11.804, Report No. 91/03, Juan Ángel Greco (Argentina)

51. On October 22, 2003, by Report No. 91/03, the Commission approved a friendly settlement agreement in the case of Juan Ángel Greco. In summary, the petitioners alleged that on June 25, 1990, Mr. Greco, 24 years of age, was illegally detained and mistreated when he sought to obtain police assistance when lodging a complaint regarding an assault. The petitioners indicated that while Mr. Greco was detained at the police station in Puerto Vilelas, province of Chaco, there was a fire in his cell in circumstances that were not clarified that led him to suffer serious burns. In addition, they argued that the police were responsible for provoking the fire and for delaying the transfer of the victim to the hospital for several hours. Mr. Greco was hospitalized until his death on July 4, 1990, and buried, according to the petitioners' complaint, without an adequate autopsy. The petitioners also noted that the State did not perform an adequate investigation to clarify the facts adduced, with which it denied the family its right to have justice done, and to obtain compensation.

52. In this agreement the State agreed to the following:

1. Provide economic reparation to the family members of Juan Ángel Greco in the sum of three hundred thousand pesos (\$300,000) that shall be paid to Mrs. Zulma Basitanini de Greco in the amount of thirty thousand (\$30,000) per month in the time period specified in point 3 of the present item, that amount comprising material damages, moral damages, lost wages, costs, fees and any other classification that would arise from the responsibility assumed by the Province of Chaco.
2. Provide the petitioners and the Inter-American Commission on Human Rights, through the Office for Human Rights of the Foreign Ministry, a legalized and certified copy of two cases for which the Province of Chaco has requested reexamination.

³⁸ See IACHR, *Annual Report 2010*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 1109-1116.

³⁹ See IACHR *Annual Report 2012*, Chapter III, Section D: Status of compliance with the recommendations of the IACHR, paras. 1033-1039.

3. Within the framework of its competences, encourage the reopening of the criminal case and the corresponding investigations.
4. Direct the reopening of the administrative case N° 130/91-250690-1401 once the criminal case has been reopened.
5. Commit itself, in the framework of its competences, to ensuring that the victim's family members have access to the judicial and administrative investigations."
6. Publish the agreement in the principle written press sources of the nation and the Province of Chaco."
7. Continue pursuing legislative and administrative measures for the improved protection of Human Rights. Specifically, it was placed on record that a draft law creating a Criminal Prosecutor's Office for Human Rights has been developed and transmitted to the Provincial Chamber of Deputies for its study and approval.
8. Strengthen the work of the Permanent Commission for Control of Detention Centers, created by Resolution No. 119 of the Ministry of Government, Justice and Labor of the Province of Chaco, on February 24, 2003.
9. Further emphasize the work of the Organ of Institutional Control (O.C.I) created by Article 35 of the Organic Police Law of the Province of Chaco N° 4.987, directing it toward the more effective protection of human rights on the part of the Provincial Police. At the initiative of the Executive, the Provincial Counsel for Education and Promotion of Human Rights created by Law N° 4.912 was constituted in the sphere of the Chamber of Deputies. The representatives of the distinct intervening organs and powers have already been designated and convoked.

53. In its 2009 Annual Report,⁴⁰ the IACHR considered that the items related to monetary compensation and publication of the agreement had been fulfilled.

54. On November 23, 2010, the Commission requested updated information from the parties as to the status of compliance with the pending recommendations.

55. As for the judicial inquiries, the State reiterated that the criminal proceeding and the administrative inquiry conducted by the Chief of Police, Juan Carlos Escobar, and the Deputy Chief of Police, Adolfo Eduardo Valdez and First Sargent Julio Ramón Obregón, had been reopened, to determine the corresponding responsibility. It further reported that these proceedings were fully under way.

56. For their part, in their communication of December 21, 2010, the petitioners reported that they had repeatedly complained of the lack of progress made in the investigations, which they attributed to reticence on the part of the judicial authorities. They stated that now that the victim's mother was deceased, the State's obligation is even more in evidence and that concrete progress on the case would not happen unless the federal state and the provinces took on a more pro-active attitude.

57. As for the administrative proceeding, the petitioners observed that they still do not know the status of the administrative case; they again underscored their concern that the statute of limitations would apply and that the outcome of the administrative proceeding would be dictated by the outcome of the criminal proceeding, when in fact criminal law and administrative law are separate and differ in nature.

⁴⁰ See IACHR, 2013 Annual Report, Chapter II, Section D: Status of Compliance with IACHR Recommendations, paras. 43-68. Available at: <http://www.oas.org/es/cidh/docs/anual/2013/docs-es/InformeAnual-Cap2-D.pdf>

58. Finally, as for the legislative reforms, the petitioners applauded the passage and enactment of 2010 Provincial Law No. 6483, which creates the Provincial Mechanism for the Prevention of Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment. The petitioners observed that this basic step must materialize in the form of specific measures taken to put the law into practice. On this same point, the petitioners insisted on the serious deficiencies in the powers and authorities that Law No. 5.702 invests in the Special Criminal Prosecutor's Office for Human Rights. They add that the office does not have functional autonomy. As for compliance with this point in the Agreement, the petitioners contend that legislative reform is needed to modify the nature and functions of the Special Criminal Prosecutor's Office for Human Rights.

59. On March 26, 2011 the Commission met during its 141st regular session with representatives of the province of Chaco, in which the representatives informed the Commission of the ministerial order to expand its administrative investigation on all police forces that were involved in the facts of the case and monitor the investigation's activities. Moreover, the representatives agreed to express the importance of the prompt implementation of an oral trial to the First Criminal Chamber of the First Circuit of the Province of Chaco.

60. By a note on May 27, 2011, the State of Argentina informed the Commission that throughout the disciplinary investigation of the persons allegedly involved in the detention and death of Juan Ángel Greco, it had resolved the administrative measure on the suspension from duty of Julio Ramón Obregón, First Sergeant of Police. Likewise, the State of Argentina informed the Commission that in April 2011, it had published an invitation for the public hearing on June 2, 2011 to allow the general public to take into consideration the preselected persons, who would serve on the Provincial Mechanism on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Similarly, the State of Argentina stated that in May 2011, it had conducted a training activity on the "Action Protocol for Investigation on Unlawful Coercions Offences and Tortures".

61. By a note on June 7, 2011, the State of Argentina forwarded a photocopy of Law No. 6.786, approved by the local parliament and enacted by Decree No. 982 of May 18, 2011, whereby reforming the Special Criminal Prosecutor Office for Human Rights.

62. By communications dated on October 17 and November 14, 2011, the petitioners informed the Commission that the State had begun the oral trial to determine the responsibility of the police authorities who were involved in the facts of the case and accused of the crime of failing to provide assistance or abandoning a person after death. The petitioners included that during the administrative process, the State would conduct processes to identify all personnel of the police station of Puerto Vilelas, where Juan Ángel Greco had been detained. Nonetheless, in respect to the administrative process, the petitioners expressed concern that the State had only implicated the criminally accused police officers, not holding the other police officers responsible for their failure in duty of control, prevention and punishment.

63. Furthermore, the petitioners stated that the State had advanced in appointing all the members of civil society that would serve on the Provincial Mechanism on the Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The petitioners also noted that they are only awaiting the Chamber of Deputies to elect their representatives and establish a separate budget so that the mechanism could begin operation. The petitioners also celebrated the legislative reform on the Special Prosecutor's Office for Human Rights and the existence of a draft law that would create a "Provincial system for the human rights protection on the exercise of policing and penitentiary duties", and would represent significant advances upon approval.

64. In communications sent on December 3, 2012 and October 10, 2013, the Commission asked the parties to provide up-to-date information on progress in implementing the pending recommendations.

65. By communication of December 9, 2013, the State provided information concerning progress in the commitments adopted by the authorities of Chaco Province. In that communication, the authorities said that Judgment No. 62, issued on May 31, 2012, by the First Criminal Division against the four policemen (Juan Carlos Escobar, Adolfo Eduardo Valdez, Ramón Antonio Brunet, and Julio Ramón Obregón), had become final

since no appeal had been filed against it. The judgment acquitted Juan Carlos Escobar and Ramón Antonio Brunet of the crime of ABANDONMENT OF A PERSON FOLLOWED BY DEATH (ABANDONO DE PERSONA SEGUIDO DE MUERTE) and found Adolfo Eduardo Valdez and Julio Ramón Obregón guilty of the crimes of ABUSE OF AUTHORITY AND DERELICTION OF DUTIES (ABUSO DE AUTORIDAD E INCUMPLIMIENTO DE LOS DEBERES DE FUNCIONARIO PUBLICO). The latter were handed a suspended sentence of one year and 10 months in prison as well as a special disqualification for twice the length of the penalty imposed.

66. By communication of December 19, 2013, the petitioners reported that while after the signing of the friendly settlement, the Provincial Justice began the trial of those responsible for the death of Mr. Greco, this would have been made on the basis of evidence produced by the poor research which have hindered the process and the determination of the responsibility of the police officers involved in the events. Through this communication the petitioners demanding the State elucidate the events leading to the death of Juan Ángel Greco and punish responsible of it, and to determine the reasons that originally the poor investigation was conducted and determine the responsibility of the officials who carried forward.

67. Regarding the appointment of members of the Provincial Committee for the Prevention of Torture and other Cruel, Inhuman and / or Degrading reported that they have finally completed their composition and is fully operational. This committee develops this task with a specific budget which is provided annually to function effectively as a guarantee of non-repetition in the face of torture prevention.

68. Concerning the Special Prosecutor for Human Rights, the petitioners held legislative reform at the policy level. However, they report that the physical action of the Special Prosecutor has not proved fully effective. The petitioner part considers worrisome shortage of cases in which requests go to trial and the procedural delays in investigations.

69. Regarding the presentation of a bill aimed at creating a "provincial system of protection of human rights in the exercise of police and prison work", the petitioners report that to date have not received information about the state in which discussion is in the provincial legislature, but insist that approval would mean a major breakthrough in the control of police practice to the prevention, investigation detection and punishment of any functional abuse may involve torture, harassment, cruel, degrading and inhuman treatment.

70. On December 4, 2014, the IACHR requested information on the status of compliance with the agreement. On December 23, 2014, the petitioners responded that, as far as the criminal investigation was concerned, it had not clarified the circumstances of the death of the victim, and thus it did not allow for adequate punishment of the perpetrators. They added that the official reopening of the investigations was not accompanied by any concrete action related to a serious and effective investigation, and that neither were the mistakes of the original criminal investigation corrected. They further stated that the initial investigation led to lower and appeals court judgments that were not consistent with the standards of due process and judicial protection; hence a pattern of impunity would be perpetrated.

71. As regards legislative and institutional reforms, the petitioners stressed their concern over the fact that the Provincial Committee for Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatment has been receiving less than 30 percent of the budget that was initially assigned for it. In the view of the petitioners, this poses a major obstacle to the operations of this Committee.

72. As for the Special Human Rights Prosecution Office, the petitioners again expressed their concern over the small number of cases that this Office had prosecuted. However, it mentioned that as of 2015, an Assistant Human Rights Prosecution Service would begin work, and that it would be operating throughout the province, an initiative they welcomed.

73. Finally, the petitioners requested the IACHR to continue to monitor closely the items of the agreement pending compliance. On February 20, 2015, the State, for its part, requested an extension for presenting additional information.

74. Based on the information sent so far by both parties, the Commission gleans that the State has complied with the commitment to appoint members of the Principal Committee for Prevention of Torture and other Cruel, Inhuman, and/or Degrading Treatment, and with its commitment to promote legislative and administrative measures to improve the protection of human rights. At the same time, the Commission observes that, insofar as legislative and administrative measures are concerned, some remained pending, such as the bill to create a “provincial system for protection of human rights in police and prison operations,” as well as measures to ensure that the entities already created are functioning effectively, and that their operations are facilitated by the appropriate budget disbursements.

75. Based on the foregoing, the IACHR concludes that the friendly settlement agreement has been partially honored. Consequently, the Commission will continue to monitor the pending items.

Case 12.080, Report No. 102/05, Sergio Schiavini y María Teresa Schnack (Argentina)

76. On October 27, 2005, by Report 102/05, the Commission approved a friendly settlement agreement in the case of Sergio Schiavini and María Teresa Schnack. In summary, the petitioners had made arguments referring to the responsibility of the State for the death of Sergio Andrés Schiavini, on May 29, 1991, during a confrontation between members of the Police of the Province of Buenos Aires and a group of assailants who held several persons hostage, including the young Schiavini. The petitioners stated as injuries inflicted by grievous conduct on the part of the State the excessive use of force during the exchange of fire; the denial of judicial protection and judicial guarantees; and the acts of persecution to which María Teresa Schnack has been subjected since the death of her son, Sergio Schiavini, for giving impetus to the investigation.

77. In the friendly settlement agreement, the State recognized its responsibility for “the the facts of what transpired in the aforementioned jurisdiction and the attendant violation of the rights and guarantees recognized by the American Convention on Human Rights as described in Admissibility Report No. 5/02, adopted by the IACHR during its 114th regular session.”

78. According to that agreement, the State undertook as follows:

1. The parties agree to set up an “ad-hoc” Arbitration Tribunal to determine the amount of economic reparation due Sergio Andrés Schiavini’s heirs, in keeping with the rights acknowledged to have been violated and the applicable international standards. The Tribunal shall be made up of three independent experts, with recognized expertise in human rights and of the highest moral caliber. The petitioners will designate one expert, the national State shall propose a second, and the third shall be proposed by the two experts designated by the parties. The Tribunal shall be formed no later than 30 days following the approval of this agreement by Decree of the Executive Branch of the Nation.
2. The procedure to be followed shall be determined by common agreement among the parties, and set forth in writing, a copy of which shall be submitted to the Inter-American Commission on Human Rights. To this end, the parties shall designate a representative to participate in the discussions of the procedure. In representation of the national State, the Ministry of Foreign Affairs, International Trade, and Worship and the Ministry of Justice and Human Rights shall be charged with designating an official in the area with competence in human rights matters in both Ministries.
3. The parties agree to form a technical working group, in which the Government of the Province of Buenos Aires shall be invited to participate, to carry out the studies and take such other steps as may be necessary to submit for the consideration of the Legislature and, where appropriate, the competent federal authorities, the following initiatives, aimed at implementing the necessary measures to bring existing law into harmony with international standards, in accordance with point 2 of the Act dated November 11, 2004:

- a) Draft legislative reform bill making it mandatory, with no exceptions, to perform an autopsy in all cases of violent or criminally suspicious deaths. It will also prohibit members of the security forces from being involved in this process with respect to facts in which they have participated;
 - b) Draft reform of the Criminal Procedures Code of the Nation granting a victim's relatives the right to choose to designate their own expert before the autopsy is performed;
 - c) Analysis of the legislation in force on the procedures followed by the forensic medical office to evaluate possible modifications that could contribute to ensuring transparency and effectiveness in its performance;
 - d) Draft reform of the Criminal Procedures Code of the Nation to incorporate the violation of human rights as grounds for review;
 - e) Draft reform of the Criminal Procedures Code of the Nation incorporating the violation of human rights as grounds for the immediate suspension or interruption of the statute of limitations;
 - f) Evaluation of domestic law concerning hostage-taking and the use of force to bring it into harmony with international standards in accordance with principle No. 3 of UN Resolution 1989/65;
 - g) Proposal that, in the event that the appeal for review in the Schiavini case filed by the Provincial Office of the General Prosecutor before Chamber 111 of the Criminal Court of Cassation of Buenos Aires Province is unsuccessful, a "Truth Commission" is established at the federal level to help effectively safeguard that right;
 - h) Development of draft reforms setting forth the procedures for processing and responding to petitions under study by the Commission and before the Inter-American Court of Human Rights, that include the establishment of a specific entity with jurisdiction in the decision-making process—including the institution of "friendly settlement"—and a mechanism to ensure compliance with the recommendations and/or judgments of the Commission and/or the Inter-American Court of Human Rights.
4. The Government of the Argentine Republic pledges to facilitate the activities of the working group and make available the technical support and facilities it requires in order to perform its task. It also pledges to periodically inform the Inter-American Commission on Human Rights regarding the outcomes of the task entrusted to the technical group and invites the Commission to participate actively in evaluating the draft reforms, as well as the follow-up and evolution of these initiatives.
 5. The Government of the Argentine Republic pledges to publish this agreement in the Official Gazette of the Argentine Republic, in the newspapers "La Unión" of Lomas de Zamora, "Clarín", "La Nación," and "Página/12", once it has been approved by the Inter-American Commission on Human Rights in accordance with the provisions of Article 49 of the American Convention on Human Rights.

79. In its 2009 Annual Report,⁴¹ the IACHR concluded that the State was in compliance with the part of the agreement related to pecuniary reparations.

80. On November 19, 2010, the Commission asked the parties to submit up-to-date information on the status of compliance with the friendly settlement agreement.

81. By a communication dated January 13, 2011, the State submitted information concerning the measures taken to comply with the terms of the above friendly settlement agreement. As for the non-pecuniary damages, the State reported the following progress: first, it reported that the Truth Commission had been formed, composed of Dr. Dr. Martín Esteban Scotto, named by the petitioner party, Dr. Carlos Alberto Beraldi, nominated by the Federal Government, and Dr. Héctor Granillo Fernández, appointed by the Ministry of Justice of the Province of Buenos Aires. It further indicated that to enable that Commission to begin its work, the provincial government was asked to supply a copy of the three court cases and one administrative case, which the State had listed in its presentation. It also reported on the working meeting held on September 1, 2010, where the experts serving on the Commission agreed to work together to prepare the Commission's draft Rules of Procedure.

82. Second, regarding the agreed upon legal reforms, the State reported that the respective drafts are under evaluation in the appropriate sections of government. As for the reforms intended to set forth the procedures for processing and responding to petitions with international agencies that promote and protect human rights, the State reported that a working meeting was convened and held during the Commission's 140th session; participating were Commissioner Luz Patricia Mejía, representatives of CELS and CEJIL, and officials of the Secretariat of Human Rights of the Ministry of Justice, Security and Human Rights and of the Foreign Ministry. That meeting discussed the progress made on preparation of the joint draft resolution, and the possibility of working out a draft law of a higher order, in keeping with the agreement reached in the present follow-up.

83. On October 25, 2011, the Commission again requested updated information from the parties regarding the state of compliance with the friendly settlement agreement. Regarding the legislative reforms, the State updated information on three issues: the execution of autopsies, remedies and citizen security. In regards to point 3.a) of the agreement, it indicates that it is obligatory to conduct autopsies for all cases involving suspicious and violent death, as set forth " *in the Criminal Procedure Code of the Province of Buenos Aires (Código Procesal Penal de la Provincia de Buenos Aires, CPPBA) and the National Procedure Code (Código de Procedimientos de la Nación, CPPN) provide the required obligation to execute autopsies in such cases*". Likewise, the State of Argentina stated that such codes also provide room for objection based on the same grounds applicable to judges, which could be used in considering it necessary to question the appointment of an expert because of his or her alleged partiality. Regarding point 3.b) of the agreement, it emphasized that in accordance with the existing legislation, family members could participate and control the production of evidence based on the procedural concept of the individual victim, which allows the family to propose the participation of an expert. Finally, concerning point 3.c) of the agreement on the rules that regulate the activities of the forensic medical team, the State stressed that the Supreme Court of Argentina (Corte Suprema de Justicia Nacional) adopted measures in accordance to Agreements 16/08, 47/09 and 22/10. (...). In this framework, by fulfillment of Agreement 47/09, the State issued general rules of procedure that control the general aspects of the activities related to the Medical Staff.

84. Regarding the inclusion of violations against human rights as grounds for reform to what point 3.d) of the agreement, the State indicated that the Ministry of Justice and Human Rights had been working on a draft law to promote reform to the national code of criminal procedure, in order to incorporate as causal grounds for review, the cases that the Inter-American Court on Human Rights has judgments.

⁴¹ See IACHR, 2013 Annual Report, Chapter II, Section D: Status of Compliance with the Recommendations of the IACHR, para. 73. Available at: <http://www.oas.org/es/cidh/docs/annual/2013/docs-es/InformeAnual-Cap2-D.pdf>

85. Finally, in regards to the implementation of public policies for citizen security in point 3.f) of the agreement, the State stated information from the Ministry of National Security pertaining to the adopted measures taken for every security force on the taking of hostages.

86. The petitioners expressed their concern to the Commission for the State's lack of enforcement on two aspects of the agreement: the operation of the Truth Commission; and the enforcement of rules on facilitating the internal procedure for international claims. With regards to these particular aspects of the agreement, the Commission observes that the State did not provide any information.

87. In a communication of November 27, 2012, the Commission requested up-to-date information from the parties on the status of compliance with the remaining recommendations. In a note dated December 18, 2012, the petitioners provided updated information referencing, firstly, the Draft legislative reform "making it mandatory, without exception, to conduct an autopsy in every single case of violent death or death suspect of being a crime, including prohibiting the members of the security forces from taking part in the autopsy connected to any incidents in which they may have participated." They noted that said draft reform was submitted in a timely fashion, but that after several years elapsing, there has been no response to it and that the issue has not been addressed at any working meeting with the Secretariat for Human Rights. They also reported on the Draft reform of the Criminal Procedural Code of the Nation, which was to incorporate the right of the next-of-kin of the victim to opt for appointing their own expert prior to the autopsy being conducted; and the Draft reform of the Criminal Procedural Code of the Nation, introducing human rights violations as grounds for review; none of which has been dealt with by the Secretariat for Human Rights either as of the present date.

88. As for evaluation of domestic legislation on hostage taking and the use of force, in order to bring these laws into line with international standards under Principle No. 3 of UN Resolution 1989/65, the petitioners noted that said item has not been put on the working agenda of the meetings being held with the Secretariat for Human Rights and the Special Representative for Human Rights in the International Sphere (REDHU) of the Ministry of Foreign Relations, International Commerce and Worship.

89. With respect to the creation and governance of the "Truth Commission," the petitioners reported that it was formally established in September 2010 and that, in July 2012, the Special Representative's Office for Human Rights in the International Sphere (REDHU) of the Ministry of Foreign Relations, International Commerce and Worship did hand over the full copy of the case files of court cases that were heard in Argentina to the members of the aforementioned Commission. Notwithstanding, they contend that approval of its Regulations by the Argentine State is still pending, which has made it impossible for it to be fully functioning since July 2012 until the present time.

90. Lastly, with regard to drafting rules to establish a procedure for the processing and investigation of petitions that are brought before the Commission and the Inter-American Court of Human Rights, "which provides for the creation of a specific body with decision making authority – including the institution of the "friendly settlement" – and a mechanism for compliance with the recommendations and/or judgments of the Commission and/or the Inter-American Court of Human Rights;" the petitioners noted that they learned of draft rules prepared by the Argentine State, which were rejected and considered to be noncompliant with the reparations undertaken by the Argentine Government in the instant case. In short, the petitioners claimed that even though some officials of the Argentine State have showed good will to move forward in complying with the executed Friendly Settlement Agreement, progress has been too slow and that this stands in the way of timely reparation, as provided in the commitment entered into on March 2, 2005.

91. In a communication dated October 9, 2013, the Commission requested the parties to provide up-to-date information on the status of the recommendations whose implementation was still pending. The petitioners responded in a communication dated October 30, 2013, in which they said that, as yet, there had been no response from the State with respect to the legislative reforms included in the friendly settlement agreement. As for the remaining items, they repeated the information cited earlier. Thus, the petitioners reiterated their concern regarding the delays preventing the Truth Commission from working at its full capacity, in their opinion a *sine qua non* aspect as far as compliance with the friendly settlement agreement

was concerned. The petitioners also mentioned that the State had failed to meet its commitment to facilitate the activities of the working group, provide it technical support, and grant it permission to use the facilities that it needed to carry out its work, as well as failing to provide information on the results achieved by the technical group. The State has not offered any response to the above information.

92. On June 4, 2014, the petitioner presented a communication in which it emphasized that despite the fact that 9 years have passed since the signature of the agreement with the State, there is a partial and reiterated non-compliance from part of the National Government.

93. On December 4, 2014, the IACHR again requested updated information on the status of compliance. To date no information has been received from either party.

94. Based on the available information, the Commission concludes that there still has not been compliance with some measures of non-pecuniary reparation. Consequently, the Commission finds that there has been partial compliance with the friendly settlement agreement. Accordingly, the Commission will continue to monitor the remaining items.

Case 12.298, Report No. 81/08, Fernando Horacio Giovanelli (Argentina)

95. On October 30, 2008, by means of Report No. 81/08, the Commission approved the friendly settlement agreement signed by the parties in Case 12.298, Fernando Horacio Giovanelli. To summarize, the petitioners had lodged claims alleging the State's responsibility for the death of Fernando Horacio Giovanelli, who at around 9:45 p.m. on October 17, 1991, in the close vicinity of his home, was approached by officers of the Buenos Aires Provincial Police who asked him for his ID, detained him, and took him in an unmarked vehicle to the Third Police Station in Quilmes. The petitioners claimed that at that police facility, the alleged victim was brutally beaten and then taken to the 14 de Agosto Bridge in Quilmes district, a few meters from the police station, where he was thrown onto the footpath and killed by one of the police officers who shot him in the head (with the bullet entering through his left earlobe). They also claimed that the victim's body was later taken to Villa Los Eucaliptos, a shanty town that is under the jurisdiction of that police station, where it was dumped approximately two and a half hours after his death. The petitioners maintained that the version of events contained in the police report, which was used as the basis for the criminal proceedings, was plagued with inconsistencies; that the police investigation was deliberately geared toward covering up the truth of the killing; and that the different judges that heard the case merely produced evidence that was largely irrelevant for clarifying the facts of Mr. Giovanelli's death and failed to address the confusing, suspicious, and contradictory evidence in the proceedings.

96. By means of a friendly settlement agreement signed on August 23, 2007, the government of the Argentine Republic expressed its willingness to assume objective international responsibility as a state party to the Convention and asked the Commission to accept its acknowledgment of the alleged violations as set out in the petition.

97. Under that agreement, the State agreed to:

b. Economic reparation

1. The parties agree to set up an ad-hoc Arbitration Tribunal to determine the amount of economic reparation due to the petitioners, in keeping with the rights acknowledged to have been violated and the applicable international standards.
2. The Tribunal shall be made up of three independent experts, with recognized expertise in human rights and of the highest moral caliber. The petitioners will designate one expert; the National State shall propose a second; and the third shall be proposed by the two experts designated by the parties. The Tribunal shall be formed no later than 30 days following the approval of this agreement by Decree of the Executive Branch of the Nation.

3. The procedure to be followed shall be determined by common agreement among the parties, and set forth in writing, a copy of which shall be submitted to the Inter-American Commission on Human Rights. To this end, the parties shall designate a representative to participate in the discussions of the procedure. In representation of the National State, the Ministry of Foreign Affairs, International Trade, and Worship and the Ministry of Justice and Human Rights shall be charged with designating an official in the area with competence in human rights matters in both Ministries.
4. The arbitration tribunal's award shall be final and not subject to appeal. It shall contain the amount and type of monetary reparation agreed upon, the beneficiaries thereof, and a calculation of any applicable costs and fees incurred in the international proceeding and by the arbitration entity. These shall be submitted to the Inter-American Commission on Human Rights for evaluation in the framework of the process to follow up on compliance with the agreement, in order to verify whether the latter is consistent with the applicable international parameters. The payments set forth in the award shall be immune from seizure and shall not be subject to currently applicable taxes, contributions, or fees, or any that may be imposed in the future.
5. The petitioners relinquish, definitively and irrevocably, the ability to initiate any other claim of a monetary nature against the National State associated with the instant case. In addition, they cede and transfer to the National State all litigation rights they may have in the framework of the suit brought against the government of the Province of Buenos Aires and undertake to sign the respective instrument before a national Notary Public within ten working days following the effective delivery of the payment resulting from the arbitration award.
6. Without prejudice to the foregoing transfer in its favor, the National State declares that it reserves the right to recover the amounts actually paid out to the petitioners as determined by the Arbitration Tribunal from the Government of the Province of Buenos Aires by subtracting those amounts from the totals that might correspond to that province under the federal sharing law (*ley de coparticipación*), and/or any other lawful means.

c. Measures of non-monetary reparation

1. The Government of the Argentine Republic pledges to publish this agreement by means of a notice, whose text shall be agreed in advance with the victim's next of kin, in the Official Gazette of the Argentine Republic and in a nationally distributed newspaper, once it has been approved by the Inter-American Commission on Human Rights in accordance with the provisions of Article 49 of the American Convention on Human Rights.
2. The Government of the Argentine Republic undertakes to invite the Government of the Province of Buenos Aires to report on the status of the following cases being heard by courts in the provincial jurisdictional until their final conclusion:
 - a) Case 1-2378, titled "N.N. re. Homicide – victim: Giovanelli, Fernando Horacio," proceeding before the Third Transitory Criminal Court of First Instance in Quilmes Judicial District, Province of Buenos Aires.
 - b) Case 3001-1785/00, titled "Supreme Court of Justice – General Secretariat re. Irregular situation observed in the processing of case 1-2378 before the Third Transitory Criminal Court in Quilmes," proceeding before the Supreme Court of Justice of the Province of Buenos Aires – Judicial Oversight and Inspection Office.

3. The Government of the Argentine Republic undertakes to invite the Government of the Province of Buenos Aires to evaluate the possibility of including the Giovanelli case in the current study programs at police training academies, as a measure to ensure non-repetition of practices that violate human rights.
4. The Government of the Argentine Republic commits to developing a law setting forth the procedures for processing and responding to petitions under study by the Commission and before the Inter-American Court of Human Rights, that includes the establishment of a specific entity with jurisdiction in the decision-making process – including the institution of “friendly settlement” – and a mechanism to ensure compliance with the recommendations and/or judgments of the Commission and/or the Inter-American Court of Human Rights, in accordance with the provisions of Article 28 (federal clause) of the American Convention on Human Rights, in connection with Articles 1.1 (general obligation to observe and ensure rights) and 2 (duty to adopt domestic legal provisions) of said international instrument.

98. According to documents received by the IACHR, on April 8, 2010, the Court of Arbitration for Assessment of Pecuniary Reparation in the Case of Giovanelli vs. Argentina issued its arbitral award establishing reparations in favor of the victims, plus an amount to cover costs and expenses. At the request of the parties, said award was evaluated by the IACHR, which concluded that it was consistent with applicable international standards.⁴²

99. On November 22, 2010, October 26, 2011, and December 3, 2012, the Commission requested up-to-date information from the parties on the status of compliance with the friendly settlement agreement. The petitioner provided updated information indicating that, regarding the non-pecuniary reparation measures set forth therein, publication of the Friendly Settlement Agreement in the Official Gazette of the Argentine Republic, or in a daily newspaper of nationwide circulation, has still not taken place.

100. Moreover, the petitioner stated that the two cases cited in the Friendly Settlement Agreement (items 2.a and 2.b) had been closed, despite the fact that neither one had been definitively resolved.

101. She also claims that the State has not honored its commitment to examine the possibility of incorporating the “Giovanelli” case into the current curricula at the police training institutes as a measure of non-repetition of human rights violating practices. She further contends that no steps have been taken by the authorities to draw up draft rules establishing a procedure to process and investigate petitions brought before the Commission and the Inter-American Court of Human Rights, as provided in the final item of the non-pecuniary reparation measures included in the Agreement.

102. As for the pecuniary reparation measures, the petitioner reported that, thus far, the reparation amount owed to the family, or any type of expenses stipulated in the arbitration award, have yet to be paid out.

103. In a communication dated October 9, 2013, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending. The petitioners did not supply the information requested.

104. On November 26, 2013 the State reported that hitherto, by payment order No. 215.491 the amount of \$1,100,006.78, including principal and moratorium interest, had been paid to the heirs and deposited in the account in the Quilmes branch of the Banco Provincia de Buenos Aires of the Second Lower Court for Civil and Commercial Matters of the Judicial District of Quilmes, Province of Buenos Aires. As

⁴² See IACHR, 2013 Annual Report, Chapter II, Section D: Status of Compliance with IACHR Recommendations, para. 91. Available at: <http://www.oas.org/es/cidh/docs/anual/2013/docs-es/InformeAnual-Cap2-D.pdf>

regards the amount due to Mrs. Ana Esther Ramos, the State informed that the sum of \$1,100,006.78 had been deposited in the Banco Hipotecario through payment order No. 222.937; the sum of \$ 158.274,36 to Guillermo Jorge Giovanelli by payment order No. 222.936; the amount of \$ 158.274,36 to Enrique José Giovanelli by payment order No. 222.938; and that the sum of \$ 35.216,04 had been deposited in Banco de la Provincia de Buenos Aires for the lawyer Mariana Bordones. There remain pending the deposits to Messrs. Montesisi and Salvioli, the representatives of Shiappa, the arbitration body, who were required to contact the Treasury's Obligations Department in order to request the necessary documentation so that their deposits could be made. In addition, according to the information submitted, Mrs. Mabel Yapur, had promised on behalf of COFAVI to undertake the necessary steps at the AFIP to enable the amount due to her to be paid.

105. On December 10, the State informed that Case No. 1-2378 entitled " N.N, homicide -victim: Giovanelli, Fernando Horacio" [N.N s/ homicidio - victima: Giovanelli, Fernando Horacio] had been reopened. It also said that in keeping with the information provided by the Director of Educational Research and Planning, the police training study program specifically focuses on topics concerning institutional violence, the rights of detainees, different legal forms of deprivation of liberty; torture, prohibition of torture, cruel, inhuman, and degrading treatment; the use of force and firearms, and ethical principles governing police conduct in which the aim is to make the student aware of the importance of abiding by the law in carrying out police duties, instilling awareness of the ethical standards that govern the profession, the importance of respect for human rights, and interpretation of national and international policing standards in force.

106. On December 4, 2014, the IACHR again requested updated information on the status of compliance. To date, it has not received any information from either party.

107. Consequently, the Commission concludes that the friendly settlement agreement has yet to be complied with. Accordingly, the Commission will continue to monitor the pending items.

Case 12.159, Report No. 79/09, Gabriel Egisto Santillán (Argentina)

108. On August 6, 2009, through the adoption of its Report No. 79/09, the Commission approved the friendly settlement agreement signed by the parties of the Case 12.159, Gabriel Egisto Santillán. Summarizing, the petitioner asserts that the State is responsible for the death of Gabriel E. Santillán, which happened on December 8, 1991, when he was 15 years old. The victim died from a bullet wound he sustained on December 3, 1991, when members of the Buenos Aires Provincial Police were in pursuit of unidentified persons accused of stealing a vehicle. The complaint also alleges that judicial protection and guarantees were denied by virtue of the lack of due diligence in the investigation into the facts and failure to punish those responsible for the death of Gabriel E. Santillán.

109. On May 28, 2008, the State of Argentina and the victim's mother signed a friendly settlement agreement, which was approved by National Executive Decree No. 171/2009 of March 11, 2009. The main points of the agreement are the following:

III. Measures to be adopted

a. Pecuniary damages

1. The parties agree to set up an ad-hoc Arbitration Tribunal to determine the amount of pecuniary damages owed to the petitioners, in keeping with the rights acknowledged to have been violated and with applicable international standards.
2. The Tribunal shall be made up of three independent experts [...] and shall be formed no later than 30 days following approval of this agreement by Decree of the Executive Branch of the Nation.
3. The procedure to be followed shall be determined by common agreement among the parties [...]

4. The Arbitration Tribunal's award shall be final and not subject to appeal [...]
5. The petitioners relinquish, definitively and irrevocably, the ability to initiate any other claim of a pecuniary nature against the national State associated with the instant case [...]
6. Without prejudice to the foregoing concession in this favor, and in any event, the National State declares that it reserves the right to recover from the Government of the Province of Buenos Aires the amounts actually paid out to the petitioners, as determined by the Arbitration Tribunal [...]

b. Non-pecuniary damages

1. The Government of the Republic of Argentina pledges to publish this agreement— once it has been officially approved by the Inter-American Commission on Human Rights, in accordance with the provisions of Article 49 of the American Convention on Human Rights—by means of a notice in the “Official Gazette of the Argentine Republic” and in a nationally distributed newspaper. The text of the notice shall be agreed in advance with the victim’s relatives.
2. The Government of the Republic of Argentina undertakes to invite the Government of the Province of Buenos Aires to report on the status of the following cases being heard by courts in the provincial jurisdiction until their final conclusion:
 - a. a. Case 5-231148-2, entitled “Perpetration of Crime and Resisting Authority, along with Assault with Weapons, Homicide, and Discovery of Vehicle. Victim: Santillán, Gabriel Egisto,” before the Second Transitional Court of the Court of First Instance for Criminal and Correctional Matters of the Morón Judicial District, Buenos Aires Province.
 - b. Case 3001-2014/99, entitled “Ministry of Justice. Santillán, Gabriel Egisto. Case report No. 23.148/91,” and 3001-465/05, entitled “Executive Power of Buenos Aires Province – Sub-Secretariat of Justice Remits Case 12.159—Santillán, Gabriel Egisto,” both before the Supreme Court of Justice of Buenos Aires Province.
3. The Government of the Republic of Argentina commits to carrying out its best efforts to hold an academic event, as soon as possible, on questions having to do with the interaction and coordination between the Federal State and the Provincial States in the area of compliance with international obligations, in light of the provisions of Article 28 of the American Convention on Human Rights.

110. In Report 79/09, the Commission expressed its appreciation for the Republic of Argentina’s acknowledgment of responsibility for its failure to comply with its international obligations with regard to the rights protected under articles 4, 5, 8 and 25 of the American Convention on Human Rights, in conjunction with Article 1(1) thereof. It also acknowledged the efforts the parties made to arrive at the friendly settlement agreement, and declared that the agreement was compatible with the Convention’s object and purpose. The Commission also decided to continue to monitor and supervise compliance with the points the parties agreed upon.

111. In a note dated May 11, 2011, the State forwarded to the Commission the arbitration award establishing damages and issued on May 6, 2011 by the Tribunal for Fixing Pecuniary Damages in the Case of Santillán v. Argentina, made up of the arbitrators Fabián Omar Salvioli, Chairman, Oscar Schiappa-Pietra and Ricardo Monterisi⁴³.

⁴³ See 2013 Annual Report of the IACHR, Chapter II, Section D: Status of Compliance with the Recommendations of the IACHR, para. 111. Available at: <http://www.oas.org/es/cidh/docs/anual/2013/docs-es/InformeAnual-Cap2-D.pdf>

112. In a communication forwarded on December 5, 2012, the IACHR requested updated information from the parties on compliance with the commitments entered into in the aforementioned settlement agreement.

113. In a note dated January 2, 2013, the petitioners reported that, with regard to the non-pecuniary reparation measures set forth therein, publication of the Friendly Settlement Agreement in the Official Gazette of the Argentine Republic, or in a daily newspaper of nationwide circulation had not taken place yet.

114. Moreover, with regard to the two cases cited in the Friendly Settlement Agreement (items 2.a and 2.b), the petitioners reported that they had been closed, despite the fact that there was no final decision in either case. They further stated that notwithstanding the foregoing, the mother of the victim requested judicial authorization to exhume the body and have it cremated and for the appropriate measures to be taken so that the Forensic Anthropology Team preserves DNA evidence for a possible comparison, should the remains of his father Omar Santillán, who disappeared during the military dictatorship period in Argentina, come to light at some point in time.

115. She contends that the State has not honored the commitment to foster an academic activity pertaining to issues of coordination between the Federal and Provincial governments with regard to compliance with international obligations, under Article 28 of the American Convention.

116. As for the pecuniary reparation measures, the petitioner stated that the reparation amount owed to the family, or any type of expenses provided for in the arbitration award, have not been paid out thus far, even though the time period set forth therein has expired.

117. In a communication dated October 9, 2013, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending. In a note dated December 9, 2013, the State reported that the National Directorate had prepared a draft decree for the payment to be made as agreed once the budgetary credits for fiscal year 2013 had been earmarked. The State mentioned that the draft decree was contained in file No. S04 0052637/2013, which have been referred to the Minister of Justice and Human Rights of the Nation for his signature. It also said that the Undersecretary for Justice of the Province of Buenos Aires had been asked to provide up-to-date information on the case.

118. In its communication dated March 6, 2014, the petitioner reported that, with regard to the non-pecuniary reparation established in the agreement, to date the agreement had not been published in either the Official Gazette of the Argentine Republic or a nationally distributed newspaper. As for the court case for the murder of Gabriel Egisto Santillán, the petitioner confirmed that it was closed. Nonetheless, in early 2012, the mother of the victim requested judicial authorization to exhume the body of her son and have it cremated; at the same time she took steps to ensure that the Argentine Forensic Anthropology Team would preserve the DNA genetic material of the minor, with a view to matching it with the possible appearance of the remains of his father, who was forcibly disappeared during the last military dictatorship in 1977. Petitioner further reported that the cases before the Supreme Court of Justice of Buenos Aires Province had also been closed. In addition, she indicated that the State had not made efforts to foster academic activities related to coordination between the federal and provincial governments to ensure compliance with internationally assumed obligations. Finally, with regard to pecuniary reparation, petitioner indicated that the amount of reparation owed to the family had not been paid.

119. On May 8, 2014, a working meeting was held between the parties, in which the petitioners reiterated the afore-mentioned information, and the State reported that the decree for disbursement of the payment was pending the signature of the President of the Nation. Subsequently, in a communication dated July 23, 2014, the State forwarded a copy of Decree 1007 dated June 23, 2014, issued by the National Executive Authority, providing for cash payment of the award granted by the ad hoc tribunal for determination of pecuniary reparation.

120. On December 4, 2014, the IACHR again requested updated information on the status of compliance. To date no information has been received from either party.

121. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Accordingly, the Commission will continue to monitor the remaining items.

Case 11.732, Report No. 83/09, Horacio Aníbal Schillizzi Moreno (Argentina)

122. In Report No. 83/09 dated August 6, 2009, the Commission concluded that the State of Argentina had violated Mr. Horacio Aníbal Schillizzi Moreno's right to a fair trial and his right to judicial protection, upheld in articles 8 and 25 of the Convention, in connection with Article 1(1) thereof. Summarizing, the petitioners alleged that in response to his motion of recusal, on August 17, 1995 the judges of Chamber "F" of the National Court of Appeals in Civil Matters for the Federal Capital sentenced Mr. Schillizzi to three days' incarceration for tactics intended to obstruct justice." The petitioners argued that the sentence of incarceration was imposed without observing the proper judicial guarantees: his trial was not impartial; the grounds for the decision were not given; he was not permitted to exercise his right of defense, and there was no judicial review of the ruling. The punishment of incarceration was arbitrary and illegal, as it was a violation of the right to personal liberty; compounding all this was the violation of Mr. Schillizzi Moreno's rights to humane treatment and equality before the law by the court authorities' denial of his request to serve his sentence under house arrest.

123. The IACHR advised the State of Argentina as follows:

1. To publicly acknowledge international responsibility for the human rights violations determined by the Commission in this report. In particular, to conduct a public ceremony, with the participation of senior Government authorities and Mr. Horacio Aníbal Schillizzi Moreno, to acknowledge the State's international responsibility for the events in the instant case.
2. To adopt -as a measure to prevent repetition- the necessary actions to guarantee that in the future, the disciplinary measures are imposed, following due process.

124. In its 2013 Annual Report,⁴⁴ the IACHR found that the State had complied with the second recommendation, noting that the Argentine judicial authorities had adopted the necessary regulatory provisions, as indicated in Supreme Court decision No. 26/08, so that disciplinary measures would be imposed in accordance with the right to a fair trial and the right to judicial protection enshrined in Articles 8 and 25 of the American Convention.

125. That report also indicated that the petitioners had lost contact with Mr. Schilizzi since the last meeting they had with him in 2006, information that was reiterated on December 31, 2012.

126. On October 26, 2011, December 3, 2012, and October 11, 2013, the IACHR requested the parties to submit information regarding compliance with the first recommendation, but it has not received a specific response from either party.

127. On December 4, 2014, the IACHR again requested updated information on the status of compliance. On December 23, 2014, the petitioning party responded that it was withdrawing from the case, since it had not, to date, managed to resume contact with Mr. Schillizzi. The State did not present any information.

⁴⁴ See 2013 Annual Report of the IACHR, Chapter II, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 119-128. Available at: <http://www.oas.org/es/cidh/docs/anual/2013/docs-es/InformeAnual-Cap2-D.pdf>

128. The IACHR urged the State to make every effort to locate Horacio Aníbal Schillizzi Moreno and to comply with this recommendation.

129. Based on the foregoing, the Commission concludes that the Argentine State has partially complied with the recommendations put forth in Report No. 83/09. Accordingly, the Commission will continue to monitor the remaining item.

Case 11.758, Report No. 15/10, Rodolfo Correa Belisle (Argentina)

130. In Report No. 15/10 dated March 16, 2010, the Commission approved the friendly settlement agreement signed by the parties in Case 11.758, Rodolfo Correa Belisle. In summary, the petitioning party indicated that in April 1994 the alleged victim, a captain in the Argentine Army, was ordered to conduct a search of the Zapala Regiment, which led to the discovery of the body of Private Carrasco, who had joined the regiment a few days earlier. They added that a criminal proceeding was begun as a consequence of the death of Private Carrasco. During that proceeding, Correa Belisle was summoned to testify, and he allegedly reported activities he considered illegal that had been carried out by military personnel. The petitioners alleged that as a consequence of his testimony and because the then-Chief of Staff was offended, a proceeding was initiated against Correa Belisle in the military criminal courts, in which he was sentenced to three months' imprisonment for the military offense of "disrespect." The petitioners alleged that the Argentine State was responsible for the arbitrary detention of Mr. Correa Belisle, as well as for the various violations of judicial guarantees and due process that occurred during the proceedings against him.

131. On August 14, 2006, the State of Argentina and the petitioners signed a friendly settlement agreement, which was approved by National Executive Decree No. 1257/2007 of September 18, 2007. The main points of the agreement are as follows:

1. Recognition of international responsibility

Having evaluated the facts reported in light of the conclusions of Admissibility Report No. 2/04, and considering Report No. 240544 of February 27, 2004, produced by the Office of the Auditor General of the Armed Forces, which indicated, among other things, that "...we are facing a clear situation—a system of administration of military justice that does not ensure the observance of the rights of those who become involved in criminal proceedings within that jurisdiction, and that [is] powerless to ensure an upright administration of justice," the Argentine State recognizes its international responsibility in the case for the violation of Articles 7, 8, 13, 24, and 25, in conjunction with Article 1.1, of the American Convention on Human Rights, and commits to adopt the reparation measures provided for in this instrument.

2. Non-monetary reparation measures

a) The Argentine State apologizes to Mr. Rodolfo Correa Belisle

Based on the preceding recognition of international responsibility, the Argentine State considers it fitting to present its sincerest apologies to Mr. Rodolfo Correa Belisle for the event that occurred in 1996, during which he was subject to a military proceeding and trial that culminated with a 90-day sentence as a consequence of the application in this matter of norms that are incompatible with required international standards.

To that effect, and in accordance with the evaluation of the circumstances surrounding the case brought by the petitioners before the Inter-American Commission on Human Rights, and for which the competent bodies of the national State have taken suitable action, the prosecution of Rodolfo Correa Belisle has not complied with the strict observance of the rights and guarantees that international human rights law requires in this area, and thus this apology is imposed as part of the commitment assumed by the national State.

b) Reform of the System for the Administration of Military Justice

In the working meeting held during the IACHR's 124th regular period of sessions, the government delegation reported on the state of the efforts being carried out by the Argentine State with regard to the legislative reform involving the military justice system. In that regard, it reported on the Ministry of Defense's issuance of Resolution No. 154/06, which formed a working group made up of experts of the Secretariat for Human Rights and the Secretariat for Criminal Policy and Prison Affairs of the Ministry of Justice and Human Rights of the Nation, various representatives of civil society organizations, the University of Buenos Aires, and members of the Armed Forces, whose work has produced agreements on the transformation of the military disciplinary system, a comprehensive review of military legislation, and the consideration of questions pertaining to the regulation of activities in the framework of peace operations and situations of war, having set a time frame of 180 days for finishing its activities. The aforementioned working group completed, before the established deadline, the preparation of a draft reform of the System of Administration of Military Justice, which was formally presented to the Minister of Defense on July 19, 2006.

Bearing this in mind, the Argentine State is committed to making its best efforts to send that draft reform to the National Congress before the end of the current regular period of legislative sessions.

c) Publication of the friendly settlement agreement

The Argentine State is committed to publish the text of this agreement, one time and in full, in the Official Gazette of the Republic of Argentina; in the newspapers *Clarín*, *La Nación*, *Río Negro*, and *La Mañana del Sur*; as well as in the Confidential Gazette of the Army, the Public Gazette of the Army, *Soldados* magazine, and in the *Tiempo Militar* newspaper, once this agreement is duly approved in accordance with the provisions of Point III of this instrument and ratified by the Inter-American Commission on Human Rights, in line with the provisions of Article 49 of the American Convention on Human Rights.

132. In the IACHR's 2013 Annual Report,⁴⁵ the Commission considered that the State had complied with all of the provisions of the agreement, except for publication of the friendly settlement agreement.

133. In a communication dated December 31, 2012, the petitioners reported that, based on an inquiry conducted by them, they learned that on January 28, 2012, the State had published the content as they were requested to do in the daily newspaper *La Nación*. Likewise, they indicated that they were interested in learning whether the State is indicating that it will publish it in other widely circulated news media for the same purpose. They note that should compliance with that remaining item be confirmed, the friendly settlement agreement could be considered fully complied with and the case could be closed.

134. In a communication dated October 9, 2013, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending. The State replied to that request in a communication dated December 9, 2013, in which it provided information supplied by the Ministry Of Defense of the Nation and a note from the Secretariat of Human Rights informing that the contents of the friendly settlement report had been published in the Public Newsletter [*Boletín Público*] and Confidential Newsletter [*Boletín Reservado*] of the Argentine Army. The State also reiterated that in a communication of December 23, 2011, the contents of the friendly settlement report had been referred to the Secretariat of Public Communication for publication in the newspapers *Clarín*, *La Nación*, *Río Negro* and *La Mañana del Sur*. The Commission notes that the petitioners did not provide any information in that regard.

135. On December 4, 2014, the IACHR requested information on full compliance with the last item of the agreement pertaining to publication of the agreement in various publications, so that it could consider

⁴⁵See IACHR, 2013 Annual Report, Chapter II, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 131-137. Available at: <http://www.oas.org/es/cidh/docs/anual/2013/docs-es/InformeAnual-Cap2-D.pdf>

that the friendly settlement agreement had been fully honored. In a communication dated February 11, 2015, the State reiterated the information provided by the Ministry of Defense in 2013, in which it reported publication of the agreement in the Argentine Army news bulletins and announced that on December 23, 2011, the extract for publication in the newspapers "Clarín," "La Nación," "Río Negro," and "La Mañana del Sur" had been forwarded to the Communications Secretariat. On this point, the Commission notes that the communication submitted by the State does not mention the actual publication of that extract in the newspapers cited.

136. No further information has been received from the petitioners.

137. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Accordingly, the Commission will continue to monitor the remaining item.

Case 12.536, Report No. 17/10, Raquel Natalia Lagunas and Sergio Antonio Sorbellini (Argentina)

138. In Report No.17/10 dated March 16, 2010, the Commission approved the friendly settlement agreement signed by the parties in Case 12.536, Raquel Natalia Lagunas and Sergio Antonio Sorbellini. In summary, the petitioners maintained that as of the discovery of their children's corpses, police activity was deployed in order to cover up the incident and do away with or distort the evidence. The petitioners referred to a series of procedural irregularities as a result of which two persons were convicted, who later benefited from a declaration of nullity of the case against them due to procedural defects. They indicated that in the instant case, the Legislature had created a Special Commission to investigate the chain of cover-ups, as they were considered grave acts of public interest. They asserted that through the actions of that Commission, the bodies were exhumed, and it was verified that the judicially declared autopsies had never been performed, and that the police records and expert testimony were false.

139. On November 19, 2007, the State of Argentina and the representatives of Raquel Lagunas' family signed a friendly settlement agreement, which was joined by the Sorbellini family on November 24 of that year, by means of a protocol of accession. The main points of the agreement are follows:

III. Measures to be adopted

A. Measures of non-pecuniary reparation

1. The Government of the Province of Río Negro undertakes, fully respecting the separation of powers, to make its best efforts to continue the investigations of the case to the final consequences. With that purpose, and as certified in the act of November 8, 2007, the Government of the Province of Río Negro and the petitioners agree to constitute a Commission for Follow-up (Comisión de Seguimiento) for the purposes of monitoring progress in the judicial case in order to prepare an assessment of the case to evaluate the steps to be taken, to which the federal government will be invited to participate. The parties shall agree upon the composition of that commission.

2. In addition, and as committed to in point 1(b) of the act of December 6, 2006, it is noted for the record that the Government of the Province of Río Negro has proceeded to implement a police overseer ("Fiscal en Comisaría") in the city of Río Colorado, who shall be named through a public competitive process.

3. In terms of vindicating the good name and honor of Raquel Natalia Lagunas and Sergio Sorbellini, it is noted for the record that the Government of the Province of Río Negro proceeded to publish the public declaration agreed upon in point 2 of the act of September 30, 2002.

4. As another measure of satisfaction, it is stated for the record that point 3 of the act of September 30, 2002 has been carried out; pursuant to it, the Deliberating Council of the city

of Río Colorado designated a plaza in that city with the name of Raquel Lagunas and Sergio Sorbellini.

B. Measures of pecuniary reparation

1. The Government of the Province of Río Negro undertakes to compensate the family of each of the victims with the sum of US\$100,000 respectively. That compensation shall be paid in keeping with the following schedule: (a) Lagunas family: 60% of the total, plus 20% for the professional fees of the attorneys (Messrs. Thompson, Espeche, and Bugallo), which shall be paid in this act, by check No. 16664764 of the Banco Patagonia for the sum of one hundred ninety thousand eight hundred pesos (\$190,800), to the order of Leandro Nicolás-Lagunas, and check No. 16664762 of the Banco Patagonia to the order of Mr. Ricardo Thompson for the sum of sixty-two thousand three hundred twenty-eight pesos (\$62,328); the tax on gross income has been withheld from the attorneys in the amount of one thousand two hundred seventy-two pesos (\$1,272), for which they receive a receipt. The remaining sum shall be paid in two equal and consecutive installments whose due dates shall be December 10, 2007 and January 10, 2008, respectively. Mr. Leandro Lagunas receives the corresponding amount in representation of the family of Raquel Lagunas and Mr. Ricardo Thompson in representation of the attorneys. (b) Sorbellini family: The Government of the Province of Río Negro undertakes to include the reparation due in the 2008 budget, and to pay it in full before June 30, 2008.

140. On November 24, 2007, the representatives of the Sorbellini family signed a protocol of accession to the following effect:

I. Accession of the family of Sergio Sorbellini to the Friendly Settlement Agreement of November 19, 2007. In this regard, the petitioners state that, in the capacity indicated in the heading, they accede in all its terms and conditions to the friendly settlement agreement signed November 19, 2007 by the representatives of the family of Raquel Lagunas and the Government of the Province of Río Negro, a copy of which they receive. In addition, Mr. D. agnillo, in his capacity as the attorney representing the family of Sergio Sorbellini, accedes in all its terms and conditions to said friendly settlement agreement.

II. Conclusions

In consideration of the accession stated above, the petitioners and the Government of the Province of Río Negro agree to forward this additional protocol to the Ministry of Foreign Affairs, International Commerce, and Worship, for the purposes of having it attached, as an integral part thereof, to the friendly settlement agreement signed on November 19, 2007, requesting, consequently, its ratification in the international jurisdiction and that it be submitted to the Inter-American Commission on Human Rights for the purposes set forth in Article 49 of the American Convention on Human Rights. In that sense, it is noted for the record that it must first be forwarded to the Argentine Foreign Ministry; this agreement shall be approved in keeping with the corresponding legal provisions by the Province of Río Negro.

141. In its 2013 annual report,⁴⁶ the IACHR considered that the commitment regarding pecuniary reparation had been honored.

142. In a communication dated January 12, 2011, the State submitted a report on progress made. In this regard, it reported that a commission had been set up and members appointed for "Follow-up of the Double Crime of Río Colorado" and that it had not been possible to include relatives of the victims on this committee because they had refused to participate. It reported that competition for the position of Overseer for the city of Río Colorado was under way as of that date. It was also indicated that in the case followed by

⁴⁶ See IACHR, 2013 Annual Report, Chapter II, Section D: Status of Compliance with the Recommendations of the IACHR, paras. 141-150. Available at: <http://www.oas.org/es/cidh/docs/anual/2013/docs-es/InformeAnual-Cap2-D.pdf>

the investigation, the prosecutor stated that no evidence had emerged that would merit analysis of some criminal hypothesis not considered earlier nor had it been possible to produce evidence that would clarify the circumstances of the deaths of Sergio Antonio Sorbellini and Raquel Natalia Lagunas.

143. In a communication of September 27, 2012, the petitioners reported that the State had not taken any steps to comply with the remaining items other than pecuniary reparation. They also noted that not even a single meeting had taken place since November 2007, for the purpose of establishing the "Commission to Follow Up on the Double Crime of Rio Colorado," and that only the mayor of the city and municipal employees had attended the dedication ceremony of the victims' memorial square.

144. In a communication dated October 9, 2013, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending. The State did not furnish the information requested.

145. In a communication dated November 6, 2013, the petitioner recalled his previous communications and reiterated that the State had not taken steps to implement the commitments pending. In particular, the petitioner said with respect to the information provided by the State concerning the establishment of a "Monitoring Commission" and that he had no knowledge of any record of its incorporation, its members, and where his refusal to participate had been registered. In that regard, he said that he did not know what possible value the Commission could have since it had been created unilaterally. He also said that he had no knowledge of the current situation with regard to the government attorney assigned to the case.

146. It can be gathered from the information that the non-pecuniary reparation measures consented to by the parties in the friendly settlement agreement have still not been complied with. So far, the IACHR has not received any information on the results attained by the "Commission to Follow Up on the Double Crime of Rio Colorado," or on the results of the competitive selection process for the position of the Decentralized Prosecuting Attorney of the City of Rio Colorado.

147. On December 4, 2014, the IACHR requested information on the status of compliance with the agreement. To date, neither of the parties has presented additional information.

148. Based on the information provided by the State, the Commission concludes that there has been partial compliance with the friendly settlement agreement.

Petition 242-03, Report No. 160/10, Inocencia Luca de Pegoraro *et al.* (Argentina)

149. In Report No.160/10 of November 1, 2010, the Commission approved the friendly settlement agreement signed by the parties in Petition 242-03, Inocencia Luca de Pegoraro *et al.* In summary, the petitioners maintained that on June 18, 1977, Susana Pegoraro, who was five months pregnant at the time and the daughter of Inocencia Pegoraro, was arrested and taken to the Clandestine Detention Center that operated during the military dictatorship at the Naval Mechanics School (ESMA). According to the testimony of Inocencia Luca Pegoraro, Susana Pegoraro gave birth to a daughter inside the detention's facilities. The petitioners state that, in 1999, Inocencia Luca Pegoraro and Angélica Chimeno de Bauer became complainants and initiated a court proceeding, denouncing the abduction of their granddaughter, who they identified as Evelin Vásquez Ferra. Initially, the Federal National Court for Criminal and Correctional Matters No. 1 ordered expert testing to establish the identity of Evelin Vásquez Ferra. However, when this testing was challenged, the procedure was finally determined by the Supreme Court as not being mandatory because it felt that the testing was complementary for the purposes of the process given that the adoptive parents, Policarpo Luis Vásquez and Ana María Ferra, had confessed that Evelin Vásquez Ferra was not their biological child. The court also felt that mandatory testing violated the latter's right to privacy. The petitioners alleged that the ruling of the Supreme Court of Justice of the Nation closed the door to possible investigation into the disappearance of Susana Pegoraro and Raúl Santiago Bauer as well as the identification of Evelin Vásquez Ferra.

150. On September 11, 2009, the State of Argentina and the petitioners signed a friendly settlement agreement. The main points of the agreement are follows:

1. Recognition of facts. Adoption of measures

The Government of the Argentine Republic recognizes the facts presented in Petition 242/03 of the registry of the Inter-American Commission on Human Rights. In this regard, and without prejudice to the legal debate that emerges regarding the collision of legally protected assets presented by the case and the decision adopted by the Supreme Court of Justice of the Nation, the State agrees with the petitioner on the need to adopt suitable measures that could effectively contribute to obtaining justice in those cases in which it is necessary to identify persons using scientific methods that require that samples be obtained.

2. Non-monetary reparation measures.

2.1. On the right to identity

a. The National Executive Branch of the Argentine Republic agrees to send the Honorable Congress of the Nation a bill on establishing a procedure for obtaining DNA samples that protects the rights of those involved and effectively investigates and adjudicates the abduction of children during the military dictatorship.

b. The National Executive Branch of the Argentine Republic agrees to send to the Honorable Congress of the Nation a bill to amend the legislation governing the operation of the National Genetic Data Bank in order to adapt it to scientific advances in this area.

2.2. On the right of access to justice

a. The National Executive Branch of the Argentine Republic agrees to send to the Honorable Congress of the Nation a bill to more effectively guarantee the judicial participation of victims –understanding as such persons allegedly kidnapped and their legitimate family members – and intermediate associations set up to defend their rights in proceedings investigating the kidnapping of children.

b. The National Executive Branch of the Argentine Republic agrees to adopt, within a reasonable period of time, the measures necessary to optimize and expand on the implementation of Resolution No. 1229/09 of the Ministry of Justice, Security, and Human Rights.

c. The National Executive Branch of the Argentine Republic agrees to work on adopting measures to optimize the use of the power conferred upon it by Art. 27 of Law No. 24.946 (Organic Law of the Attorney General's Office) in order to propose that the Attorney General: 1) issue general instructions to prosecutors urging them to be present at residential searches conducted in cases in which the kidnapping of children is being investigated; and 2) design and execute a Special Investigation Plan on the kidnapping of children during the military dictatorship in order to optimize the resolution of cases, providing special prosecutors for the purpose in jurisdictions where the number of cases being processed justifies this.

2.3. On the training of judicial actors

a. The National Executive Branch of the Argentine Republic agrees to work on adopting measures associated with the use of the power conferred on it by Art. 27 of Law No. 24.946 (Organic Law of the Attorney General's Office) in order to propose that the Attorney General provide training for prosecutors and other employees of the Attorney General's Office in the appropriate handling of the victims of these serious crimes.

b. The National Executive Branch of the Argentine Republic agrees to urge the Council of the Judiciary of the Nation to plan training courses for judges, functionaries, and employees of the Judicial Branch in the appropriate handling of the victims of these serious crimes (see. Art. 7(11) of Law No. 24.937, o.t. Art. 3 of Law No. 26.080).

2.4. Regarding the task force

- a. The National Executive Branch of the Argentine Republic agrees to establish specific mechanisms to facilitate the correction of national, provincial, and municipal public and private documentation and records of anyone whose identity was changed during the military dictatorship, in order to promote the restoration of identity.
- b. The parties agree to hold periodic working meetings, in the Foreign Ministry, for purposes of evaluating progress made with the measures agreed to herein.
- c. The Government of the Argentine Republic agrees to facilitate the activities of the task force, and provide it with technical support and the use of facilities as needed to develop its tasks, agreeing to report periodically to the Inter-American Commission on Human Rights.

2.5. On publicity

The Government of the Argentine Republic agrees to publicize this agreement in the Official Bulletin of the Argentine Republic and in the newspapers "Clarín," "La Nación," and "Página 12," once it is approved by the Inter-American Commission on Human Rights in accordance with the provisions of Article 49 of the American Convention on Human Rights.

151. In Report No. 160/10 the Commission acknowledged compliance with the commitments contained in sections 2(1) (a), 2(1) (b), and 2(2) (a) of the friendly settlement agreement, through laws establishing a procedure for obtaining DNA samples and for the modernization of the National Genetic Data Bank approved by the National Congress on November 18, 2009 and published on November 27, 2009. It also acknowledged compliance with section 2(4) (a) through creation of the "Documentary Regularization Unit for the victims of human rights violations in the context of state terrorism actions," by Resolution No. 679/2009, published by the Ministry of Justice and Human Rights in the Official Bulletin of October 2, 2009; as well as compliance with section 2(2) (b) through the formation of the "Judicial Assistance Group" under Resolution No. 1229-1209 of the Ministry of Justice and Human Rights.

152. On October 26, 2011, the IACHR asked the parties for updated information regarding the status of compliance with the friendly settlement agreement.

153. Regarding sections 2(3)(a) 2(2) (c), the IACHR had received information on steps taken toward conducting the agreed upon training courses, but the results of those steps are not known.

154. The Commission learned of Resolution No. 166 of 2011 creating the Special Judicial Assistance Group within the Ministry of Security and assigning it the function of conducting searches, examinations, investigations, and seizure of items for purposes of obtaining DNA in the context of cases involving the abduction of minors under the age of ten during the period of State terrorism between 1976 and 1983. That resolution contained the protocol on the formation, coordination, and operation of the Special Group.

155. On December 4, 2012, the IACHR requested information from both parties on the status of compliance with the commitments set forth in the friendly settlement agreement.

156. In a communication of January 30, 2013, the State reported, with regard to item 2.2 of the friendly settlement agreement, that the Attorney General of the Nation ordered, under Decision PGN No 435112 of October 23, 2012, the creation of the "Specialized Unit for cases of appropriation of children during the period of State terrorism." It notes that the unit operates under the Prosecutorial Coordination and Follow-up Unit for Human Rights Violations committed during the period of State terrorism and its chief coordinators are attorneys Martin Mikilson and Pablo Parenti, who are empowered to intercede as assistant and ad hoc prosecutor, respectively, in the different proceedings before the courts and at every level, from the trial through all appeal and review levels.

157. Additionally, the State notes that prior to the creation of the aforementioned Unit, the Attorney General had approved, under Decision PGN No 398/12 of October 19, 2012, a Protocol of procedure

for cases of appropriation of children during the period of State terrorism. On this topic, it indicates that the Prosecutorial Coordination Unit drafted a procedural protocol describing the main elements and issues pertaining to these crimes and many of the measures aimed at uncovering the truth, identifying those responsible and prosecuting them. It specifies that the Protocol instructs the country's prosecutors to bring their prosecutorial actions, within the context of investigations linked to subject matter in which they intervene, into line with the guidelines set forth therein and also directs all of the country's prosecutors, who deal with cases of appropriation during the period of State terrorism, to become personally involved in every key juncture of investigations into the appropriation of children during the period of State terrorism, such as, in DNA collecting efforts. The State notes that the Decision approving the Protocol explains that everything provided for therein is compatible with item 2.2 of the Friendly Settlement Agreement entered into between the Association of Grandmothers of the Plaza de Mayo and the Government of the Republic of Argentina, within the framework of IACHR petition 242/03.

158. It adds that one of the challenges for 2013 laid out as well by the Attorney General was to continue to delve deeper into prosecution in certain areas, such as examination of responsibility of civilian actors in State terrorism (judicial officials, businessmen, etc.), sexual crimes and appropriation of children.

159. Moreover, the State indicated that commitment 2.5 of the friendly settlement agreement was published in Official Gazette No. 31785 on November 20, 2009, under Decree No 1800/2009, which approved the aforementioned Agreement. It added that the daily newspapers *Página 12*, *Clarín* and the *La Nación*, as well as several print media articles have occasionally mentioned the Pegoraro case both directly and indirectly.

160. On December 4, 2014, the IACHR requested information on the status of compliance with the agreement. In a communication dated January 27, 2015, the State presented additional information. On item 2.3.b regarding training of judicial agents, it indicated that it had pursued such training through different programs and specific mechanisms for intervention, with a view to ensuring appropriate handling of victims of crimes against humanity, and specifically victims of substituted identity, and that it had promoted investigations into these violations. It added that the Dr. Fernando Ulloa Center for Assistance to Victims of Human Rights Violations, established by the Human Rights Secretariat of the Ministry of Justice and Human Rights, had prepared a "protocol for intervention in the handling of victims - witnesses in judicial proceedings," directed to judges, officials, and operators who participate in judicial proceedings involving witnesses and victims of State terrorism, as a guide designed to prevent revictimizing of victims who testify.

161. In addition, the State reported that the specialized unit for cases of children abducted during the period of State terrorism had organized many meetings with prosecutors and working teams of some of the courts that have processed a large number of such cases, such as the courts in the federal capital, La Plata, San Isidro, San Martín, Lomas de Zamora, and Rosario. It further reported that it had also conducted discussion and training sessions, and that it has designed a course on "Investigation of Crimes of Abduction of Children during State Terrorism," for judicial officials and judges, that, once it is approved, will be offered in 2015.

162. The petitioners did not present any additional information.

163. The Commission notes the progress made toward compliance with the friendly settlement agreement and urges the parties to provide information on the remaining items, particularly, regarding training operators of justice to afford proper treatment to the victims.

164. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Accordingly, the Commission will continue to monitor the remaining items.

Petition 2829-02, Report No. 19/11, Inocencio Rodríguez (Argentina)

165. In Report No.19/11, dated March 23, 2011, the Commission approved the friendly settlement agreement signed by the parties on August 16, 2007, in petition No. 2829-02, Inocencio Rodríguez. In summary, the petitioner indicates that during the last military dictatorship in Argentina, Mr. Inocencio Rodríguez had been deprived of his liberty for more than four years in a prison controlled by the military; that he was systematically tortured at the hands of agents of the State and unacceptable conditions of deprivation of liberty. The petitioner added that once the rule of law had been reestablished, several reparations laws were enacted, including Law No. 24.043 and No. 24.906, under which Mr. Rodríguez sued for reparations in 1996. That same year, the Ministry of the Interior granted reparations for the period of 14 days from the time of the alleged victim's arrest until he was turned over to the custody of the federal court, but refused to concede reparations for the remainder of Mr. Rodríguez' incarceration, on grounds that a civilian court had convicted him in regular legal proceedings. The petitioner contends that the Argentine justice system would have therefore considered Mr. Rodríguez an ordinary prisoner and not a political victim of the *de facto* authoritarian regime. The petitioner argued that denying reparations to Mr. Rodríguez would be tantamount to discrimination and deprived him of a right to which he is entitled under the law. The petitioner argued that the court actions filed were ineffective and that the authorities acted arbitrarily. The petitioner contended that the alleged victim suffered violations of the rights protected by Articles 8, 21, 24, and 25 of the Convention, in conjunction with the obligation of respecting those rights set out in Article 1.1 thereof.

166. On August 16, 2007, the petitioners and the representatives of the Government of the Argentine Republic signed an agreement, in which the following commitments are established:

1. The parties hereby agree that Mr. Inocencio Rodríguez should be granted monetary reparations in accordance with the scheme envisaged in Law No. 24.043, for the whole of the period during which he was detained and not compensated within the framework of file MI No. 345.041/92. The administrative procedure is initiated by filing a complaint with the Secretariat of Human Rights of the Ministry of Justice and Human Rights of the Nation, pursuant to the provisions of said law regarding competence in such matters.
2. The State also undertakes to prepare, through its Secretariat of Human Rights of the Ministry of Justice, Security and Human Rights of the Nation, a draft amendment to Law No. 24.043 in order to include, under conditions deemed appropriate, cases in which a person is deprived of his freedom in accordance with the provisions of Law No. 20.840 as compensable grounds under its regulatory framework. The State also undertakes to make every effort to remit it to the Argentine Congress as soon as possible.
3. The petitioners definitively and irrevocably renounce their right to file any other claim of any kind against the national State, in connection with this case.

167. In a note dated January 21, 2013, the State reported that on January 25, 2009, it had adopted Law No. 26.564, amending Law 24.043 and incorporating as beneficiaries thereof "anyone (...) detained, tried, convicted, and/or subject to military justice or courts-martial, in accordance with the provisions of Decree 4161/55, or the State's Plan on Internal Disruptions, and/or Laws 20.840, 21.322, 21.323, 21.325, 21.264, 21.463, 21.459, and 21.886. Likewise, it reported that the Reparations Laws area of the Secretariat for Human Rights of the Ministry of Justice and Human Rights was reviewing the reparations benefit application file, from the viewpoint of the laws cited, in order to fulfill the commitment undertaken by the Argentine State.

168. The Commission appreciates the information provided by the State and draws attention to the progress made in implementing the friendly settlement agreement, in particular with regard to legislative reform to expand the beneficiaries of reparations laws. At the same time, it urges the parties to provide information on matters pending implementation, in particular with regard to monetary reparations for Inocencio Rodríguez.

169. In a communication dated October 9, 2013, the Commission asked the parties to provide up-to-date information on the status of the recommendations pending implementation. As of the writing of the 2013 Annual Report, the parties had not provided the information requested.

170. Subsequently, in a communication dated January 31, 2014, the State reiterated the information provided earlier; with regard to the monetary reparations stipulated in Law 20840, it indicated that the relevant administrative case file was under review, with a view to complying with the commitment made by the Argentine State.

171. On December 4, 2014, the IACHR requested information on the status of compliance with the agreement. At the time this report was completed, the parties had not provided the information requested.

172. In view of the foregoing, the Commission concludes that the friendly settlement agreement has been complied with in part. Consequently, the Commission will continue to monitor the points pending implementation.

Case 11.708, Report No 20/11, Aníbal Acosta and L. Hirsch (Argentina)

173. In Report No. 20/11, dated March 23, 2011, the Commission approved the friendly settlement agreement signed on April 21, 2010, by the parties in case No. 11.708, Aníbal Acosta, Ricardo Luis Hirsch, and Julio César Urien. In summary, the petitioners stated that the alleged victims were members of the military personnel of the School of Mechanics of the Argentine Navy, serving as officers, with the rank of sea cadets, and, because they had participated, on November 17, 1972, in the group that promoted the return of former constitutional president Juan Domingo Perón, were prosecuted in a military trial. Nevertheless, once constitutional order was restored in Argentina, the Congress adopted an amnesty act in 1973, which covered the actions attributed to the alleged victims and closed the summary military proceeding in which they were defendants, with no verdict reached. The petitioners added that, despite this, the Executive, by decree of July 1974, ordered the compulsory discharge of the alleged victims, on the basis of the 1972 charges, for which they had already been amnestied. The petitioners add that the alleged victims requested that this administrative ruling be vacated, which motion was denied despite jurisprudence on an identical case, and that the courts had rejected their claims on procedural grounds without ruling on the merits. The petitioners maintained that the alleged victims had been subjected to violations of the rights protected by the Convention in Articles 8.1, 24, and 25, in relation to the obligation to respect, set forth in Article 1.1 of that treaty.

174. On April 21, 2010, the petitioners and the representatives of the Government of the Argentine Republic signed an agreement, the text of which reads as follows:

- A. To nullify the compulsory discharge of the petitioners from the Argentine Navy, as of July 1, 1974, and to reinstate them under compulsory retirement status;
- B. To grant the petitioners the rank of frigate lieutenant under effective compulsory retirement status, as of July 16, 1974;
- C. To grant the petitioners retirement pay based on 35 years of basic military service; and
- D. To recognize the pay due to the petitioners as of five years prior to the date of issuance of the decree.

175. The Commission notes that, by Presidential Decree No. 1404, signed at a public ceremony presided over by the President of the Argentine Republic at which he recalled the events that gave rise to the petition, the State adopted a set of measures designed to address the reported situation. First of all, it nullified the compulsory discharge of the petitioners from the Argentine Navy, as of July 1, 1974, and ordered their reinstatement under compulsory retirement status. Likewise, it accorded the petitioners the rank of frigate lieutenant under effective compulsory retirement status, as of July 16, 1974.

176. In a communication dated October 9, 2013, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending. The parties did not furnish the information requested. In view of the fact that the Commission did not have information

on compliance with items C and D of the Decree pertaining to the pay for pensioners and the fallen granted to the petitioners, it concluded in its 2013 Annual Report that the friendly settlement agreement had been partially honored.

177. In a communication dated June 16, 2014, the State forwarded a copy of a report prepared by the Defense Ministry, in which it indicated that the Institute of Financial Assistance for Retirement Payments and Military Pensions (IAF) reported that under Executive Decree 1404 of November 17, 2005, the petitioners were placed in a situation of compulsory retirement and the amounts owed prior to July 16, 1999 were paid to them. It further reported that in January 2006, the petitioners were included on the IAF payment lists, leaving the settlement for the period from July 16, 1999 to December 31, 2005 pending, and that in February 2006, settlement for the pending retroactive period was effected. Under Resolution No. 99548 of November 13 2008 issued by the IAF Board of Directors, the Supplement for Minimum Time Served was included in the pay, with the differences in payments from July 16, 1999 to September 30, 2008 to be paid, along with the relevant interest due. The State included a copy of Case File I.A.F.R.P.M. No. 995-1727/2014 in which the IAF executed the commitments assumed by the Argentine State.

178. In its communication of July 4, 2014, the IACHR forwarded the information submitted by the State to the petitioners for their observations, which were not received.

179. On December 4, 2014, the IACHR requested information on the status of compliance with the agreement. In a communication dated February 10, 2015, the State reiterated that in compliance with Decree No. 1404 of November 17, 2005, the retirement of the petitioners from the Argentine Armed Forces decided in 1974 was invalidated. It stated that the petitioners were promoted to the rank of frigate lieutenant, with a retirement benefit equivalent to 100 percent of the monthly salary plus general supplements for the grade indicated, and that it had therefore fully complied with the commitments assumed under the friendly settlement agreement.

180. The petitioners did not present any additional information.

181. The Commission appreciates the measures adopted by the Argentine State to make reparation for the damages caused by the reported facts. By virtue of the information provided, the Commission concludes that the friendly agreement has been fully honored.

Case 12.532, Report No 84/11, Penitentiaries of Mendoza (Argentina)

182. In Report No. 84/11, dated July 21, 2011, the Commission approved the friendly settlement agreement signed by the parties on October 12, 2007, in case No. 12.532, Inmates of the Penitentiary of Mendoza. The Commission received a petition lodged by 200 inmates of Cell Block 8 of the Penitentiary of Mendoza alleging responsibility of the Republic of Argentina for violation of the right of the inmates to their physical integrity, health and life. In summary, the petitioners claimed that approximately 2,400 of them were allegedly being housed in a prison with a maximum capacity of 600 inmates, where 4 to 5 inmates were living in a single 3 by 2 square-meter cell. They also alleged that they lack toilets, showers, enough food and adequate medical care. They reported that, many times, confinement time in such conditions is as long as twenty hours per day, with only a total of four non-continuous hours permitted outside of the cell. They claimed that inmates must relieve themselves into a nylon bag without any privacy inside of their cell in front of the rest of their cellmates. They further alleged that they lack water to bathe with and must resort to using a hose for washing and that many of them suffer scabies and other diseases as a result of unsanitary conditions. As a result of the overcrowding, the petitioners denounced a series of deaths of inmates and other incidents in which an indefinite number of inmates were injured; however, the authorities have not cleared up any of the circumstances in which this events happened. Moreover, the petitioners alleged that the inmates did not have access to medical treatment, nor to any kind of work or activity aimed to their rehabilitation; additionally they cannot attend to school or the religious services; and, there is no separation between convicted prisoners and prisoners on remand.

183. On October 12, 2007, the petitioners and the representatives of the Government of the Argentine Republic signed an agreement, the text of which reads as follows:

II.- Measures of Pecuniary Reparation:

The Government of the Republic of Argentina and the Petitioners request the Illustrious Inter-American Commission to accept the commitments taken on by the Government of the Province of Mendoza through the agreement cited in section 1.1, relating to the measures of pecuniary reparation which appear hereunder verbatim:

"1. The parties agree to create an "ad-hoc" Arbitration Tribunal, in order for it to determine the amount of pecuniary reparation owed to the victims involved in the case, in accordance with the rights for which a violation has been recognized in section 1 of this agreement, in keeping with any international standards that may be applicable.

2. The Tribunal shall be composed of three independent experts, of recognized authority on the subject of human rights and of the highest moral standing, one appointed by the petitioners, the second nominated by the State, and the third nominated by the two experts who were nominated by the parties. The Tribunal must be fully appointed, no later than 30 days following ratification by the legislature of the Provincial Executive Decree, whereby this agreement is approved.

3. The procedure to be followed shall be defined by mutual agreement between the parties, the content of which shall be entered into a written record, a copy of which shall be filed with the Inter-American Commission on Human Rights through the Ministry of Foreign Relations, International Trade and Worship. The parties shall appoint, for this purpose, a representative to participate in the deliberations on the procedure.

4. The arbitration decision shall be final and unappealable. It should include the amount and form of pecuniary reparation agreed upon, the beneficiaries thereof, and the determination of any costs and fees that may be appropriate in both proceedings held before the international body and arbitration body, and must be submitted to the Inter-American Commission on Human Rights in the context of the follow-up on agreement compliance, in order to verify that it has conformed to applicable international standards. The amounts recognized in the award decision shall not be subject to attachment and shall be exempt from payment of any existing or future tax, levy or fee.

5. The petitioners undertake to drop any civil actions brought before local courts with respect to persons who benefit from the reparation determined by the ad-hoc Arbitration Tribunal, and definitively and irrevocably waive any right to bring any other claim of a pecuniary nature against the Provincial State and/or against the National State with regard to the instant case."

III. Measures of non-pecuniary reparation

The Government of the Republic of Argentina requests the Illustrious Inter-American Commission to accept the commitments undertaken by the Government of the Province of Mendoza through the agreement cited above in section 1.1, relating to measures of non-pecuniary reparation which are copied verbatim hereunder:

1. Normative measures:

a) Introduce a bill before the Legislature of the Province of Mendoza to create a local prevention agency within the framework of the Optional Protocol of the Convention against Torture and other Cruel Inhumane and Degrading Treatment or Punishment, and take the necessary steps to achieve the approval thereof. Said agency shall meet the standards of independence and autonomy prescribed in said Protocol, and should eventually be adapted in a timely fashion to meet the established criteria, when the corresponding national

mechanism is approved. A period of 90 days from the date of the signing of this document has been set for this purpose;

b) Introduce a bill before the Legislature of the Province of Mendoza to create the office of the Human Rights Ombudsman of Mendoza, whose responsibility shall be the defense of the human rights of the entire population (right to health, education, security, development, a healthy environment, freedom of information and communication, of consumer and users, etc.) and take the necessary steps to achieve the approval thereof.

c) Introduce a bill before the Legislature of the Province of Mendoza, within a maximum period of 90 days, to create an office of a Special Prosecutor to benefit persons deprived of liberty, and take the necessary steps to achieve the approval thereof.

d) Introduce a bill before the Legislature of the Province of Mendoza, within a maximum period of 90 days, to create a government Office of the Public Defender to litigate before chambers of criminal sentence execution of the courts, and to take the necessary steps to achieve the approval thereof.

e) Take any measures that may be necessary to change the hierarchical level of the Office of Coordination for Human Rights of the Ministry of the Interior elevating it to a Directorate or Sub-Secretariat.

2. Other Measures of Satisfaction:

a) The Government of the Province of Mendoza shall take the necessary measures, within a maximum period of 90 days, to post a notice of the measures requested by the IACHR and the IA Court of Human Rights regarding the prisons of Mendoza, which shall be placed at the entrance to the Provincial Penitentiary, as a reminder;

b) The Government of the Province of Mendoza undertakes to carry out, within the scope of its authority, all necessary measures for the continuation of the investigations into all of the human rights violations that gave rise to the provisional measures issued by the Inter-American Court of Human Rights. A report on the outcome of said measures, as well as measures taken to determine responsibility emanating from said violations, shall be submitted by the Government of the Province of Mendoza within the framework of follow-up on agreement compliance. The media shall disseminate the outcome of said investigations.

C. Plan of Action and Budget

1. The Government of the Province of Mendoza undertakes to draw up, in conjunction with the National State and the petitioners, within a maximum period of 90 days, a Plan of Action on Penitentiary Policy to aid in setting short, medium and long-term public policies with an appropriate budget to make implementation possible. Said plan shall include, at a minimum, the following points:

a) Indicate measures that shall be implemented for the assistance and custody of young adults deprived of their liberty in the Province of Mendoza by staff specially trained for these duties. Additionally, every member of that population must be ensured education, recreation and access to cultural and athletic activities, adequate medical/psychological assistance and other measures geared towards adequate social integration and job placement;

b) In light of the conditions of detention of the inmates at the penitentiaries of Mendoza, request administrative and judicial authorities to review the disciplinary files or reports of the Criminological Technical Agency and the Correctional Council, which affect implementation of the benefits set forth in the Rules on the Progressive Application of

Punishments. Additionally, the operation of the Criminological Technical Agency and the Correctional Council should be scrutinized in order to optimize their performance;

c) Improve the health-care service of the Provincial Penitentiary in collaboration with the Ministry of Health and make the necessary investments for effective provision of the service to every person deprived of liberty;

d) Ensure access to a job for all inmates in the Prisons of Mendoza who should so request one;

e) Ensure access and adequate service at the Courts of Criminal Sentence Execution, for all persons who have a legitimate interest in the Execution of the Punishment of the inmates in the Prisons of Mendoza. Especially, unimpeded access for attorneys who can freely examine the records of the proceedings being heard in said courts;

f) Endeavor to provide adequate training and professional instruction to Penitentiary Staff.

D. Ratification and dissemination:

Let the record reflect that this agreement shall be approved by Decree of the Executive Branch of Government of the Province of Mendoza, and subsequently submitted for ratification by the legislature. After said formalities are completed, the Government of the Province of Mendoza undertakes to submit this agreement to the Ministry of Foreign Relations, International Trade and Worship, for evaluation and ratification thereof at the seat of the international body, thus requesting it be submitted to the Inter-American Commission on Human Rights for the purposes provided by Article 49 of the American Convention on Human Rights.

Moreover, the parties agree to ensure the confidentiality of the terms and conditions agreed to herein until such time as the National State ratifies the instant agreement by forwarding it to the Illustrious Inter-American Commission of Human Rights as provided in the previous paragraph.

Notwithstanding, the Government of the Province of Mendoza and the petitioners agree that the report produced by the Monitoring Commission should be disseminated in two provincial circulation newspapers and one national circulation newspaper.

Lastly, the parties agree to keep open a space of dialogue and to set up a Monitoring Commission in order to follow-up on compliance with the commitments taken on under this agreement, including the normative and other measures agreed upon, in which framework the parties may propose other measures of action that could aid in better fulfilling the purpose and objective of the instant agreement.”

184. On December 5, 2012, the Commission requested information from both parties on compliance with the commitments contained in the friendly settlement agreement signed by the parties.

Measures of Pecuniary Reparation:

The parties agree to set up an “ad-hoc” Arbitration Tribunal, to determine the amount of pecuniary reparation owed to the victims involved in the case:

185. As indicated in Report No. 84/11, the friendly settlement agreement was approved by means of Decree No. 2740, in which State responsibility was recognized and the Law ratifying the agreement was approved on September 16, 2008 and published on October 17, 2008. In keeping with the aforementioned agreement, the Ad-Hoc Tribunal was created on December 15, 2008. Said Tribunal issued its arbitral award

judgment on November 29, 2010. The Tribunal examined the 6 deaths (numbered 1 to 6 in the agreement), which took place at the prison of Lavalle as a result of the fire occurring on May 1, 2004, and set a total amount of \$601,000 USD. It additionally set the amount of \$1,413,000 USD to be paid by the State in the 10 cases of persons (7 to 18 in the agreement) who died at the penitentiary located in Boulogne Sur Mer. In the 8 cases of persons who sustained injuries at the different centers, it set an amount of \$202,000 USD. As costs and fees, it ordered the payment of \$100,000 USD, and \$18,000 in remuneration to the arbitrators.

186. The Commission does not have any information on the payment of monetary reparations ordered by the Arbitration Tribunal.

Measures of Non Pecuniary Reparation

Normative Measures:

Introduce a bill before the Legislature of the Province of Mendoza to create a local prevention agency within the framework of the Optional Protocol of the Convention against Torture and other Cruel Inhumane and Degrading Treatment or Punishment, and take the necessary steps to achieve the approval thereof.

Introduce a bill before the Legislature of the Province of Mendoza, within a maximum period of 90 days, to create an office of a Special Prosecutor to benefit persons deprived of liberty, and take the necessary steps to achieve the approval thereof.

187. As indicated in Report No. 84/11, the friendly settlement agreement, the State reported that on April 15, 2011, Law 8.279 was enacted, which orders the creation of the Provincial Mechanism for the Prevention of Torture and other Cruel, Inhuman and Degrading Treatment. Said Law was published in the Official Gazette on Monday May 16, 2011.

188. The Commission does not have any information on the point concerning the special prosecutor's office for persons deprived of liberty.

Introduce a bill before the Legislature of the Province of Mendoza to create the office of the Human Rights Ombudsman of Mendoza.

189. The State reports that said bill has been introduced and notes that in order to achieve the approval thereof, in 2009 and 2010, the Ministry of Government, Justice and Human Rights appeared before a number of committees of the Provincial Legislature of Mendoza and attended workshops on enforcement of the Optional Protocol.

190. The Commission does not have any information on compliance with this point of the agreement.

Introduce a bill before the Legislature of the Province of Mendoza, within a maximum period of 90 days, to create a government Office of the Public Defender to litigate before the chambers of criminal sentence execution of the courts, and to take the necessary steps to achieve the approval thereof.

191. As indicated in the Report, the State reported on the creation of these defenders' offices through the Organic Law on Public Prosecution, No. 8008, dated December 30, 2008, the purpose of which is the defense and representation of those convicted under final sentence in judicial and administrative proceedings regarding the rules of progressive application of punishments and conditions of detention in general. Official defenders will have the same duty with regard to defendants. In due course it was announced that a defender had been appointed for the Almafuerde Prison and another for the Boulogne Sur Mer prison.

192. The Commission does not have any information regarding the appointment of defenders for the Mendoza and Gustavo André prisons.

Take any measures that may be necessary to change the hierarchical level of the Office of Coordination for Human Rights of the Ministry of the Interior elevating it to a Directorate or Sub-Secretariat.

193. The State reported that this commitment had been complied with through Executive Decree No. 186, dated January 29, 2008.

Other Measures of Satisfaction:

The Government of the Province of Mendoza shall take the necessary measures, within a maximum period of 90 days, to post a notice of the measures requested by the IACHR and the IA Court of Human Rights regarding the prisons of Mendoza, which shall be placed at the entrance to the Provincial Penitentiary, as a reminder.

194. The State reported that said notice has been posted at the entrance to Penitentiary Complex No. 1, Boulogne Sur Mer.

The Government of the Province of Mendoza undertakes to carry out, within the scope of its authority, all necessary measures for the continuation of investigations into all of the human rights violations that gave rise to the provisional measures issued by the Inter-American Court of Human Rights. A report on the outcome of said measures, as well as measures taken to determine responsibility emanating from said violations, shall be submitted by the Government of the Province of Mendoza within the framework of follow-up on agreement compliance. The media shall disseminate the outcome of said investigations.

195. In their most recent communication to the IACHR, the petitioners reported on the lack of progress in the investigations, indicating that impunity prevailed in most of the cases. The Commission does not have updated information on the measures taken to fulfill this commitment.

Plan of Action and Budget

The Government of the Province of Mendoza undertakes to draw up, in conjunction with the National State and the petitioners, within a maximum period of 90 days, a Plan of Action on Penitentiary Policy to aid in setting short, medium and long-term public policies with an appropriate budget to make implementation possible.

196. The Commission does not have updated information on the adoption and implementation of the Plan of Action on Penitentiary Policy.

Indicate measures that shall be implemented for the assistance and custody of young adults deprived of their liberty in the Province by staff specially trained for these duties. Additionally, every member of that population must be ensured education, recreation and access to cultural and athletic activities, adequate medical/psychological assistance and other measures geared towards adequate social integration and job placement.

197. The Commission does not have updated information on the measures taken to fulfill this commitment.

In light of the conditions of detention of the inmates at the penitentiaries of Mendoza, request administrative and judicial authorities to review the disciplinary files or reports of the Criminological Technical Agency and the Correctional Council, which affect implementation of the benefits set forth in the Rules on the Progressive Application of Punishments. Additionally,

the operation of the Criminological Technical Agency and the Correctional Council should be scrutinized in order to optimize their performance;

198. As indicated in Report No. 84/11, according to the information provided by the State in early 2008, the Technical Criminological Agency changed the evaluation criteria, which resulted in a considerable increase in positive assessments and, consequently, greater access by inmates to the benefits set forth in Law 24.660 (on the execution of sentences depriving persons of liberty).

Improve the health-care service of the Provincial Penitentiary in collaboration with the Ministry of Health and make the necessary investments for effective provision of the service to every person deprived of liberty.

199. The Commission does not have updated information on the measures taken to fulfill this commitment.

d) Ensure access to a job for all inmates in the Prisons of Mendoza who should so request one;

200. The Commission does not have updated information on the measures taken to fulfill this commitment.

e) Ensure access and adequate service at the Courts of Criminal Sentence Execution, for all persons who have a legitimate interest in the Execution of the Punishment of the inmates in the Prisons of Mendoza. Especially, unimpeded access for attorneys who can freely examine the records of the proceedings being heard in said courts;

201. The Commission does not have updated information on the measures taken to fulfill this commitment.

f) Attempt to provide adequate training and professional instruction to Penitentiary Staff.

202. In Report No. 84/11, the Commission took note of the adoption of Organic Law No. 7.976 on the Provincial Penitentiary Service, which requires professionalization of senior penitentiary officials. However, no information is available to date on the establishment of the Penitentiary University Institute.

Lastly, the parties agree to keep open a space of dialogue and to set up a Monitoring Commission in order to follow-up on compliance with the commitments taken on under this agreement, including the normative and other measures agreed upon, in which framework the parties may propose other measures of action that could aid in better fulfilling the purpose and objective of the instant agreement.

203. The Commission does not have any information on the establishment of the Monitoring Commission.

204. In communications dated October 9, 2013 and December 4, 2014, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending. The parties did not furnish the information requested.

205. It is apparent from the information available to the Commission that a large number of the commitments undertaken by the State in the friendly settlement agreement have been implemented. In this connection, it bears mentioning that, in Report No. 84/11, the IACHR was very appreciative of the efforts made by the parties to reach the agreement and implement it.

206. Notwithstanding the above, the Commission cautions that it cannot comment on the points pending implementation because of the absence of information about them.

207. In view of the foregoing, the Commission concludes that the friendly settlement agreement has been complied with in part. Consequently, the Commission will continue to monitor the points pending implementation.

Case 12.306, Report No 85/11, Juan Carlos de la Torre (Argentina)

208. In Report No. 85/11, dated July 21, 2011, the Commission approved the friendly settlement agreement signed by the parties on November 4, 2009, in case No. 12.306, Juan Carlos de la Torre. In summary, the petitioners state that Mr. Juan Carlos De la Torre, an Uruguayan national, entered Argentina in 1974 with authorization from the National Immigration Office, and then, after 24 years of living in Argentine territory, Mr. De la Torre was arrested without a judicial warrant and expelled from the country through a summary proceeding that did not provide him with judicial guarantees. The petitioners allege that the Argentine State, by taking those actions, violated the rights to personal liberty, a fair trial, judicial protection, non-interference in one's private life, and protection of the family, enshrined respectively in Articles 7, 8, 25, 11(2), and 17 of the American Convention on Human Rights, in conjunction with Article 1(1) of said instrument, to the detriment of Mr. Juan Carlos De la Torre.

209. On November 4, 2009, the petitioners and representatives of the Government of the Argentine Republic signed an agreement in which the following commitments were made:

- a) The Argentine State undertakes to make its best efforts to issue, within one (1) month, the regulation of the new Law on Immigration, taking as the text the proposed legislation approved by the Advisory Commission for the Regulation of Law No. 25,871, created by Order No. 37130/08 of the National Immigration Office, of May 26, 2008. Said Commission was made up of ecclesiastic organizations such as the Fundación Comisión Católica, and human rights organizations such as CELS, among others. The Commission, which sat from June to October 2008, drew up a draft regulation of the immigration law, which is attached as an integral part of this agreement. This draft respects the contents of the new law, guaranteeing, among other aspects, equal access for immigrants to social services, public goods, health care, education, justice, work, employment and social security, the right to form and raise a family, the right to due process in immigration proceedings, facilities for the payment of the immigration fee (*tasa migratoria*), and a clear system of exemption from that fee, and the adoption of the measures necessary to ensure adequate legal advisory services for migrants and their families.
- b) The Argentine State undertakes to make a detailed review of the legislation in force on this subject (federal and provincial) so as to foster the adaptation of those provisions that may contain provisions that effectuate illegitimate discrimination based on the status of a person as a foreigner or on their immigration status to the international and constitutional standards on the subject. In this regard, the parties note the approval of the "National Plan against Discrimination," which includes a chapter specifically devoted to migrants and refugees.
- c) The Argentine State undertakes, through the coordination of the Ministry of Foreign Affairs, International Trade and Worship, to periodically hold working meetings, at the office of the Ministry of Foreign Affairs, as necessary so as to monitor the effective application of the commitments taken on, to which the state agencies with jurisdiction over the various issues to be evaluated shall be convened, and to inform the Inter-American Commission on Human Rights with the same frequency.

210. According to information provided by the State, Decree 616/2010, regulating Law 25.871, was issued on May 6, 2010. It continued along the lines of the Law on Immigration as concerns respect for human rights standards on the matter.

211. In a communication dated January 2, 2013, the petitioners informed the Commission that, although the State had initially given strong indications of a commitment to implementation of the agreement, in particular through issuance of regulations for the new Law on Immigration, essential points of the agreement had not yet been complied with. In particular, the petitioners indicate that no progress has been made on the detailed review of federal and provincial legislation, which the State pledged to conduct in order to foster the adaptation of those provisions to human rights standards, and that a joint working group has not been formally set up to work periodically on the effective implementation of the commitments undertaken.

212. In a communication dated October 9, 2013, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending.

213. In a communication received on December 4, 2013, the State informed that, despite considering that the friendly settlement agreement signed by the parties was substantially fulfilled with the adoption of the aforesaid Decree No. 616/10, working meetings had been held and work was continuing on the analysis of standards in this area.

214. With a view to accelerating compliance with the items pending in the Friendly Settlement Agreement concluded under the auspices of the IACHR, the parties held a working meeting on April 26, 2014. In addition, in a communication dated April 28, 2014, the petitioners requested authorization of a channel for discussion or an inter-institutional “forum” [*“mesa”*] on amending the laws related to social pensions, such as Decree 432 of 1997 and 582 of 2003, and revising the requirement of years of residence for access to these rights, in accordance with the mandates assumed by the State under the duly established agreement.” They further stressed the need to get an urgent process under way for immediate amendment of Decree 432 of 1997, because it also requires proof of 20 years’ residence for access to disability pensions, a requirement that eliminates the possibility for any children and adolescents with disabilities to have access to the pension defined in that decree.

215. On December 4, 2014, the IACHR requested information on compliance with the agreement. On January 2, 2015, the petitioners, after reiterating their recognition of the enormous importance of the case and the friendly settlement agreement, as well as the advances made in legislation, expressed their concern over the statements of certain high government officials and over the adoption of new legislation which, in their opinion, constitutes a setback to immigration law. In the first place, the petitioners referred to various statements by officials to the media in which they associated immigrants with criminal activities.

216. In the second place, with regard to regulations that would reduce the current levels of protection for immigrants, the petitioners indicated that on December 4, 2014, the National Code of Criminal Procedure (CPPN) was approved, which, in conjunction with the measure suspending evidentiary proceedings, includes a specific modality for foreigners in its Article 35, which was openly opposed by the petitioners, together with 52 other civil society organizations. In their opinion, the modality established in that provision would be applied to cases in which the immigrant faces the dilemma of being subject to a criminal proceeding, being convicted, serving the sentence, and being subsequently expelled from the country pursuant to immigration law, or of accepting a suspension of the evidentiary proceeding and expulsion for up to 15 years. In addition, the petitioners pointed out that Article 35 of the CPPN includes a troubling distinction between the cases of persons with regular and irregular immigration status, even though the immigration law eliminated the negative consequences of irregular immigration status affecting the rights of immigrants. They consider that with these measures, the burden of proof is reversed, and it is up to foreigners to prove that their status is regular. As another legal provision which, in their view, runs counter to the admission of foreigners into Argentina, they cite Regulation 4362/2014, which establishes a procedure for settlement of cases in the tourist subcategory based on the well-founded suspicion. They report that the determination of “false tourist,” which, according to this regulation, is meant to be based on identifiable objective evidence, could be substantiated merely by unfounded suspicions or discriminatory notions. Moreover, they point out that Article 5 of that regulation authorizes immigration agents to reject the entry of foreigners who in the past would have been in an irregular immigration status in Argentina, thereby creating a new sanction not contemplated in the immigration law.

217. Finally, the petitioners indicated that in 2014, there were no meetings between the parties to discuss the legislation examined in item 2.b of the agreement or any other legislation related to immigration.

218. In a communication dated February 5, 2014, the State reiterated that it was substantially in compliance with the friendly settlement agreement, and that it was continuing to examine legislation on the subject. In this regard, it reported on the ANSES commitment regarding examination of the petitioners' proposal related to the requirements for processing social pensions in the case of immigrants, to which it was awaiting a response.

219. The Commission once again appreciates the efforts made by the parties, that resulted in derogation of the immigration law known as the "Videla law," and its replacement by Law 25871 approved on January 20, 2004, and in the Regulations of the Immigration Law approved on May 3, 2010 by the President of the Argentine Republic, through Decree No. 616. At the same time, the Commission notes that items 2.b and 2.c of the friendly settlement agreement are still pending compliance. Consequently, it reiterates to the parties the need to make every effort to move forward in their analysis of the legislation in effect, to adapt it to the international standards on the subject, and to establish the joint working group to follow up on implementation of the agreement. In this regard, it attaches critical importance to including in that analysis Article 35 of the CPPN, as well as the provisions of Regulation 4362/2014.

220. In view of the foregoing, the Commission concludes that the friendly settlement agreement has been complied with in part. Consequently, the Commission will continue to monitor the points pending implementation.

Case 12.324, Report No. 66/12, Rubén Luis Godoy (Argentina)

221. In Report No. 66/12 dated March 29, 2012, the Inter-American Commission concluded during its 140th Ordinary Period of Sessions that the State of Argentina didn't adequately investigate the torture, cruel or inhuman treatment allegation made by Mr. Godoy, and thus violated the rights enshrined in articles 8.1 and 25.1 in relation to article 5.1 of the American Convention. In addition, the Commission concludes that the confession made by Mr. Godoy under allegations of torture, cruel or inhuman treatment, was used by the court in his trial, in violation of 8.3 of the Convention. Furthermore, the Commission concludes that Mr. Godoy had no access to a judicial revision of elements of fact, law and proof and reception of proof that the tribunal considered, thus violating Article 8.2.h and Article 2, all with regard to Article 1.1 of the Convention. Likewise, the Commission concludes *iura novit curiae* that the State violated articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Rubén Luis Godoy.

222. The Commission made the following recommendations to the Argentine State:

1. Take the necessary measures so that the appeal filed by the defense of Ruben Luis Godoy to obtain an extensive review of the conviction, is settled in keeping with Article 8.2.h of the American Convention, barring any evidence obtained under coercion, as provided for in Article 8.3 of said instrument. The IACHR will monitor the proceedings and results of the appeal.
2. Complete the criminal investigation to clarify the complaint of torture, cruel, inhuman, and degrading treatment leveled by Ruben Luis Godoy, as soon as possible and in an effective and impartial manner. The IACHR will monitor the proceedings and results of said investigation.

223. In a communication dated October 11, 2013, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending.

224. With a communication dated November 19, 2013, the petitioner informed that on September 24, 2013, the Criminal Appeals Court of Rosario, ruled the prescription of the criminal action against Mr. Godoy also. She also reported in relation to the cause in which Mr. Godoy intervene as plaintiff, where they

are investigating the inhumane treatment denounce in his complaint (case No. 343/1992 before the Criminal Instruction Judge No. 3 of Rosario), that had been investigative measures requested by the Fiscalía General No. 8 and by the Defensoría General de Cámaras, in their capacity as representative of the victim.

225. On December 4, 2014, the IACHR requested information on the status of compliance with the agreement. On December 29, 2014, the State requested an extension to present the information requested. To date, neither of the parties has presented additional information.

226. The Commission reiterates its satisfaction on the progress made in implementing its recommendations in this case, particularly the declaration of acquittal of Mr. Ruben Luis Godoy. At the same time it notes that the recommendation regarding the criminal investigation to clarify the claim for torture is still ongoing, reason why concludes that is partially resolved. Accordingly, the Commission will continue to monitor the remaining item.

Case 12.182, Report No. 109/13 Florentino Rojas (Argentina)

227. The case refers to the violation of the rights to equal protection of the law and the right to judicial protection, established in articles 24 and 25 of the American Convention on Human Rights respectively, against Florentino Rojas, who suffered an accident while he came back to his home after finishing his shift in the mandatory military service, and that caused him a permanent physical disability of 85%. In this sense, Florentino Rojas requested a military pension that was denied, On November 23, 2009, the parties subscribed a friendly settlement agreement in which the following was established:

2. The parties agree to establish an Arbitration Tribunal "ad-hoc", in order that it may determine the amount of humanitarian assistance to be granted to the petitioner, as established in section III of this document, and in accordance with international standards that are applicable.
3. The Tribunal will be composed of three independent experts of recognized competence in the field of human rights and moral quality, one will be designated by the petitioner, the second will be proposed by the national State and the third will be proposed by the two experts appointed by the parties. The Tribunal shall be formed no later than within 30 days of the approval of this agreement by a National Executive Decree.
4. The procedure to be followed shall be determined by agreement between the parties, the content of which shall be recorded in minutes and a copy submitted to the Interamerican Commission on Human Rights. To this end, the parties shall appoint a representative to participate in the discussions on the procedure. The national State delegate to the Ministry of Foreign Affairs, International Trade and Worship, and Ministry of Justice and Human Rights, the appointment of an official in the area with responsibility for human rights in both Ministries.
5. The arbitral award shall be final and unappealable. It shall contain the amount and type of monetary assistance granted, the beneficiaries thereof, and the determination of costs and fees incurred in both the procedure carried out at the international level and in the arbitration, must be subjected to the evaluation of the Human Rights Commission in the framework of the monitoring of compliance with the agreement, in order to verify that it conforms to the applicable international standards. The amounts recognized in the award shall not be seized and they will be exempt from payment of any tax or other existing or future rate.

228. On December 4, 2014, the IACHR requested updated information to the parties on the compliance with the agreement. The Stated provided the information requested on December 11, 2014, indicating that the Ad Hoc Tribunal was established according to the terms agreed above. The State provided a minute signed by the petitioner accepting without any objection the integration of the said Tribunal. The

petitioners sent a communication on February 5, 2015 confirming the creation of the Tribunal, but indicating that the decision had not been issued yet, and the monetary reparation had not been paid either, reasons why they request that the Commission continues following up the situation of the case until the procedure is finalized.

229. The IACHR values the efforts of the parties to comply with the agreement and invites the State to advance in an expedite way towards the full compliance with the commitments agreed.

Cases 12.067, 12.068 and 12.086, Report No. 48/01, Michael Edwards, Omar Hall, Brian Schroeter and Jeronimo Bowleg (Bahamas)

230. In Report No. 48/01 of April 4, 2001, the Commission concluded that the State was responsible for: a) violating Articles I, XVIII, XXV and XXVI of the American Declaration by sentencing Messrs. Edwards, Hall, Schroeter and Bowleg to a mandatory death penalty; b) violating Messrs. Edwards', Hall's, Schroeter's and Bowleg's rights under Article XXIV, of the American Declaration, by failing to provide the condemned men with an effective right to petition for amnesty, pardon or commutation of sentence; c) violating Messrs. Hall's, Schroeter's and Bowleg's rights under Articles XI, XXV, and XXVI of the American Declaration, because of the inhumane conditions of detention to which the condemned men were subjected; d) violating Messrs. Edwards', Hall's, Schroeter and Bowleg's rights under Articles XVIII, and XXVI of the American Declaration, by failing to make legal aid available to the condemned men to pursue Constitutional Motions; and e) violating Messrs. Schroeter's and Bowleg's rights to be tried without undue delay under Article XXV of the Declaration.

231. The IACHR issued the following recommendations to the State:

- Grant Messrs. Edwards, Hall, Schroeter and Bowleg, an effective remedy which includes commutation of sentence and compensation;
- Adopt such legislative or other measures as may be necessary to ensure that the death penalty is imposed in compliance with the rights and freedoms guaranteed under the American Declaration.
- Adopt such legislative or other measures as may be necessary to ensure that the right to petition for amnesty, pardon or commutation of sentence is given effect in The Bahamas.
- Adopt such legislative or other measures as may be necessary to ensure that the right to an impartial hearing and the right to judicial protection are given effect in The Bahamas in relation to recourse to Constitutional Motions.
- Adopt such legislative or other measures as may be necessary to ensure that the right to be tried without undue delay is given effect in The Bahamas.
- Adopt such legislative or other measures as may be necessary to ensure that the right to humane treatment and the right not to receive cruel, infamous, or unusual punishment are given effect in The Bahamas.

232. On April 10, 2012, the State informed that Messrs. Schroeter, Bowleg and Hall were released from Her Majesty's prison on December 5, 2007, March 13, 2009, and September 15, 2009, respectively. With regard to Mr. Edwards, Bahamas informed that on June 11, 2010, he was re-sentenced to life imprisonment, thus his date of release is unknown.

233. On October 7, 2013 and on December 4, 2014 the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules

of Procedure. The parties did not present additional information on the compliance with the recommendations.

234. The IACHR invites the parties to provide additional information regarding the compliance of the State with the remaining recommendations. Following the aforementioned, the Commission reiterates that there has been partial compliance with the recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 12.265, Report 78/07 Chad Roger Goodman (Bahamas)

235. In Report No. 78/07 of October 15, 2007 the Commission concluded that the State of the Bahamas was responsible for the violation of Articles I, XXV and XXVI of the American Declaration by sentencing Mr. Goodman to a mandatory death penalty. On the basis of its conclusions, the IACHR recommended to the State that it:

1. Grant Mr. Goodman an effective remedy, which includes commutation of sentence and compensation for the violations of Articles I, XVIII, XXIV, XXV, and XXVI of the American Declaration.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is imposed in compliance with the rights and freedoms guaranteed under the American Declaration, including and in particular Articles I, XXV, and XXVI, and to ensure that no person is sentenced to death pursuant to a mandatory sentencing law in The Bahamas.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article XXV of the American Declaration to be tried without undue delay is given effect in The Bahamas.
4. Adopt such legislative or other measures as may be necessary to ensure that the right to humane treatment and the right not to receive cruel, infamous, or unusual punishment under Articles XI, XXV, and XXVI of the American Declaration are given effect in The Bahamas in relation to conditions of detention.

236. On April 10, 2012, the State informed that on October 23, 2008, Mr. Goodman was re-sentenced to fifty years of imprisonment, and that his scheduled date of release is November 24, 2009.

237. On October 7, 2013 and on December 4, 2014 the IACHR requested from both parties information related to compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties did not present additional information on the compliance with the recommendations.

238. The IACHR invites the parties to provide additional information regarding the compliance of the State with the remaining recommendations. Based on these considerations, the Commission reiterates that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 12.513, Report 79/07 Prince Pinder (Bahamas)

239. In Report No. 79/07 of October 15, 2007 the Commission concluded that by authorizing and imposing a sentence of judicial corporal punishment on Mr. Pinder, the State of the Bahamas was responsible for violating Mr. Pinder's rights under Articles I, XXV, and XXVI of the American Declaration. On the basis of its conclusions, the IACHR recommended to the State that it:

1. Grant Prince Pinder an effective remedy, which includes commutation of the sentence of judicial corporal punishment and rehabilitation;
2. Adopt such legislative or other measures as may be necessary to abolish judicial corporal punishment as authorized by its Criminal Law (Measures) Act 1991.

240. On April 10, 2012, the State informed that Mr. Pinder's scheduled date of release is July 28, 2017. However, the State did not present any information regarding the recommendations of the IACHR, which are related to the sentence of judicial corporal punishment imposed on Mr. Pinder and the legal framework authorizing such form of punishment.

241. On October 7, 2013 and on December 4, 2014 the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties did not present additional information on the compliance with the recommendations.

242. The IACHR invites the parties to provide additional information regarding the compliance of the State with the remaining recommendations. Based on these considerations, the Commission reiterates that compliance with the aforementioned recommendations remains pending. Accordingly, the Commission will continue to monitor compliance with its recommendations.

Case 12.053, Report No. 40/04, Maya indigenous communities of the Toledo District (Belize)

243. In its October 12, 2004 Report No. 40/04, the Commission concluded that the State was responsible for: a) violating the right to property enshrined in Article XXIII of the American Declaration to the detriment of the Maya people, by failing to take effective measures to recognize their communal property right to the lands that they have traditionally occupied and used, without detriment to other indigenous communities, and to delimit, demarcate and title or otherwise established the legal mechanisms necessary to clarify and protect the territory on which their right exists; b) violating the right to property enshrined in Article XXIII of the American Declaration to the detriment of the Maya people, by granting logging and oil concessions to third parties to utilize the property and resources that could fall within the lands which must be delimited, demarcated and titled or otherwise clarified and protected, in the absence of effective consultations with and the informed consent of the Maya people; c) violating the right to equality before the law, to equal protection of the law, and to nondiscrimination enshrined in Article II of the American Declaration to the detriment of the Maya people, by failing to provide them with the protections necessary to exercise their property rights fully and equally with other members of the Belizean population; and d) violating the right to judicial protection enshrined in Article XVIII of the American Declaration to the detriment of the Maya people, by rendering domestic judicial proceedings brought by them ineffective through unreasonable delay and thereby failing to provide them with effective access to the courts for protection of their fundamental rights.

244. The IACHR issued the following recommendations to the State:

1. Adopt in its domestic law, and through fully reported consultations with the Maya people, the legislative, administrative, and any other measures necessary to delimit, demarcate and title or otherwise clarify and protect the territory in which the Maya people have a communal property right, in accordance with their customary land use practices, and without detriment to other indigenous communities.

2. Carry out the measures to delimit, demarcate and title or otherwise clarify and protect the corresponding lands of the Maya people without detriment to other indigenous communities and, until those measures have been carried out, abstain from any acts that might lead the agents of the State itself, or third parties acting with its acquiescence or its tolerance, to affect the existence, value, use or enjoyment of the property located in the geographic area occupied and used by the Maya people.

3. Repair the environmental damage resulting from the logging concessions granted by the State in respect of the territory traditionally occupied and used by the Maya people.

245. On January 16, 2013, the petitioners in this case reiterated their request for a working meeting to take place during the 147th period of sessions of the Inter-American Commission. They based their request on the recent escalation of human rights violations against the Maya indigenous peoples, by the State allowance of oil development and illegal logging on Maya lands without the free, prior, and informed consent of the Maya people regarding the use of the lands they own. The Commission granted this working meeting with both parties, which was scheduled to take place on March 13, 2013. The State notified the Executive Secretariat of the IACHR on March 12, 2013 that it would not be able to participate in this working meeting since it would be unable to present the information required in the same. Therefore, the meeting was cancelled by the Executive Secretariat. As follow-up, the Executive Secretariat sent to the State a letter on March 21, 2013, requesting observations on compliance with the recommendations contained in Report 40/04, within the time period of one month. The Commission did not receive a response from the State to this communication.

246. On March 15, 2013, the Commission received a communication from the petitioners expressing concern over the cancellation of the State's participation in the working meeting. They underscored in their communication that this was the second time that Belize has cancelled its participation in a hearing of this nature on a very short notice. They also informed that the Maya people of Toledo and the organizations which represent them, such as the Maya Leaders Alliance, work with very limited budgets. Therefore, they feel that the State's attitude towards the effort and resources required to send a representative overseas is disrespectful of their people and of the important role of the Commission. Belize's failure to comply with the recommendations of the Commission in this case and to present country reports to other international human rights institutions conveys the message to the international community that Belize is not committed to its human rights obligations.

247. Previously, on March 13, 2013, the petitioners submitted to the Commission a report underscoring the non-compliance by the State of Belize of the recommendations included in Report 40/04. The petitioners highlight in the aforementioned document the continuous violation of the rights of the Maya people by the State of Belize; a problem which they claim has recently intensified as Belize allows an American transnational corporation, the U.S. Capital Energy Ltd. (U.S. Capital), to proceed with plans to commence exploratory oil drilling on Maya customary lands without obtaining their free, prior, and informed consent. They consider these actions to be in complete disregard of the Commission's recommendations and of Belize's obligations under the United Nations Declaration on the Rights of Indigenous People. They allege that Belize is also in contempt of its domestic law, concretely two injunctions issued by the Supreme Court of Belize in *Re Maya Land Rights*, which prohibit interference with Maya lands and, provisions of the *Petroleum Act* which require oil companies to obtain the consent of landowners and lawful occupiers before entering their lands for exploration and extraction activities. They also highlight how numerous international bodies have raised concerns with Belize regarding its failure to demarcate and protect Maya village lands, and its interference with those lands, including the UN Committee on the Elimination of Racial Discrimination, the UN Periodic Review Working Group, and the UN Human Rights Committee.

248. The petitioners also inform that the government has been constructing a paved road through multiple Maya villages without consultation or consent. This road will run to the Belize-Guatemala border and significantly increase traffic through village lands. They claim that experiences in Belize and in a number of other countries have demonstrated that road improvements lead to increased demand for land along the

roads by third parties. Without official confirmation of the village's customary title, the road construction poses a greater risk that these villages will lose control of their lands to settlers.

249. Based on these considerations, the petitioners request from the Inter-American Commission a continuous dialogue with Maya leaders and their representatives as essential in assisting the government to develop an adequate framework for the implementation of the recommendations. In this regard, the petitioners request from a monitoring compliance with its recommendations. In this regard, the petitioners request from the Commission to publically condemn the recent actions of the State of Belize through the issuance of a press release or by other means it considers appropriate, to closely monitor the State efforts to comply with its domestic and international human rights obligations, to provide the government the needed expertise and technical assistance, and to send a delegation of the Commission to Belize to participate in a working conference with the Maya communities.

250. On December 4, 2014, the Commission requested updated information from both parties concerning compliance with the Commission's Recommendations in Report No. 40/04. The petitioners sent a communication on January 5, 2015 indicating that the Government of Belize remains out of compliance with the recommendations. They reiterated that the same issues presented to the Commission are now before the Caribbean Court of Justice on appeal from the Belize Court of Appeal decision of July 2013, and that a hearing is scheduled in Trinidad y Tobago for March 2015.

251. On the basis of the information provided by the petitioners, the Inter-American Commission observes that compliance with the aforementioned recommendations remains pending. Therefore, the Commission will continue monitoring compliance with its recommendations.

Case 12.475, Report No. 97/05, Alfredo Díaz Bustos (Bolivia)

252. On October 27, 2005, by Report No. 97/05, the Commission approved a friendly settlement agreement in the case of Alfredo Díaz Bustos. In summary, the petitioner alleged that Mr. Alfredo Díaz Bustos was a Jehovah's Witness in respect of whom the State violated the right to conscientious objection to military service, directly affecting the right to freedom of conscience and religion. In addition, the petition indicated that Mr. Díaz Bustos suffered discrimination based on his status as a Jehovah's Witness given that the very Law on National Defense Service of Bolivia established inequality between Catholics and those who follow other religions, such that exemption from military service was possible for Catholics, but not for others. The petitioner also alleged that the Bolivian State had violated the right to judicial protection of the alleged victim since, by final judgment of the Constitutional Court, it was established that the matters concerning the right to conscientious objection to compulsory military service cannot be submitted to any judicial organ.

253. In the friendly settlement agreement, the State undertook to:

- a. Give Alfredo Díaz Bustos his document of completed military service within thirty (30) working days after he submits all the required documentation to the Ministry of Defense;
- b. Present the service document free of charge, without requiring for its delivery payment of the military tax stipulated in the National Defense Service Act, or the payment of any other amount for any reason or considerations of any other nature, whether monetary or not;
- c. Issue, at the time of presentation of the service record, a Ministerial Resolution stipulating that in the event of an armed conflict Alfredo Díaz Bustos, as a conscientious objector, shall not be sent to the battlefield nor called as an aide;
- d. Include, in accordance with international human rights law, the right to conscientious objection to military service in the preliminary draft of the amended

regulations for military law currently under consideration by the Ministry of Defense and the armed forces;

- e. Encourage, together with the Deputy Ministry of Justice, congressional approval of military legislation that would include the right to conscientious objection to military service;

254. After studying the information in the record, the Commission had concluded in its annual reports for 2006 and 2007 that items 1, 2, and 3 of the agreement were being carried out, but not items 4 and 5.

255. In this respect, on December 17, 2007, the petitioner presented a brief communication in which he reported that the new Bolivian Constitution did not include among the rights listed the right to “conscientious objection” and that accordingly the State continued to be in breach of items (d) and (e) of the friendly settlement agreement. Subsequently, on June 4, 2008, a communication was received from the petitioner by which he reported that the Proposed Law on Compulsory Military Service was being debated in the National Congress, and asked the Commission to call on the Bolivian State to incorporate the right to conscientious objection into the new constitutional text.

256. On January 21, 2009, the Commission received a communication from the State, informing that even though the conscientious objection is not included in the Constitution, the proposed law on Compulsory Military Service is currently being debated by the Parliament, and that it is expected to be widely discussed with the participation of all the interested parties. The State also noted that on May 2, 2008, it ratified the Ibero-American Convention on Rights of Youth, which in its Article 12 establishes that: “1. Youth have the right to make conscientious objection towards obligatory military service. 2. The States Parties undertake to promote the pertinent legal measures to guarantee the exercise of this right and advance in the progressive elimination of the obligatory military service.” It added that this ratification implies an incorporation of the conscientious objection to internal law and announced the presentation of a future report on this matter.

257. On February 2, 2011, the applicant asserted that on February 7, 2009, a new Constitution was enacted in Bolivia, but did not incorporate the conscientious objection. He alleged that this right is not protected by any statute and neither under the law of Compulsory Military Service, which was drafted by the Ministry of Defense and is currently pending of approval in the Congress. The applicant affirmed that although Law No. 3845 of May 2, 2008 ratified the Iberia-American Convention on the Rights of Youth, it contains a reservation to Article 12 of the aforesaid Convention, which protects the conscientious objection. The applicant maintained that this reservation reveals the non-compliance with the friendly settlement agreement by the Bolivian State.

258. During 2011, the IACHR received information from the parties on the status of compliance with points (d) and (d), which are pending compliance with respect to Report No. 97/05. In this regard, the State reported in communications dated February 18, April 12, and May 20, 2011 that the draft Military Service Law submitted by the Executive Branch on January 16, 2008 has already been approved by the Chamber of Deputies and is pending debate in the Senate Chamber of the Plurinational Legislative Assembly. The State also reported that the Ministry of Defense, through Ministerial Resolution No. 1062 of December 28, 2010, ordered that the Reserve Officer Passbook be granted to personnel providing Outreach and Social Integration Service in the context of Paid Military Service. This represents significant progress in modernization of the armed forces in that it gives young people the opportunity to serve their country according to their aptitudes and academic training and with respect for their professed beliefs. As a result, the State indicated that it has complied with the commitments assumed under Report No. 97/05.

259. In a communication dated June 6, 2011, the petitioner reported that the proposed Law on Compulsory Military Service, Law No.17/08 of January 16, 2008, does not specifically include conscientious objector status. For this reason, the petitioner approached the Ministry of Defense and the Chamber of Deputies but received no commitment in this regard. He stated that the proposed law is not moving through

the legislative process and thus there is fear that it will be approved hastily without allowing any opportunity for observations from the Ombudsman's Office. In addition, the petitioner reported that as a result of approval of the text of the Constitution, in 2009 the Ministry of Defense developed a series of preliminary drafts, including one referring to the Security and Integrated Defense of the Plurinational State, which omits conscientious objector status in Article 61 prescribing Compulsory Military Service. Consequently, the petitioner feels that to date the Bolivian State has not complied with commitments (d) and (e) of Friendly Settlement Report No. 97/05.

260. In a communication received on December 31, 2012, the State reported that in 2011 and 2012, the Plurinational Legislative Assembly had received the draft Law on Compulsory Military Service for police and military candidates and the draft Law on Compulsory Military Services, respectively, so that the conscientious objection continued to be the subject of much in-depth analysis. It pointed out that one proposal in the draft Law on Compulsory Military Service is to include alternative military service for conscientious objectors. The State indicated that, although Article 249 of the Political Constitution of the State establishes that "all Bolivian men are forced to perform military service," implementation of that Constitution provision takes several forms, some of which exclude military training and the use of arms. Accordingly, the State pointed out that through Bolivia's Civil Aviation Law (Law 2902 of 2004) and Ministerial Resolution No. 1152 of August 25, 2000, provision is being made to award a military service certificate free of charge to young volunteers in the Bolivian Air Force's search and rescue squads who meet the requirements and perform that service once a week for two years. In short, the State pointed out that in practice there is an alternative to compulsory military service.

261. On October 7, 2013, the Commission asked the parties to provide up-to-date information on compliance with the commitments undertaken by the Bolivian State under the friendly settlement agreement. In a communication received on November 6, 2013, the State reported that based on the 2009 Political Constitution of the State, which incorporates the principles and rights established under international and regional rights instruments and under the principle of *reserva legal* (reservation of right or power strictly under law or *sensu stricto* rule of law), there is no restriction at all on regulating the right to conscientious objection through the law. The State contended that, as it had reported to the IACHR on December 31, 2012, two law proposals are before the Plurinational Legislative Assembly to modify military law in line with the 2009 Political Constitution: PL 00/2011 "Declare as a National Priority the Compulsory Military Service for Applicants to Cadets in the Police and Military on National Territory," and PL 345/12 "Law proposal on Compulsory Military Service Law." The State also reiterated that the Alternative Military Service SAR (Search and Rescue) constitutes an alternative to compulsory military service based on its far-reaching social character, inasmuch as it involves aerial search, assistance and rescue, as well assistance and relief in traffic accidents and natural disasters, among others.

262. In response, the petitioner reported in a communication received on November 7, 2013, that the State had not complied to this date with commitments d) and e) of Friendly Settlement Report No. 97/05.

263. The IACHR requested the parties to provide up-to-date information on the fulfillment of the commitments undertaken in the friendly settlement agreement on December 4, 2014. The State replied on January 13, 2015, reiterating that the Political Constitution of the Plurinational State was enacted on February 7, 2009, but that a new compulsory military service law was not approved in that context, neither was the right to conscientious objection recognized. The State said that "positivization" of the right to conscientious objection was impossible. The State reiterated the contents of its earlier briefs, noting that the purpose of the SAR alternative service was search, assistance, and air rescue, as well as roadside- and natural disaster assistance, and not warfare. The petition, meanwhile, had not replied to the request for information as of the date this report was closed.

264. The Commission appreciates the measures the State has adopted to comply with the commitments made in the Friendly Settlement Agreement. At the same time, it notes that some measures are still pending compliance. On this basis, the Commission concludes that there is partial compliance with the friendly settlement agreement. Consequently, the Commission will continue to monitor the pending items. In

view of the foregoing, the IACHR concludes that the friendly settlement agreement has been implemented in part. Accordingly, the Commission will continue to monitor the items still pending compliance.

Case 12.051, Report No. 54/01, Maria da Penha Maia Fernandes (Brazil)

265. In Report No. 54/01 of April 16, 2001, the Commission concluded that (a) the Federative Republic of Brazil was responsible for violating the rights to judicial guarantees and judicial protection, guaranteed by Articles 8 and 25 of the American Convention, in keeping with the general obligation to respect and ensure the rights provided for in Article 1(1) of that instrument, due to the unwarranted delay and negligent processing of this case of domestic violence in Brazil; (b) the State had taken some measures aimed at reducing the scope of domestic violence and state tolerance of it, although those measures have not succeeded in significantly reducing the pattern of state tolerance, in particular in the wake of the ineffectiveness of police and judicial action in Brazil, with respect to violence against women; and (c) the State had violated the rights and failed to carry out its duties as per Article 7 of the Convention of Belém do Pará to the detriment of Ms. Fernandes; and in connection with Articles 8 and 25 of the American Convention and in relation to its Article 1(1) for its own omissions and tolerance for the violence inflicted.

266. The IACHR made the following recommendations to the Brazilian State:⁴⁷

1. Complete, rapidly and effectively, criminal proceedings against the person responsible for the assault and attempted murder of Mrs. Maria da Penha Fernandes Maia.
2. In addition, conduct a serious, impartial, and exhaustive investigation to determine responsibility for the irregularities or unwarranted delays that prevented rapid and effective prosecution of the perpetrator, and implement the appropriate administrative, legislative, and judicial measures.
3. Adopt, without prejudice to possible civil proceedings against the perpetrator, the measures necessary for the State to grant the victim appropriate symbolic and actual compensation for the violence established herein, in particular for its failure to provide rapid and effective remedies, for the impunity that has surrounded the case for more than 15 years, and for making it impossible, as a result of that delay, to institute timely proceedings for redress and compensation in the civil sphere.
4. Continue and expand the reform process that will put an end to the condoning by the State of domestic violence against women in Brazil and discrimination in the handling thereof. In particular, the Commission recommends:
 - a. Measures to train and raise the awareness of officials of the judiciary and specialized police so that they may understand the importance of not condoning domestic violence.
 - b. The simplification of criminal judicial proceedings so that the time taken for proceedings can be reduced, without affecting the rights and guarantees related to due process.
 - c. The establishment of mechanisms that serve as alternatives to judicial mechanisms, which resolve domestic conflict in a prompt and effective manner and create awareness regarding its serious nature and associated criminal consequences.
 - d. An increase in the number of special police stations to address the rights of women and to provide them with the special resources needed for the effective processing and investigation of all complaints related to domestic violence, as well as resources

⁴⁷ The IACHR notes that it had previously considered recommendations Nos. 1 and 3 to have been fully discharged, in its Annual Report of 2008 (IACHR. *Annual Report 2008*. Chapter III.D, paras. 101 and 103).

and assistance from the Office of the Public Prosecutor in preparing their judicial reports.

- e. The inclusion in teaching curriculums of units aimed at providing an understanding of the importance of respecting women and their rights recognized in the Convention of Belém do Pará, as well as the handling of domestic conflict.
- f. The provision of information to the Inter-American Commission on Human Rights within sixty days of transmission of this report to the State, and of a report on steps taken to implement these recommendations, for the purposes set forth in Article 51(1) of the American Convention.

267. The State for its part presented a communication on August 29, 2013, highlighting efforts to comply with the recommendations contained in merits report No. 54/01. In regards to recommendation 2, the State confirms that there is a judicial process in course related to the case of Maria Da Penha Maia Fernandes under the framework of the *Conselho Nacional de Justiça* (CNJ), and it will submit information to the Commission related to this process in the future. It also informed that on October 14, 2011, the *Secretaria de Políticas para as Mulheres* (SPM) and the CNJ signed a collaboration agreement in which the SPM will form part of the program “Justicia Plena”. This program has the objective of monitoring and to give transparency to judicial processes of great social implications. In the realm of said program, the SPM will have the faculty of selecting five processes related to the *Lei Maria da Penha* of great social repercussion, to be monitored by said program. Among other measures to guarantee the effectiveness of the *Lei Maria da Penha*, the State highlights two 2012 Supreme Court judgments resolving doubts related to the constitutionality of its dispositions, the creation of state coordinators to address domestic violence issues as permanent organs of the presidency of the tribunals, and technical collaboration agreements reached between the SPM and other justice system organs to improve women’s access to justice in cases of violence. The State also informs of the informative campaign entitled “Compromisso e Atitude pela Lei Maria da Penha – a Lei é Mas Forte!,” to involve the executive branch, as well as the administration of justice and public security organs, in addressing the impunity that surrounds acts of violence against women.

268. In regards to recommendation 4, the State informs that since 2007, the SPM implements a round of work activities related to the *Lei de Maria da Penha*, with the objective of creating a space of debate and clarification related to the commitments contained in the law, including training courses for judges. The State also verifies the creation of the National Forum of Judges related to Domestic and Family Violence against Women (FONAVID), with the goal of creating a permanent space of discussion related to the *Lei Maria da Penha* and domestic violence. The State also informs of the implementation of training programs related to the *Lei Maria da Penha* in coordination with various entities related to the administration of justice; the annual planning of a national summit of the state prosecutors offices related to the implementation of the *Lei Maria da Penha*; and the creation of a series of State mechanisms to promote the defense of the rights of women such as the *Comissão da Mulher no Conselho Nacional dos Defensores Públicos Gerais* (CONDEGE), among others.

269. The State also informs that upon the launching of the *Pacto Nacional de Enfrentamento à Violência contra a Mulher*, in August of 2007, the attention of women in situations of violence was selected as a one of the two axis of attention of the State of Brazil. Within this axis, there has been the creation of a network to improve the quality of attention offered to women victims of violence. The SPM is currently employing a number of efforts to monitor the workings of the network. The State also mentions significant efforts to strengthen the *delegacias especializadas no atendimento á mulher* and to implement a national database of statistics related to domestic and family violence, among other measures. The State finally reiterates that the *Lei Maria da Penha* constitutes the north of the actions implemented to address violence against women within the III National Plan of Policies towards Women (2013-2015). For these reasons, the State considers it has implemented all of the recommendations issued by the Commission.

270. The petitioners presented information on November 25, 2013, and previously submitted relevant information this year on February 6, 2013. In regards to recommendation 2, the petitioners indicate that the judicial process undertaken under the framework of the *Conselho Nacional de Justiça* (CNJ) concerning this case, did not pronounce on responsibilities related to irregularities and delays in the course

of the criminal process against the aggressor of Maria da Penha Maia Fernandes. At the request of the victim, a new process was undertaken in the context of the CNJ in September of 2009, in order for the irregularities to be effectively investigated. In its last communication, the State of Brazil informed that an additional process was opened under the CNJ to determine responsibilities for the irregularities and delays in the criminal process, which the petitioners claim was archived on June 11, 2013, according to information available electronically. The petitioners indicate that access to the files concerning this last process requires that Ms. Penha travels to Brasilia personally, which is challenging for her due to the results of the domestic violence she suffered. Therefore, they request that the Commission asks the State of Brazil to forward the decision undertaken in the realm of said process. In summary, they consider that recommendation 2 is still pending compliance after 12 years of the approval of the merits report from the Commission.

271. In regards to recommendation 4, the petitioners reiterate the information they presented in the 2011 thematic hearing before the IACHR related to the implementation of the *Lei Maria da Penha*. They highlight a number of obstacles to the proper application of said law to address domestic violence in Brazil, which evidence that recommendation 4 is still pending compliance from the State. They highlight challenges in the creation of a network to provide needed services to women who are victims of violence. They also underscore the reduction in the total number of *delegacias especializadas no atendimento á mulher* between 2007 and 2012, from 397 to 395, and their lack of proper distribution among the national territory. They also note a reduction in the amount of specialized tribunals across the country, the lack of a monitoring mechanism related to the quality of specialized services, and the pending need to collect data related to domestic violence crimes. Despite the adoption of this specialized law, there is also a persistent increase in the number of cases of violent deaths by women. They refer to a specific study published by the *Instituto de Pesquisa Econômica Aplicada* (IPEA) in 2013, indicating that since the adoption of the *Lei Maria da Penha*, there has not been a reduction in the annual rates of deaths by women; results which indicate for the petitioners the lack of an appropriate application of this law by the State.

272. On December 9, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. As of the time of this report, no updated information has been received from the State or from the petitioners. Therefore, the Commission reiterates that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Cases 11.286, 11.406, 11.407, 11.412, 11.413, 11.415, 11.416 and 11.417, Report No. 55/01, Aluísio Cavalcante et al. (Brazil)

273. In Report No. 55/01 of April 16, 2001, the Commission concluded that the Federative Republic of Brazil was responsible for violating the right to life, integrity, and personal security (Article I of the American Declaration), the right to judicial guarantees and protections (Article XVIII of the Declaration, and Articles 8 and 25 of the Convention), and the obligation the State has to ensure and respect the rights (Article 1(1)) recognized in the American Convention on Human Rights, in relation to the homicide of Aluísio Cavalcanti, Clarival Xavier Coutrim, Delton Gomes da Mota, Marcos de Assis Ruben, and Wanderlei Galati, and in relation to the attacks on and attempted homicide of Claudio Aparecido de Moraes, Celso Bonfim de Lima, Marcos Almeida Ferreira and Carlos Eduardo Gomes Ribeiro, all by military police agents of the state of São Paulo, as well as the failure to investigate and impose an effective sanction on the persons responsible.

274. The IACHR made the following recommendations to the Brazilian State:

1. That it carry out a serious, impartial, and effective investigation into the facts and circumstances of the deaths of Aluísio Cavalcanti, Clarival Xavier Coutrim, Delton Gomes da Mota, Marcos de Assis Ruben, and Wanderlei Galati, and of the assaults on and attempted homicides of Cláudio Aparecido de Moraes, Celso Bonfim de Lima, Marcos Almeida Ferreira, and Carlos Eduardo Gomes Ribeiro, and that it duly prosecute and punish the persons responsible.

2. That such investigation include the possible omissions, negligence, and obstructions of justice that may have resulted from the failure to convict the persons responsible in a final judgment, including the possible negligence and mistakes of the Public Prosecutor's Office and of the members of the judiciary who may have decided to waive or reduce the corresponding sentences.

3. That the necessary measures are taken to conclude, as soon as possible and in the most absolute legality, the judicial and administrative proceedings regarding the persons involved in the above-noted violations.

4. That the Brazilian State makes reparation for the consequences of the violations of the rights of the victims and their families or those who hold the right for the harm suffered, described in this report.

5. That the necessary measures be taken to abolish the jurisdiction of the military justice system over criminal offenses committed by police against civilians, as proposed by the original bill, introduced in due course, to repeal Article 9(f) of the Military Criminal Code, and to approve, to take its place, the single paragraph proposed in that bill 27.

6. That the Brazilian State takes measures to establish a system of external and internal supervision of the military police of São Paulo that is independent, impartial, and effective.

275. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The petitioners presented their response to the request for information of the IACHR on December 4, 2013. In regards to recommendation 1, the petitioners indicated that as to the criminal process related to Aluísio Cavalcanti, after seven extensions, a sentencing hearing of Robson Bianchi and Luiz Fernando Goncalves, was held on April 25, 2012, before the IV Judicial Tribunal of Sao Paulo. They were absolved in said instance, and an appeal was presented, which is currently pending a resolution.

276. On December 9, 2014, the IACHR requested updated information from both parties on the fulfillment of the aforementioned recommendations, in keeping with Article 48(1) of its Rules of Procedure. As of the time of this report, no information has been received from the State or from the petitioners. Based on these considerations, the Commission reiterates that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 11.517, Report No. 23/02, Diniz Bento da Silva (Brazil)

277. In Report No. 23/02 of February 28, 2002, the Commission concluded that the Federative State of Brazil was responsible for violating the right to life (Article 4) of Mr. Diniz Bento da Silva, which occurred in the state of Paraná on March 8, 1993, and for violating the right to judicial guarantees (Article 8), the right to judicial protection (Article 25), and the right to obtain guarantees and respect for the rights spelled out in the Convention (Article 1.1).

278. The IACHR made the following recommendations to the Brazilian State:

1. Conduct a serious, effective, and impartial investigation through the ordinary justice system to determine and punish those responsible for the death of Diniz Bento da Silva, punish those responsible for the irregularities in the investigation by the military police, as well as those responsible for the unjustifiable delay in conducting the civil investigation, in accordance with Brazilian law.

2. Take the necessary steps to ensure that the victim's family receives adequate compensation for the violations established herein.
3. Take steps to prevent a repetition of such events and, in particular, to prevent confrontations with rural workers over land disputes, and to negotiate the peaceful settlement of these disputes.

279. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. On June 12, 2014, the petitioners submitted their reply. With respect to recommendation 1, they indicated that the State has not yet complied because the Court of Justice of the State of Paraná has decided to shelve the case on the grounds that the military justice system has already determined the innocence of the accused. They reported that the Office of the State's Public Prosecutor will appeal the Court's decision before the Supreme Court of Justice, considering the irregularities in the investigation conducted by the military justice system. Furthermore, the petitioners said that the State has not complied with the other two recommendations. They reiterated, therefore, that the State continues to ignore violence against defenders of the rights of persons involved in the land dispute.

280. On December 5, 2014, the IACHR requested updated information from both parties, but, as of the time of this report, no information has been received from the State or from the petitioners. Based on the foregoing, the Commission reiterates that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 10.301, Report No. 40/03, Parque São Lucas (Brazil)

281. In Report No. 40/03 of October 8, 2003, the IACHR concluded that the Brazilian State violated the human rights of Arnaldo Alves de Souza, Antonio Permoniam Filho, Amaury Raymundo Bernardo, Tomaz Badovinac, Izac Dias da Silva, Francisco Roberto de Lima, Romualdo de Souza, Wagner Saraiva, Paulo Roberto Jesuino, Jorge Domingues de Paula, Robervaldo Moreira dos Santos, Ednaldo José da Fonseca, Manoel Silvestre da Silva, Roberto Paes da Silva, Antonio Carlos de Souza, Francisco Marlon da Silva Barbosa, Luiz de Matos, and Reginaldo Avelino de Araújo, enshrined in Articles I and XVIII of the American Declaration and Articles 8 and 25 of the American Convention, and that it did not carry out the obligations established in Article 1(1) of the same Convention.

282. The IACHR made the following recommendations to the State:

1. That it adopts the legislative measures needed to transfer to the regular criminal courts the trial of common crimes committed by military police officers in the performance of their public order functions.
2. That use of the cells designed for solitary confinement (*celdas fortes*) be discontinued.
3. That it punish, in keeping with the gravity of the crimes committed, the civilian and military police officers involved in the facts that gave rise to the instant case.
4. In those cases in which it has not done so, that it pay fair and adequate compensation to the victims' next-of-kin for the harm caused as a result of the breaches of the above-mentioned provisions.

283. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. On December 17, 2013, the petitioners submitted their reply. With respect to recommendation 1, they noted that federal law 9.299/96 transferred to the ordinary criminal justice system the prosecution of intentional homicide

committed by military police in the exercise of their public functions. However, they criticized the fact that common crimes remain under the jurisdiction of the military justice system and that the military police, rather than civilian police, have competence to investigate common offenses and homicides.

284. The petitioners stated that they had not received information on the deactivation of isolation cells. As for the obligation to make reparations, they reported that some relatives of the victims had not yet been identified or located and therefore have not received compensation for the damages caused. In connection with recommendation 3, they pointed out that either all the defendants had been absolved or the investigations had been closed.

285. On December 5, 2014, the IACHR requested updated information from both parties, but, as of the time of this report, neither the State nor the petitioners presented information on compliance with the recommendations set forth above this year. Based on these considerations, the Commission reiterates that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 11.289, Report No. 95/03, José Pereira (Brazil)

286. On October 24, 2003, by Report No. 95/03, the Commission approved a friendly settlement agreement in the case of José Pereira. By means of this agreement, the State recognized its international responsibility in the case, given that “the state organs were not capable of preventing the occurrence of the grave practice of slave labor, nor of punishing the individual actors involved in the violations alleged.”

287. Pursuant to that agreement, the State undertook to:⁴⁸

1. Publicly recognize its responsibility by the solemn act of creating the National Commission for the Eradication of Slave Labor – CONATRAE (created by Presidential Decree of July 31, 2003), which will take place on September 18, 2003.
2. Keep under reserve the identity of the victim at the moment of the solemn act recognizing State responsibility and in public declarations about the case.
3. Continue with the efforts to carry out the judicial arrest warrants against the persons accused of the crimes committed against José Pereira. To this end, the friendly settlement agreement will be forwarded to the Director-General of the Department of the Federal Police.
4. Compensate José Pereira for material and moral damages suffered.
5. Implement the actions and proposals for legislative changes contained in the National Plan for the Eradication of Slave Labor, drawn up by the Special Commission of the Council for the Defense of Human Rights, and initiated by the Government of Brazil on March 11, 2003, in order to improve the National Legislation aimed at prohibiting the practice of slave labor in Brazil.
6. Make every effort to secure the legislative approval (i) of Proposed Law No. 2130-A, of 1996, which includes among the violations of the economic order the use of “unlawful means of reducing production costs such as the non-payment of labor and social taxes, exploitation of child, slave, or semi-slave labor”; and (ii) the version presented by the Deputy Zulaiê Cobra to take the place of the proposed law No. 5,693 of Deputy Nelson Pellegrino, which amends Article 149 of the Brazilian Criminal Code.

⁴⁸ Regarding points 1, 2, and 4 of the referenced friendly settlement agreement, the Commission already considered those obligations to have been fully discharged (IACHR. *Annual Report 2008*. Chapter III.D, para. 137).

7. Defend the establishment of federal jurisdiction over the crime of reduction to conditions analogous to slavery, for the purpose of preventing impunity.
8. Strengthen the Public Ministry of Labor; ensure immediate compliance with the existing legislation, by collecting administrative and judicial fines, investigating and pressing charges against the perpetrators of the practice of slave labor; strengthen the Mobile Group of the MTE; take steps along with the Judiciary and its representative entities to guarantee that the perpetrators of the crimes of slave labor are punished.
9. Revoke, by the end of the year, by means of the appropriate administrative acts, the Cooperation Agreement signed between the owners of estates and authorities of the Ministry of Labor and Public Ministry of Labor, signed in February 2001, and which was denounced in this proceeding on February 28, 2001.
10. Strengthen gradually the Division of Repression of Slave Labor and Security of Dignitaries (STESD), established under the Department of the Federal Police by means of Administrative ruling (*Portaria*)-MJ No. 1,016, of September 4, 2002, so as to give the Division adequate funds and human resources for the proper performance of the functions of the Federal Police in the actions to investigate reports of slave labor.
11. Take initiatives *vis-à-vis* the Federal Public Ministry to highlight the importance of Federal Prosecutors according priority to participating in and accompanying the actions to perform inspections for slave labor.
12. Undertake in October 2003 a national campaign to raise awareness of and oppose slave labor with a particular focus on the state of Pará. On this occasion, through the presence of the petitioners, publicity will be given to the terms of this Friendly Settlement Agreement. The campaign will be based on a communication plan that will include the preparation of informational materials geared to workers, inserting the issue in the media through the written press, and through radio and TV spots. In addition, various authorities are to make visits to the targeted areas.
13. Evaluate the possibility of holding seminars on the eradication of slave labor in the state of Pará no later than the first half of 2004, with the presence of the Federal Public Ministry, ensuring that the petitioners are invited to participate.

288. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned agreement, pursuant to Article 48.1 of its Rules of Procedure. Information has been received from both parties this year relevant to compliance with the friendly settlement agreement in the aforementioned case.

289. The Commission first notes information presented by the State relevant to compliance with the above-referenced agreement and the dispositions contained therein on January 2, 2013. In the mentioned documentation, the State described the measures it has adopted aimed at strengthening the legal framework to combat slave labor, including the Constitutional Amendment proposal (PEC) 458/2001, which is still waiting for a vote by the Chamber of Deputies; the decision to establish a Parliamentary Inquiry Commission (CPI) to investigate the situation of slave labor in Brazil, on February 3, 2012; as well as several bills related to slave labor currently under consideration by the Federal Legislature (PL 5016/2005, which aims at reforming the Penal Code regarding the punishment for slave labor; PL 169/2009, which aims at prohibiting Brazilian enterprises from signing contracts with companies that exploit degrading labor abroad; PL 603/2011, which relates to labor conditions in coal mines; and PL 1515/2011, which aims at impeding that public spaces of any nature be named after people notoriously involved in the exploitation of slave labor).

290. In addition, the State explained in its communication the measures adopted to adequately monitor compliance with existing labor laws. In this regard, the State highlighted that the International Labor Organization (ILO) has asserted that Brazil's inspection actions should be considered as exemplary best practices. The State also made specific reference to the continuous achievements regarding administrative/civil sanctions, quantity of freed workers, and number and scope of operations carried out.

291. The petitioners also presented information relevant to the aforementioned provisions on January 30, 2013. In regards to the measures related to the judgment and sanction of the perpetrators, the petitioners claim that they have not received any information concerning efforts or initiatives from the state of Brazil in this regard. As to prevention measures, they refer to the *Segundo Plano Nacional para a Erradicação do Trabalho Escravo*, launched on September 10, 2008, and they refer to an assessment undertaken on 2010 by the *Comissão Nacional para a Erradicação do Trabalho Escravo* (CONATRAE), indicating that approximately 41% of the actions contained in the plan have not been implemented, 31% have been partially complied with, and only about 27% have been complied with comprehensively. In reference to legislative reform, they express their concern over the delay and archive of several legislative projects related to different facets of the prohibition of the practice of slave labor in Brazil. Regarding the creation of the positions of Agent or Delegate of the Federal Police, the petitioners advance information indicating that 500 positions have been created of Delegates of the Federal Police and 750 positions of federal police agents, by means of Law Nº 11.890/2008, but they also present an assessment prepared by the *Associação Nacional dos Delegados de Polícia Federal* of August of 2011, indicating that there is a deficit of 3,000 federal police officers (including delegates, experts and agents), and that it is possible that vacancies will result in the exit of 2,270 federal police officers until December of 2015.

292. The petitioners also refer to an existing conflict of federal and state competencies as one of the factors which prolongs the most the criminal process, and contributes to the prescription of crimes and the perpetuation of impunity in the country. They highlight that the issue is currently before the *Supremo Tribunal Federal*, by means of an extraordinary recourse which is pending resolution. They also assert that in Brazil it is still challenging to verify the exact number of legal procedures in course, before the *Ministério Público do Trabalho, Justiça do Trabalho* or before the *Justiça Comun*, which impedes a proper assessment of compliance with the agreement celebrated in this case, and the monitoring of the occurrence of slave labor in the country, among other concerns.

293. In response to the request for information, dated October 9, 2013, sent by the IACHR to both parties, the petitioners submitted their reply on December 18, 2013. They reiterated that they still have no information on the fulfillment of recommendations 3, 8, 9, 10, 11, 12, and 13 by the State. They also reaffirmed the information and concerns presented the year before regarding legislative reform. And they expressed concern regarding draft law 3842/2012, which would define slave labor in terms that are incompatible with ILO standards and human rights standards in general.

294. On December 5, 2014, the IACHR requested updated information from both parties, but, as of the time of this report, no information has been received. Based on these considerations, the Commission reiterates that the State has partially complied with the aforementioned friendly settlement agreement. Accordingly, the Commission will continue to monitor compliance with the items pending compliance.

Case 11.556, Report No. 32/04, Corumbiara (Brazil)

295. In Report No. 32/04, of March 11, 2004, the Commission concluded that the State of Brazil was responsible for: (a) violation of the rights to life, humane treatment, judicial protection, and judicial guarantees, enshrined in Articles 4, 5, 25, and 8, respectively, of the American Convention, to the detriment of the landless workers identified in the report due to extrajudicial executions, injury to their personal integrity, and violations of the duty to investigate, the right to an effective remedy, and the right to judicial guarantees, committed to their detriment; (b) the violation of its duty to adopt provisions of domestic law, in the terms of Article 2 of the American Convention, and of the obligation imposed on it by Article 1(1) to respect and ensure the rights enshrined in the Convention; and (c) the violation of Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture.

296. The Commission made the following recommendations to the State:

1. Conduct a complete, impartial, and effective investigation into the events, by nonmilitary organs, to determine responsibility for the deaths, personal injuries, and other acts that occurred at Santa Elina ranch on August 9, 1995, and to punish all the material and intellectual authors, whether civilian or military.
2. Make adequate reparations to the victims specified in this report or to their next-of-kin, as appropriate, for the human rights violations determined in this report.
3. Adopt the necessary measures to prevent similar events from occurring in the future.
4. Amend Article 9 of the Military Criminal Code, Article 82 of the Code of Military Criminal Procedure, and any other domestic legal provisions that need to be amended in order to abolish the competence of the military police to investigate human rights violations committed by the military, and to transfer that competence to the civilian police.

297. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. On December 9, 2014, the request for information was resent. However, as of the time of this report, no information has been received from the State or from the petitioners. Based on these considerations, the Commission reiterates that the aforementioned recommendations remain pending. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 11.634, Report No. 33/04, Jailton Neri da Fonseca (Brazil)

298. In Report No. 33/04 of March 11, 2004, the Commission concluded that: (a) the State of Brazil was responsible for the violation of the rights to personal liberty, humane treatment, life, special measures of protection for children, judicial protection, and judicial guarantees, enshrined, respectively, in Articles 7, 5, 4, and 19, to the detriment of Jailton Neri da Fonseca, and in Articles 25 and 8 of the American Convention in conjunction with Article 1(1) to the detriment of his next-of-kin; and that (b) the State violated its duty to adopt provisions of domestic law, in the terms of Article 2 of the American Convention, and also violated the obligation imposed on him by Article 1(1) to respect and ensure the human rights enshrined in the Convention.

299. The Commission made the following recommendations to the State:⁴⁹

1. That it make full reparations, in consideration of both moral and material damages, to the next-of-kin of Jailton Neri da Fonseca, for the human rights violations determined in this report, and, more specifically, that it do the following:
2. Ensure a full, impartial, and effective investigation into the crime conducted by nonmilitary organs, with a view to establishing responsibility for the acts related to the detention and murder of Jailton Neri da Fonseca and punishing the responsible parties.
3. Pay the next-of-kin of Jailton Neri da Fonseca compensation computed in accordance with international standards, in an amount sufficient to make up for both the material damages and the moral damages suffered on the occasion of his murder. Such compensation, to be paid by the Brazilian State, should be computed in accordance with

⁴⁹ Regarding recommendations Nos. 1 and 3, as indicated in the 2009 Annual Report of the IACHR, both parties agreed that there had been compliance (IACHR. *Annual Report 2009*. Chapter III.D, para. 181).

international standards, and should be in an amount sufficient to make up for both the material damages and the moral damages suffered by the next-of-kin of Jailton Neri da Fonseca on the occasion of his murder and other violations of his human rights referred to in this report.

4. Amend Article 9 of the Military Criminal Code and Article 82 of the Code of Military Criminal Procedure, in addition to any other domestic legal provisions that need to be amended to abolish the competence of the military police to investigate human rights violations committed by members of the military police, and transfer that competence to the civilian police.

5. Adopt and implement measures to educate officers of the justice system and members of the police to prevent acts involving racial discrimination in police operations, and in criminal investigations, proceedings, or sentencing.

6. Adopt and implement immediate measures to ensure observance of the rights established in the American Convention, the Convention on the Rights of the Child, and the other national and international standards on the matter, in order to ensure that the right to special protection of children is enforced in Brazil.

300. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. On February 7, 2014, the petitioners submitted their reply. With respect to recommendation 2, they indicated that the State has not reported on the investigation of the facts and that the police officers involved in the crime are still working under their regular status.

301. Concerning recommendation 4, they noted that federal law 9.299/96 transferred to the ordinary criminal justice system the prosecution of intentional homicide committed by military police in the exercise of their public functions. However, they criticized the fact that common crimes remain under the jurisdiction of the military justice system and that the military police, rather than civilian police, have competence to investigate common offenses and homicides.

302. In addition, the petitioners reported that they have not received information on the fulfillment of recommendations 5 and 6 by the State. They also expressed concern over the high levels of abuse by police and of institutionalized racism. They reported that, in Brazil, persons of African descent are murdered 150% as often as persons not of African descent.

303. Based on these considerations, the Commission reiterates that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 12.001, Report No. 66/06, Simone André Diniz (Brazil)

304. In Report No. 66/06 of October 21, 2006, the IACHR concluded that the State of Brazil was responsible for violating the human rights to equality before the law, judicial protection, and judicial guarantees, enshrined, respectively, in Articles 24, 25, and 8 of the American Convention, to the detriment of Simone André Diniz, a victim of racial discrimination. In addition, the Commission determined that the State had violated the duty to adopt provisions of domestic law, in the terms of Article 2 of the Convention, and also in violation of the obligation imposed by Article 1(1) to respect and ensure the rights enshrined in that instrument.

305. The Commission made the following recommendations to the State of Brazil:⁵⁰

1. Fully compensate the victim, Simone André Diniz, in both moral and material terms for human rights violations as determined in the report on the merits, and in particular,
2. Publicly acknowledge international responsibility for violating the human rights of Simone André Diniz;
3. Grant financial assistance to the victim so that she can begin or complete higher education;
4. Establish a monetary value to be paid to the victim as compensation for moral damages;
5. Make the legislative and administrative changes needed so that the anti-racism law is effective, in order to remedy the limitations indicated in paragraphs 78 and 94 of this report;
6. Conduct a complete, impartial and effective investigation of the facts, in order to establish and sanction responsibility with respect to the events associated with the racial discrimination experienced by Simone André Diniz;
7. Adopt and implement measures to educate court and police officials to avoid actions that involve discrimination in investigations, proceedings or in civil or criminal conviction for complaints of racial discrimination and racism;
8. Support a meeting with organizations representing the Brazilian press, with the participation of the petitioners, in order to draw up an agreement on avoiding the publicizing of complaints of racism, all in accordance with the Declaration of Principles on Freedom of Expression;
9. Organize government seminars with representatives of the judicial branch, the Public Ministry and local Public Safety Secretariats in order to strengthen protection against racial discrimination or racism;
10. Ask state governments to create offices specializing in the investigation of crimes of racism and racial discrimination;
11. Ask Public Ministries at the state level to create Public Prosecutor's Offices at the state level specializing in combating racism and racial discrimination;
12. Promote awareness campaigns against racial discrimination and racism.

306. On December 20, 2013, the petitioners submitted their reply to the request for information sent by the IACHR on October 7, 2013. The petitioners indicated that the situation of Simone André Diniz had not changed and that the State had not complied with the recommendations. They say, furthermore, that the State's failure to fulfill recommendation 3 hindered the victim's access to education. They note as a weakness of Brazilian criminal law the fact that it permits race-based offenses to be characterized as "racial insults." They also reported that the criminal investigation into the case had been shelved.

⁵⁰ With regards to recommendations 1, 2 and 4, as indicated in the IACHR annual report of 2009, both parties coincided that they had been complied with (IACHR, Annual Report 2009, Chapter III.D, para. 187). In 2011, the petitioners specified that they consider recommendation 12 fully complied with.

307. On December 9, 2014, the IACHR requested updated information from both parties on the fulfillment of the aforementioned recommendations. On December 17, 2014, the State presented its reply. On recommendation 3, it submitted a certificate testifying to a full scholarship for the victim to study at Guarulhos University (“*Ofício da Reitoria nº 15/2014*”) as stipulated. With respect to recommendation 5, it pointed to the adoption of the Racial Equality Statute (“*Estatuto da Igualdade Racial*”, Act 12.288/2010) and of Act 14.187 of the State of São Paulo against racial discrimination. The IACHR notes the progress made in terms of government policies, awareness campaigns, and assistance programs at the federal and state levels, but urges the State to report on how that progress has affected the effective application of the antiracism law.

308. Furthermore, the State reported that it had taken measures, to the degree possible, to reopen the police investigation into the case. However, this effort had not succeeded, because the requirement to present new evidence could not be met. The State also recognized that police abuse and discrimination on the part of justice operators toward persons of African descent remain a challenge. The Commission reiterates its concern over the lack of a complete, impartial, and effective investigation of the facts.

309. As of the time of this report, no updated information has been received from the petitioners. Based on these considerations, the Commission reiterates that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 12.019, Report No. 35/08 Antonio Ferreira Braga (Brazil)

310. In Report No. 35/08 of July 18, 2008, the IACHR concluded that the Brazilian State had violated Mr. Antônio Ferreira Braga’s rights to personal integrity, to personal liberty, to due process and to judicial protection, which are recognized in articles 5, 7, 8(1) and 25 of the American Convention, pursuant to the general obligations set forth under Article 1(1) of said Convention, and had failed to comply with its obligation to prevent and punish all acts of torture committed within its jurisdiction, as set forth in Articles 1, 6, 7, and 8 of the Inter-American Convention to Prevent and Punish Torture.

311. The Commission made the following recommendations to the Brazilian State:

1. That it adopt the necessary measures to give legal effect to the obligation to effectively investigate and punish those who unlawfully detained and tortured Antonio Ferreira Braga; in this regard, the State must ensure due criminal process so as to prevent the statute of limitations from being invoked as grounds for annulling criminal punishment for crimes such as torture, and from any unjustified procedural delays in this regard.
2. That it open an investigation to determine the civil and administrative responsibility for the unreasonable delay in the criminal proceeding regarding the torture inflicted on Antonio Ferreira Braga, especially among those judicial authorities who had knowledge of the file, in order to appropriately punish those who are found to be responsible, with a view to determining whether said judicial authorities acted with negligence.
3. That it make appropriate reparations to Antonio Ferreira Braga for the above-cited violations of his human rights, including the payment of reparations.
4. That it provide training to Civil Police officers to provide them with basic knowledge regarding the fundamental rights enshrined in the American Convention, particularly with respect to proper treatment.

312. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. On February 3, 2014,

the petitioners submitted their reply. Concerning recommendation 1, they reported that they have not received information on measures to effectively investigate and punish the persons responsible for illegally detaining and torturing the victim. They also reported that the statute of limitations continues to be cited as grounds for the expiration of criminal liability for crimes such as torture.

313. They state that they have not received information on the fulfillment of recommendations 2 and 3. With respect to recommendation 4, they noted the adoption of act 12847/2013, which established the National System to Prevent and Combat Torture, but said they have no knowledge of any civilian police training.

314. On December 5, 2014, the IACHR requested updated information from both parties, but, as of the time of this report, no information has been received. Based on these considerations, the Commission reiterates that compliance with the aforementioned recommendations remains pending. Accordingly, the Commission will continue to monitor compliance with its recommendations.

Case 12.310, Report No. 25/09 Sebastião Camargo Filho (Brazil)

315. In Report No. 15/09 of March 19, 2009, the IACHR concluded that the Brazilian State breached its obligation to ensure the right to life of Sebastião Camargo Filho, provided for at Article 4 of the American Convention, on not preventing the victim's death on February 7, 1998, despite being aware of the imminent risk to the workers who had settled on the *Boa Sorte* and *Santo Ângelo* estates, and on failing to duly investigate the facts and punish those responsible. In addition, the IACHR established that the Brazilian State is responsible for violations of judicial guarantees and judicial protection, under Articles 8 and 25 of the American Convention, due to lack of due diligence in the process of investigating and collecting evidence, without which judicial proceedings cannot go forward. Finally, the Inter-American Commission concluded that the State breached the general obligation established at Article 1(1) of the Inter-American Convention.

316. Based on the analysis and conclusions of Report 25/09, the Inter-American Commission recommended to the Brazilian State that it:

1. Conduct a complete, impartial, and effective investigation of the incident, with a view to identifying and punishing the material and intellectual perpetrators of Sebastião Camargo Filho's murder.
2. Make full amends to the next-of-kin of Sebastião Camargo Filho, including both moral and material damages, for the human rights violations identified in this report.
3. Adopt, on a priority basis, a global policy for eradicating rural violence, including preventive measures and measures to protect communities at risk, and stronger measures to protect leaders of movements working for the equitable distribution of rural land.
4. Adopt effective measures to dismantle illegal armed groups involved in conflicts related to land distribution.
5. Adopt a public policy to tackle the impunity surrounding violations of the human rights of individuals involved in agrarian conflicts and seeking the equitable distribution of land.

317. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The State submitted information on December 27, 2013. It said the investigation is being conducted in a complete, impartial, and effective manner. It reported that the defendants were tried, with public participation in the form of juries, and that their decisions were respected. It also explained that reparations had not yet been made, but a working group was to handle the matter.

318. The IACHR takes note of the public campaigns, the programs at the federal and national levels, and the police reform designed to protect human rights defenders in the context of rural land distribution and to promote their rights.

319. However, the information submitted by the petitioners in 2013, 2014, and 2015 contrasts with what was presented by the State. They alleged that the investigation was flawed in various ways, such as the lack of charges against dozens of persons allegedly involved in committing the crime. Regarding the State's liability for reparations, on one hand they confirmed the good will of the State and reported that they had already agreed on the figure proposed by the working group. On the other hand, they reported that payment had not yet been made and there were problems with the way in which the payment was going to be made and the right to legal fees. Furthermore, they reiterated that there had been no positive changes in the situation of human rights defenders involved in land disputes.

320. Based on the foregoing, the Commission concludes that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 12.440, Report No. 26/09 Wallace de Almeida (Brazil)

321. In Report No. 26/09 of March 20, 2009, the IACHR concluded that the Brazilian State is responsible for the death of Wallace de Almeida, a poor young black man who resided in a marginal area who was wounded by police agents and then bled to death without having been assisted by those agents; that racial and social considerations came into play in this case; that the investigation into the case was very poor; that it did not meet the requirements of due diligence, to the point that even on the date of the report, it continued at a standstill and unfinished, it not being possible to file charges against anyone responsible for committing the crimes.

322. As of result of those facts, the Inter-American Commission found violations of the rights to life, humane treatment, judicial guarantees, equality, and judicial protection, enshrined respectively at Articles 4, 5, 8, 24, and 25 of the American Convention. State responsibility for violations of Articles 4, 5, and 24 of the American Convention has been to the detriment of Wallace de Almeida, whereas in relation to the violations of Articles 8 and 25, in conjunction with Article 1(1) of the American Convention, the violations run to the detriment of his next-of-kin. The Inter-American Commission also determines that there were violations of the obligations imposed by the American Convention at its Article 1(1) to respect and ensure the rights enshrined therein; at Article 2, which establishes the duty to adopt provisions of domestic law for the purpose of upholding the rights contained in the American Convention; and at Article 28, regarding the obligation of both the federal State and the state of Rio de Janeiro to implement the provisions of the American Convention.

323. Based on its analysis and the conclusions of the instant report, the Inter-American Commission on Human Rights made the following recommendations to the Brazilian State:

1. That a thorough, impartial and effective investigation of the facts, be conducted by independent judicial bodies of the civilian/military police, in order to establish and punish those responsible for the acts involved in the murder of Wallace de Almeida, and the impediments that kept both an effective investigation and prosecution from taking place.
2. Fully compensate the relatives of Wallace de Almeida both morally and materially for the human rights violations established in this report, and in particular,
3. Adopt and implement the measures needed for effective implementation of the provision in Article 10 of the Brazilian Code of Criminal Procedure,

4. Adopt and implement measures to educate court and police officials to avoid actions involving racial discrimination in police operations, in investigations, in proceedings and in criminal convictions.

324. On October 7, 2013, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The petitioners presented their response to the request for information of the IACHR on December 6, 2013. The petitioners indicate that the context of police violence and summary executions has not changed in Rio de Janeiro since the murder of Wallace de Almeida in 1998. They indicate that statistics show that there are still 2.4 deaths per day at the hands of the security forces in Brazil. Police violence and the use of lethal force as a systematic violation of human rights is common, and evidences the preservation of the security system used in the 1990's. For example, the project launched on 2008 to create *Unidades de Policia Pacificadora* (UPP) across the national territory, has also been the subject of many human rights violations claims, including the description of acts of torture, execution, and forced disappearances, in areas where the UPP's operate.

325. Regarding compliance aspects with the Commission recommendations, the petitioners underscore that the State of Brazil just offered some reparations to the family of Wallace de Almeida, in the form of indemnization. The State also organized on June 25, 2009, a ceremony where the Governor of the State of Rio de Janeiro announced the payment of indemnization to the family members of Wallace Almeida and offered a formal apology. However, the petitioners consider that these measures do not constitute sufficient reparations, since the family members could not speak in the formal ceremony and the payment of indemnization is not enough to consider this aspect of the recommendations completely complied with. They also underscore that after 15 years of the murder of Wallace de Almeida, the military police officers who perpetrated these acts have not been judicially sanctioned and they still serve in the police forces. They remark irregularities and delays in the investigations of these types of executions, including that of Wallace de Almeida, and the fact that most of them remain in impunity. They also underscore a pronouncement from the United Nations Committee on the Elimination of Racial Discrimination describing the influence of racial discrimination in the criminal law system in Brazil, and how the creation and existence of the *Secretaria Especial de Políticas de Promoção Racial* is not sufficient to resolve the problem of racism in the country. Therefore, they consider that the State of Brazil has not duly complied with the recommendations in Report No. 26/09.

326. On December 9, 2014, the IACHR requested updated information from both parties on the fulfillment of the aforementioned recommendations. On January 12, 2015, the petitioners submitted their reply, in which they reiterated that the State only offered reparations to the family of the victim and was still not fulfilling the recommendations of this Commission. As of the date of this report, the IACHR has not received information from the State.

327. Based on these considerations, the Commission concludes that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 12.308, Report No. 37/10 Manoel Leal de Oliveira (Brazil)

328. In Report No. 37/10 of March 17, 2010, the IACHR concluded that the Brazilian State was responsible for violating, to the detriment of Mr. Manoel Leal de Oliveira and his family members, the rights to life, freedom of thought and expression, due process, and judicial protection, as established in Articles 4, 13, 8 and 25, respectively, of the American Convention, all in connection with the obligation imposed by Article 1.1 of the same instrument.

329. The Inter-American Commission made the following recommendations to the Brazilian State:⁵¹

1. Recognize its international responsibility for the violations of human rights established in this report by the Inter-American Commission;
2. Conduct a thorough, impartial, and effective investigation into the events, so as to identify and punish all of the material and intellectual authors of the murder of Manoel Leal de Oliveira;
3. Conduct a thorough, impartial, and effective investigation into the irregularities that occurred throughout the police investigation of the homicide of Manoel Leal de Oliveira, including actions to impede the identification of its material and intellectual authors;
4. Make reparations to the family of Manoel Leal de Oliveira for the damages suffered. Such reparation should be calculated in keeping with international parameters, and must be in an amount sufficient to compensate the material and moral damages suffered by the victim's family members;
5. Adopt, on a priority basis, a global policy of protecting the work of journalists and centralize, as a matter of public policy, efforts to combat impunity for the murders, attacks, and threats perpetrated against journalists, through exhaustive and independent investigations of such occurrences and the punishment of their material and intellectual authors.

330. On October 7, 2013, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The petitioners presented their response to the request for information of the IACHR on November 1, 2013. They consider that the State of Brazil has yet to comply with the recommendation to reopen the case related to the murder of Manoel Leal de Oliveira and to identify and sanction its intellectual authors. They also informed that in October 18, 2012, the *Conselho de Defesa dos Direitos da Pessoa Humana* adopted resolution number 7, in which it created a working group related to human rights and communication professionals in Brazil, with the goal of analyzing the current context related to this issue and to propose actions to prevent violence against these professionals. By means of resolution number 6, adopted by the *Secretaria de Direitos Humanos da Presidência da República*, it recommended the special protection of journalists and communication professionals while covering protests and included directives related to the use of less lethal weapons by public security forces. The *Secretaria* also organized a colloquium at the *Pontifícia Universidade Católica de Rio de Janeiro* (PUC-RJ), to discuss the security of communication professionals and the importance of eradicating impunity when they suffer violence.

331. On December 9, 2014, the IACHR requested updated information from both parties on the fulfillment of the aforementioned recommendations. On January 21, 2015, the petitioners submitted their reply, in which they reiterated that the State still has not complied with the recommendation to reopen the case on the victim's murder and to identify and punish those who planned and executed the crime. No information has been received by the State.

332. Based on these considerations, the Commission concludes that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

⁵¹ With regards to recommendations 1 and 4 as indicated in the IACHR annual report of 2012, the petitioners specified that they consider these recommendations fully complied with (IACHR, Annual Report 2012, Chapter III.D, para. 328).

Case 12.586, Report No. 78/11, John Doe et al. (Canada)

333. In Report 78/11 dated July 21, 2011, the Commission concluded that the State was responsible for violations of Articles XVII and XXVII of the American Declaration. As a result, the IACHR issued the following recommendations to Canada:

1. Adopt measures to identify the John Does and verify their situation and status, in order to process any outstanding claim for asylum they may wish to present;
2. Make full reparation to the John Does for the established violations, including, but not confined to material damages;
3. Adopt the necessary legislative or administrative changes to ensure that refugee claimants are afforded due process in presenting their asylum claims. If the direct back policy is continued, this would require gaining the necessary assurances from the third State's immigration officials that directed back individuals will be able to return to Canada for their scheduled refugee eligibility interviews. In the alternative, the State would need to conduct individualized assessments based on the third State's immigration law to determine whether directed back individuals would have access to seek asylum in that State and not face automatic legal bars. In those cases where there is a bar from seeking asylum, those individuals may not be directed back. Finally, any "direct back" policy shall include an individualized determination of whether there is risk of subsequent *refoulement* for any refugee claimant directed back to the third State; and
4. Adopt the necessary legislative or other measures to ensure refugee claimants have access to adequate and effective domestic remedies to challenge direct-backs before they occur.

334. On December 20, 2012, the State reported with regard to recommendations No. 1 and 2 *supra*, that it was impossible to identify John Does 1 and 2 because they have always been, and still remain, anonymous. The State mentioned, that neither the petitioners nor the Commission have provided any additional information that may assist the State to identify John Does 1 and 2. As regards John Doe 3, Canada observed that it still is not certain who he is. With respect to recommendation No. 3 *supra*, Canada explained that it had already satisfied it, since the policy of using direct backs was revised, and direct backs are now permitted only in very limited circumstances. Since said revision, the State claimed that no one arriving in Canada seeking asylum had been or would be directed back to the United States to await an interview in Canada unless the United States gave assurances that the directed back individuals would be allowed to return to Canada for their appointments. Lastly, regarding recommendation No. 4 *supra*, the State reiterated that its existing remedies are adequate and effective, thus no other measures were required to implement this recommendation.

335. On October 7, 2013 and December 5, 2014 the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented any new information concerning compliance with the recommendations set forth above in the last two years.

336. The Commission reminds the State of Canada that it is its duty to adopt all measures to locate the John Does and invites the State to provide all the information regarding the actions undertaken to identify them and locate them. Based on the above mentioned, the Commission considers that the State has partially complied with the aforementioned recommendations. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 11.771, Report No. 61/01, Samuel Alfonso Catalán Lincoleo (Chile)

337. In Report No. 61/01 of April 16, 2001, the Commission concluded that the Chilean State had violated, with respect to Samuel Alfonso Catalán Lincoleo, the rights to personal liberty, life, and personal security, enshrined at Article I of the American Declaration and Articles 4, 5, and 7 of the American Convention. In addition, the IACHR concluded that the Chilean State violated, to the detriment of Mr. Catalán Lincoleo's next-of-kin, the rights enshrined in Articles 8 and 25 of the American Convention, in keeping with Articles 1(1) and 2 of that instrument. In addition, the IACHR reiterated that Decree-Law No. 2,191, on self-amnesty, issued in 1978 by the past military regime of Chile, is incompatible with Articles 1, 2, 8, and 25 of the American Convention. All the foregoing was in connection with the forced disappearance of Samuel Alfonso Catalán Lincoleo, 29 years of age, who was an agricultural technical expert with ties to the Communist Party when he was detained on August 27, 1974, in his domicile in the city of Lautaro, Chile, by members of the Carabineros, soldiers, and civilians. The family members turned to the Chilean courts in 1979 with a complaint stating the facts, but the matter was archived in October 1981 by application of Decree-Law 2,191 of 1978, which ordered amnesty for the violations committed since the September 1973 coup in Chile. In 1992 an effort was made to bring a new judicial action, which culminated in November 1995 with the dismissal with prejudice by application of the self-amnesty decree-law cited above. Finally, the Supreme Court of Justice of Chile decided on a motion for cassation on the merits of the case with its ruling of January 16, 1997, which found that the legal action had prescribed.

338. The IACHR made the following recommendations to the Chilean State:

1. Establish the parties responsible for the murder of Samuel Alfonso Catalán Lincoleo through due judicial process, so that the guilty parties may be effectively punished.
2. Adapt its domestic legislation to the American Convention, for which purpose it must declare Decree-Law No. 2191 of 1978 null and void.
3. Adopt the necessary measures to ensure that the victim's next-of-kin receive adequate, timely reparations, including full satisfaction for the violations of the human rights established herein, as well as payment of fair compensation for material and nonmaterial damages caused, including pain and suffering.

339. In its 2010 Annual Report, the IACHR indicated that it considered that recommendation 3 in Report No. 61/01 had been fulfilled.⁵²

340. By means of a note dated March 13, 2009, the Chilean State presented the following information: Regarding the first recommendation, it reported that on January 29, 2001, a complaint was filed with the Santiago Court of Appeal against Mr. Augusto Pinochet Ugarte and others for the crimes of qualified abduction, illicit association, and illegal burials of persons, including that of Samuel Catalán Lincoleo, whose proceedings were registered as No. 2182-98. On August 25, 2003, the proceedings were totally and definitively dismissed, on the grounds that the 4th Military Court of Valdivia had already established *res judicata* in connection with those same incidents. On August 31, 2005, the Ninth Chamber of the Santiago Court of Appeal, in resolving the jurisdictional consultation placed before it, upheld the definitive dismissal of the proceedings.

341. In a note dated December 30, 2010, the State observed that the Special Visiting Judge from the Temuco Appeals Court had presided over case No. 113,958 (Catalán Lincoleo), which is in the preliminary inquiry phase; no one is currently standing trial or has been convicted. The State reported that, investigative measures still need to be carried out. The State observed that in this proceeding, the Law No. 19.123 Continuation Program of the Ministry of the Interior is a coadjutor party. In subsequent communications

⁵² See IACHR, 2010 Annual Report, Chapter III, Section D: Status of Compliance with IACHR Recommendations, para 270. Available at: <http://www.cidh.oas.org/annualrep/2008sp/cap3.D.4sp.htm>

dated January 17, 2012, January 10, 2013, and January 9, 2014, the State reiterated the aforesaid information, and indicated that the case was still in the preliminary phase, as there were pending proceedings to be completed, and the alleged perpetrators of the crimes in question had not been charged. On this point, the IACHR invites the State to include its next report specific information on the progress made with the proceedings pending in this investigation.

342. Regarding the second recommendation, related to amending its domestic law, the State reported that a congressional motion for the interpretation of Article 93 of the Criminal Code had been presented, in order to ensure compliance with the judgment of the Inter-American Court of Human Rights in the case of *Almonacid Arellano v. Chile*. That judgment by the Inter-American Court ordered the Chilean State to amend its laws so that the decree in question would not pose an obstacle for investigating and punishing those responsible for the human rights violations committed during the 1973 to 1978 period. As of the date of its communication, the State reported, the legislative bill seeking to exclude crimes against humanity and war crimes covered by international instruments ratified by Chile from statutory limitations was at its first reading in the Senate and was on the docket for examination by the Constitution, Legislation, and Justice Committee.

343. In its communication of December 30, 2010, the State reiterated this information and reported that the bill was currently in the Senate for the second reading required under the Constitution. It had been sent to the Senate on May 6, 2009. The State said that another bill had reportedly been introduced to establish a new mechanism of review for cases involving human rights violations. That bill was currently in its first reading. The Commission notes that the State did not report any progress made in conjunction with this recommendation in its reports of January 17, 2012 and January 9, 2014. Although earlier it had provided details on the content of the two bills in Congress, it has merely reiterated that they are still in the same situation as they were in 2010.

344. In view of the foregoing, the IACHR again observes with concern that its recommendation to the effect that the identity of the parties responsible for the murder of Samuel Alfonso Catalán Lincoleo be established has not been heeded, and that despite the amount of time that has passed, case No. 113.958 is still in the preliminary inquiry phase, and no one has thus far been brought to trial. Lastly, the Commission reiterates that despite the efforts made to adapt Chile's laws to conform to the American Convention, which is an international obligation incumbent upon the State but 171 thus far unfulfilled, in 2011 and 2012 no progress was made on the constitutional procedures required for passage of the bills that the Executive Branch introduced in 2009. Since all branches of the Chilean government have to be involved in the process of adapting domestic laws to conform to the American Convention, the legislative branch is urged to comply with the Commission's recommendations and to provide specific information on the procedures pending in Case No. 113,958 and the actions that have been taken to move this investigation forward.

345. In a communication dated December 1st, 2014, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending. The parties did not furnish the information requested.

346. The Commission concludes that the Chilean State has partially complied with its recommendations. The Commission will, therefore, continue to supervise the recommendations still outstanding.

Case 11.725, Report No. 139/99, Carmelo Soria Espinoza (Chile)

347. In Report No. 139/99 of November 19, 1999, the IAHCR concluded that the State violated the rights to personal liberty and humane treatment, and the right to life, of Carmelo Soria, enshrined in Article I of the American Declaration of the Rights and Duties of Man. The Commission also found that the dismissal with prejudice of the criminal charges that had been brought for the detention and disappearance of Carmelo Soria Espinoza negatively affects the right to justice of the petitioners, and as a result, the Chilean State has violated its international obligations enshrined at Articles 8 and 25, 1(1) and 2 of the American Convention; that Decree-Law 2,191 of 1978, the self-amnesty law, is incompatible with the American Convention, which

was ratified by Chile on August 21, 1990; that the judgment of the Supreme Court of Chile that finds said Decree-Law 2,191 constitutional of binding application, when the American Convention had already come into force for Chile, violates Articles 1(1) and 2 of said Convention; that the Chilean State has not carried out Article 2 of the American Convention, for it has not brought its legislation into line with the provisions of the Convention; that it has ceased to be in compliance with the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons for having adopted Decree-Law 2,191 and because its administration of justice organs have not punished the perpetrators of the crimes committed against Carmelo Soria. Mr. Carmelo Soria Espinoza, 54 years of age, and a dual Spanish and Chilean national, worked as the chief of the editorial and publications section at the Latin American Demography Center (CELADE) in Chile, an entity of the Economic Commission for Latin America and the Caribbean (ECLAC), which is part of the United Nations, accordingly Mr. Soria was an international civil servant.

348. On November 19, 1999, the Inter-American Commission made the following recommendations to the Chilean State:

1. To establish the responsibility of the persons identified as guilty of the murder of Carmelo Soria Espinoza by due process of law, in order for the parties responsible to be effectively punished and for the family of the victim to be effectively ensured the right to justice, enshrined in Articles 8 and 25 of the American Convention.
2. To comply with the provisions of the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, in order for human rights violations, committed against international officials entitled to international protection, such as the execution of Mr. Carmelo Soria Espinoza in his capacity as an officer of ECLAC, to be appropriately investigated and effectively punish those responsible. Should the Chilean State consider itself unable to fulfill its obligation to punish those responsible, it must, consequently, accept the authorization of universal jurisdiction for such purposes.
3. To adapt its domestic legislation to reflect the provisions contained in the American Convention on Human Rights in such a way that Decree Law No. 2.191 enacted in 1978 be repealed, in order that human rights violations committed by the de facto military government against Carmelo Soria Espinoza may be investigated and punished.
4. To adopt the necessary measures for the victim's family members to receive adequate and timely compensation that includes full reparation for the human rights violations established herein, as well as payment of fair compensation for physical and non physical damages, including moral damages.

349. On March 6, 2003, the IACHR published Report No. 19/03, which contains the agreement on implementation the parties reached with respect to Case 11.725.

350. In the terms of the agreement on implementation, the State committed to:

- a) Issue a public declaration recognizing the responsibility of the State, through the action of its agents, for the death of Mr. Carmelo Soria Espinoza.
- b) Erect a monument of remembrance to Mr. Carmelo Soria Espinoza in a location designated by his family in Santiago.
- c) Pay a single lump sum of one million five hundred thousand United States dollars as compensation to the family of Mr. Carmelo Soria Espinoza.
- d) Declare that Mr. Carmelo Soria Espinoza had the status of an international official of the United Nations, assigned to the Economic Commission for Latin America, ECLAC, as a senior staff member, and that he therefore had the status of a senior international staff official.

e) Present before the Courts of Justice of Chile an application to reopen criminal proceedings that were initiated to prosecute those who killed Mr. Carmelo Soria Espinoza.

351. For their part, the petitioners agreed to:

a) Terminate the action before the Inter-American Commission on Human Rights and expressly declare that all the recommendations contained in the Commission's report 133/99 have been complied with.

b) Desist from the suit for extra-contractual liability of the State, in the case "*Soria con Fisco*" now before the Fourth Civil Court of Santiago under case N^o C-2219-2000, declaring that it agrees to terminate judicial proceedings initiated and that the reparations agreed before the Inter-American Commission on Human Rights are all that will be demanded of the State and that, consequently, the family will not pursue further judicial action for State liability, whether in connection with action of its agents or for physical or non physical damages, including moral damages. An authenticated copy of the judicial decision approving the withdrawal of action must be presented before the Commission by the petitioner, for purposes of demonstrating compliance with this agreement.

352. Based on the information that the parties provided, the Commission concluded that all the commitments undertaken by the parties in Report No. 19/03 had been duly carried out⁵³. In its 2008 Annual Report, the Commission expressed its appreciation for the efforts made by the Chilean State to comply with those commitments. At the same time, the Commission also concluded that the State had partially complied with the Commission's recommendations in Report No. 139/99, as recommendations 1, 2, and 3 of that report were still pending compliance.

353. By a communication received on June 8, 2010, the petitioners reported that on March 5, 2010, the petitioners and representatives of the Chilean Government's Human Rights Program had, in separate submissions, both asked the Supreme Court to reopen the case into the murder of Mr. Carmelo Soria. On March 29, 2010, the Special Justice of the Supreme Court, don Héctor Carreño Seaman, did not agree to the request. They added that on April 1, 2010, the Government's Human Rights Program and the petitioners both appealed that decision. On April 28, 2010, the Second Chamber of the Supreme Court confirmed the ruling. The Court therefore held that the investigation had been completed. The petitioners regretted that the Supreme Court had refused to reopen the case record, which in practice meant that the perpetrators of the murder of Carmelo Soria Espinoza never faced punishment, i.e., they enjoy complete and absolute impunity.

354. In a communication dated December 30, 2010, The State reaffirmed the information on the proceedings and current status of the case prosecuted into the murder of Carmelo Soria. As to Case No. 7981, prosecuted for the crimes of conspiracy to commit crime and obstruction of justice in the case that investigated the murder of Carmelo Soria, the State indicated that it had been underway since September 7, 2009, with seven defendants.

355. Concerning the second recommendation in Report No. 139/99, the State asserted that it was gathering sufficient information to enable it to fully comply with the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons. As for the third recommendation, the State observed that various alternatives had reportedly been examined, the most viable being the enactment of a law interpreting Article 93 of the Penal Code. An effort was made to reconcile non-application of the Amnesty Law (DL 2191) with the institution of *res judicata* and the principle of *ne bis in idem*. As a result two bills were reportedly introduced: a) an interpretative law that brings Chilean criminal law in line with international human rights treaties, a bill that is currently in its second reading in the Senate; b) a

⁵³ See IACHR, 2008 Annual Report, Chapter III, Section D: Status of Compliance with IACHR Recommendations, paras. 189-190.

modification that establishes a new review mechanism for cases of human rights violations, a bill that is currently in its first reading.

356. In a note dated January 18, 2012, the State reported regarding the first recommendation, on the establishment of criminal responsibility for the murder of Carmelo Soria, that in view of the refusal of the Supreme Court of Justice to reopen the preliminary inquiry, the Ministry of the Interior's Human Rights Program was taking all available legal measures to implement the Commission's recommendation, but the State did not indicate which measures. Regarding Case No. 7981, prosecuted for the crimes of conspiracy to commit crime and obstruction of justice in the case that investigated the murder of Carmelo Soria, the State said that it was about to be informed of the final ruling.

357. Concerning the second recommendation, the State reiterated that it was gathering information to enable it to comply with the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons. Likewise, it reiterated the information regarding the third recommendation, on the bill interpreting Article 93 of the Penal Code, which was still under consideration in Congress.

358. On December 3, 2012, the Commission asked the parties to supply updated information on the status of compliance with the recommendations made in Report No. 139/99. The State provided information by a note dated January 10, 2013. In connection with the first recommendation, it reiterated that through the Ministry of the Interior's Human Rights Program, it had called for a reopening of the preliminary inquiry into the case of aggravated homicide that claimed the life of Carmelo Soria Espinoza, but that its request was denied by the Supreme Court's Examining Justice. In its 2013 presentation, the State also reported that it was awaiting notification of the final ruling in Case No. 7,981, prosecuted for the crimes of conspiracy and obstruction of justice in the investigation into the murder of Carmelo Soria.

359. As for the second recommendation, the State again observed that it was compiling information to enable it to comply with the Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons. It also reported that the bill interpreting Article 93 of the Penal Code was still in the second constitutional round in the Senate, while the bill for a new mechanism for review of human rights violations was still in the first constitutional round.

360. On January 9, 2014, the State reported that although Supreme Court Case No. 1-93 for prosecution of aggravated homicide to the detriment of the victim was initially closed, it was reopened at the initiative of the examining judge, and that the proceeding was in the preliminary investigative stage, with various investigative processes under way, but that "no further details on the case had been obtained." With regard to Case No. 7981, the State reiterated what it had stated in its earlier reports, and indicated that it was still awaiting the appeal judgment, since the Appellate Court ordered verification of new ongoing proceedings.

361. In that same communication, the State reported that no further progress had been made on the bill regarding interpretation of Article 93 of the Penal Code, which is still in the Senate, where it has remained since May 6, 2009. It further reported that neither had any headway been made with regard to the new channel for review in the case of human rights violations.

362. On December 4, 2014, the IACHR requested that the parties provide updated information on the status of compliance with the recommendations contained in Report No. 139/99.

363. On December 11, 2014, the petitioner reported on Case No. 1-93, indicating that the proceedings ordered when the preliminary inquiry was reopened were still in progress, and that on July 25, 2014 a Spanish extradition request involving several of the persons tried on the basis of the principle of territoriality had been denied (Case 624-2013). Moreover, in conjunction with Case No. 7981, petitioner indicated that the decision of the Santiago Court of Appeals (Case No. 1233-2012) was still pending. The State, for its part, did not provide any updated information.

364. In view of the foregoing information, the Commission reiterates that the State has not yet complied with the Commission's recommendation regarding the investigation and punishment of those responsible for the murder of Carmelo Soria and its recommendation that Chilean domestic law be brought in line with the provisions of the American Convention on Human Rights.

365. The Commission concludes, therefore, that the Chilean State has partially complied with the recommendations the Commission made in Report No. 139/99. Consequently, the Commission will continue to monitor for compliance with the recommendations that have not been carried out.

Petition 4617/02, Report No. 30/04, Mercedes Julia Huenteao Beroiza *et al.* (Chile)

366. On March 11, 2004, by Report No. 30/04, the Commission approved a friendly settlement agreement in the petition of Mercedes Julia Huenteao Beroiza *et al.* In summary, the petitioners, who are members of the Mapuche Pehuenche people, from the sector known as Alto del Bío Bío, Region VIII in Chile, had made arguments regarding the State's responsibility for the development of the Ralco Hydroelectric Project, carried out by the Empresa Nacional de Electricidad S.A. (ENDESA), in the areas in which they lived.

367. According to that agreement, the State committed to the following:

1. Measures to improve the legal institutions protecting the rights of indigenous peoples and their communities, including: a) constitutional recognition for the indigenous peoples in Chile; b) ratification of ILO Convention No. 169 by Chile;

2. Measures designed to strengthen the territorial and cultural identity of the Mapuche Pehuenche people, as well as mechanisms for participation in their own development, including: a) creation of a municipality in the Upper Bío Bío sector; b) agreement on mechanisms to solve the land problems that affect the indigenous communities in the Upper Bío Bío sector; c) strengthen indigenous participation in the Upper Bío Bío Indigenous Development Area (ADI); and d) agreement on mechanisms designed to ensure the participation of indigenous communities in the management of the Ralco Forest Reserve.

3. Measures to foster development and environmental conservation in the Upper Bío Bío sector, including: a) agreement on mechanisms to ensure that indigenous communities are informed, heard, and taken into consideration in follow-up and monitoring of the environmental obligations of the Ralco Hydroelectric Project; b) strengthen economic development in the Upper Bío Bío sector, in particular in its indigenous communities, through mechanisms that are acceptable to the petitioners; c) agree on mechanisms to facilitate and improve tourism development of the reservoirs in the Upper Bío Bío for the benefit of the indigenous communities; and d) agree on binding mechanisms for all state organs to prevent the construction of future megaprojects, in particular hydroelectric projects, on indigenous lands in the Upper Bío Bío.

4. Agree, as soon as possible, on urgent measures with respect to the lawsuits against indigenous leaders who have been prosecuted for acts connected with the construction of the Ralco Plant.

5. Measures to satisfy the private demands of the Mapuche Pehuenche families concerned.

368. In its 2008 Annual Report,⁵⁴ the IACHR considered that the State was in compliance with items 1(b) and 2(a) and (d). Moreover, as regards item 4 on measures pertaining to legal action against

⁵⁴ See IACHR, 2008 Annual Report, Chapter III, Section D: Status of Compliance with IACHR Recommendations, paras. 209 and 213. Available at: <http://www.cidh.oas.org/annualrep/2008sp/cap3.D.4sp.htm>

indigenous leaders, on January 5, 2011, the State reported that it had honored this commitment with the release of the affected victim. In the petitioners' communication dated January 4, 2013, they acknowledged that this item had been honored; hence it is considered as fulfilled.

369. With regard to the commitment in 1(a) on constitutional recognition of the indigenous peoples in Chile, the State reported on January 5, 2011, and December 21, 2011, that the reform was under consideration in the Constitution, Legislation, and Regulation Committee of the Senate. It added that the Chilean Government maintained its commitment to push for a constitutional amendment in the National Congress and, to that end, on March 8, 2011, it announced that the "Consultation on Indigenous Institutions" would be held in seven stages, on three thematic areas: (1) definition of the procedure for consultation and participation, including participation regulations of the Environmental Impact Assessment System (EIAS); (ii) the draft constitutional amendment recognizing the indigenous peoples; and (iii) the establishment of an Agency for Indigenous Development and a Council of Indigenous Peoples. Likewise, it reported that between March and August 2011 the first two stages, i.e., dissemination and information, had been successfully carried out. The State pointed out that the second stage took the form of 124 workshops at the national level, in which a total of 5,582 indigenous leaders participated. According to information provided by the State, the consultation process concluded between September and November 2011 and an ad hoc committee was set up to propose a mechanism and roadmap for the first thematic area. Said committee's preliminary conclusions were submitted to CONADI on November 23, 2011.

370. The State added that the elections for the Indigenous Members of the CONADI Council were held on January 15, 2012; the elected members took office on May 9, 2012, and immediately began working with the CONADI Council's Consultation Commission to move forward with the discussions "on the rules that would govern the Indigenous Consultation required under ILO Convention No. 169." The State reported that as a result, on August 8, 2012, the Minister of Social Development visited the ILO office where he officially delivered to the indigenous peoples and various organizations the proposed "New Regulations Governing Indigenous Consultation" so that the indigenous peoples of Chile might study and discuss them independently and then enter into a dialogue with the Government to agree upon the final version of those regulations. The State reported that the various organizations of Indigenous Peoples began discussing the new Proposed Regulations to Govern Indigenous Consultations on August 8, 2012, in meetings that they themselves convened, with support and funding from the Government. The State also observed that more than 74 informative workshops and meetings were held between August and November 2012, and that Indigenous Peoples from across the country had met in a Grand National Encounter of Indigenous Peoples, held in Santiago, Chile, November 30, 2011, with over 250 representatives of the indigenous peoples in attendance.

371. On January 16, 2014, the State reported that in 2013, it had established a "Consensus Forum" ["Mesa de Consenso"] among indigenous representatives who had prepared counterproposals or expressed an interest in participating in the process. This process, in which the United Nations High Commission for Human Rights and the National Institute of Human Rights participated, took place in nine sessions, where the proposals received were reviewed and a final policy framework was structured. Subsequently, on November 22, 2013, the President of the Republic approved Supreme Decree No. 66 regulating the process of consultation with indigenous peoples; it was then submitted to the Office of the Comptroller-General of the Republic [*Contraloría General de la República*] for review and approval.

372. Concerning commitment 2(b), the State reported in 2001 that lands had been bought for almost all the Pehuenche communities that belonged to the *Commune* of the Upper Bío Bío and that in the three-year period from 2008 through 2010, an area of 180 hectares was purchased for the Butaleibun indigenous community and an area of 353.7 hectares was purchased for the Newen Mapu community of Malla Malla. It added that henceforth, every land-grant will be coupled with an agreement to provide productive support and technical assistance. In its note of January 2012, it said that in 2011 CONADI had invited tenders for a preinvestment study on land acquisition in the Cajón de Queuco sector of the Upper Bío Bío region.

373. The State informed afterwards regarding this point, that it had bought the territory of Trapa, with an extension of 8.000 hectares for the communities of Pewenche de Butalelbún y Kiñe Leche Coyan, that are located in Cajón del Queuco, Alto Bío Bío; and indicated that the said purchase represented an investment

of \$1.556.772.000 Chilean pesos. In the same sense, in communication dated January 16, 2014, the State informed that CONADI adjudicated a subsidy for 33 families in the Alto Bío Bío for a total amount of \$660.0000.0000 Chilean pesos.

374. As for commitment 2(c), the State indicated that in June 2009 the technical board for monitoring public investment in the Area of Indigenous Development of the Upper Bío Bío was launched, and in a note dated January 12, 2012, the State referred to the consultation process under way on indigenous institutions and to the activities carried out by CONADI to ensure participation by the sector's families in said consultation. On December 26, 2013, the petitioners reported that the board for the Indigenous Development Area had not been established; thus they considered that the State had not complied with this commitment.

375. The State reported on January 16, 2014 that it had reactivated the activities of the Alto Bío Bío Indigenous Development Area in four meetings with the participation of regional and national authorities on May 22, June 11, July 8, and October 4, 2013. It further reported that efforts were being pursued to legally establish the board of the entity together with the municipality.

376. In connection with commitment 3(a) of the Friendly Settlement Agreement, the State indicated that necessary measures had been taken to transmit the audit results to the municipalities of Santa Bárbara and Upper Bío Bío, among others, for public consultation and that the audit results had been published on the CONAMA web page, but that no comments whatsoever had been received from said municipalities. Moreover, it said that the Office of the Executive Director of CONAMA and the public utilities had followed up on and monitored the project, as established in the environmental qualification resolution. With regard to the impacts of the Ralco dam in the Upper Bío Bío sector, the State reported that it would conduct an independent audit three years after the hydroelectric plant had started to operate, in order to propose necessary measures to correct any possible unforeseen effects, in particular on tourism development along the banks of the reservoir. In that regard, in its note of January 2012, the State reports that the "Independent Environmental Audit Report for the Ralco Hydroelectric Plant Project" for the second half of 2011 has been sent by the Environmental Assessment Service to the Edensa Chile firm, which presented its observations on December 14, 2011.

377. The State reported on January 16, 2014 that the final audit report was sent to the municipality of Alto Bío Bío in document No. 120278 of February 2, 2012. It further reported that the Environmental Assessment Service had held two meetings convened by the Unit for Coordination of Indigenous Affairs under the Ministry of Social Development, in which representatives of the affected families were advised of the status of compliance with measures in response to the flooding of Panteón Quepuca - site 53, as established in CONAMA regulatory decision No. 133-06. In addition, the State indicated that those reports were sent to CONADI's National Board for its consideration and opinion. Finally, on this point, the State reported that on March 5, 2013, at the request of the communities affected by the flooding of the Quepuca Ralco Cemetery, the UCAI-MDS met with the representatives of the affected communities to work on a petition for reparations.

378. As for commitment 3(b), the State reported that CONADI prepared the "Productive Development Plan for relocated families on the *El Porvenir* estate, Quilaco, province of Bío Bío"; working in conjunction with the relocated families and the National Agricultural Development Institute (INDAP), it is preparing a work plan for the communities in the Upper Bío Bío sector. According to information provided by the State, two meetings were held with the petitioners in 2011 to review the commitments in the Friendly Settlement Agreement: one in the city of Los Angeles on May 10 and the other in Santiago on May 15. Likewise, in letter No. 477, dated September 9, 2011, the National Director of CONADI informed the petitioners of the decision of the Ministry of Planning to make CONADI responsible for implementing and following up on the commitments under the Friendly Settlement Agreement.

379. The State later reported that the municipality of Upper Bío Bío had been incorporated into the planning of the Bío Bío regional government's Rural Territorial Development Infrastructure Program (PIRDT). It indicated that the program will strengthen the concept of land planning, maximize production and develop new planning methods. It also observed that the planning is to be a participatory enterprise

conducted by the Bío Bío Regional Government; at the same time, the Bío Bío Regional Government and CONADI have approved the sum of \$458,000,000 pesos to execute non-farm projects of Pehuenche Communities in Bío Bío Province. The State explained that the purpose of these projects is to strengthen and diversify the economy of Pehuenche families, in areas such trade, crafts, beekeeping, ecotourism, and others. This program will last 18 months, during which time it will support the enterprise projects of 300 Pehuenche families in the province, 200 of whom are in the Upper Bío Bío municipality. As a result of communications between the government and ENDESA, at the families' request their concerns and demands have been taken into account in the context of the measures aimed at the affected communities' development.

380. The State indicated in its communication of January 16, 2014 that on October 17, 2013, the invitation to bid, Basic Study BIP Code 3012590, "Assessment of the Territorial Development Framework Plan, Indigenous Subterritories" was published. This assessment will make it possible in future to determine the portfolio of projects to benefit Bío Bío commune. The State reported that in 2013, the Indigenous Territorial Development Program invested a total of \$347 million in the area, which was earmarked primarily for structuring the landholdings, acquisition of farm machinery, and introduction of modern irrigation methods and veterinarian services; technical advisory services were also provided to small indigenous producers in the commune.

381. As for commitment 3(c), the State reported that tourism projects on the banks of Lake Ralco had been funded. Works had been promoted and financed to strengthen the ability to service the tourism trade with a particular interest in the Southern Andes. The State reported that an independent audit of the Ralco Hydroelectric Plant had been conducted in 2011 and that, on October 6, its results had been transmitted for analysis to CONADI and the Indigenous Affairs Coordination Unit of the General Secretariat of the Presidency. On January 15, 2014, the State reported that the 2013 program on "Competitive Public Bidding for Implementing Tourism Initiatives" supported three projects to make use of the Alto Bío Bío reservoirs for tourism, to the benefit of the indigenous communities.

382. As concerns commitment 3(d), the State indicated that that was covered by national legislation; consequently implementation of that commitment must fall within the bounds established by the provisions in force. In its communication in January 2014, the State reiterated that it considers that it has complied with this item.

383. Nevertheless, the petitioners sent a communication on December 15, 2008, in which they indicated that the State has failed to carry out commitment 3(d) of the friendly settlement agreement, on having accepted to undertake an environmental impact study of a hydroelectric megaproject in Mapuche Pehuenche territory known as the Angostura Project. According to the petitioners, this project would affect indigenous lands of the Alto Bío Bío in which there are at least four sacred sites for the Mapuche Pehuenche and on which some Mapuche Pehuenche families currently live. The petitioners indicated that the National Corporation of Indigenous Development (CONADI: Corporación Nacional de Desarrollo Indígena), an agency of the State entrusted with ensuring the protection of indigenous lands, issued a report on July 31, 2008 (Official Note 578) in which it confirms the importance of the sector for the heritage of the Mapuche Pehuenche communities. The petitioners indicated, based on what was stated above, that the State breached its commitment to adopt land-use management measures so that the indigenous lands in the Upper Bío Bío may be "characterized as an area for protection of resources of natural or cultural heritage value, and, accordingly, that they be declared as zones not fit for building or with building restrictions." In addition, the petitioners emphasized in their latest communication on December 26, 2013 that the terms of this item have not been met, since the State approved a megaproject for a hydroelectric plant in the Alto Bío Bío sector, known as the Angostura Power Plant.

384. As for commitment 5, concerning measures to meet the specific demands of the affected Mapuche Pehuenche families, the State reported that in late 2006 each individual had received parcels of land, drawn by lot. Each person received land in the zone intended for residential, agricultural, tourism development, or forest management use; it clarified that three parcels still had to be distributed, because of demarcation problems. It reported that the charitable pensions had been paid out and that scholarships had been awarded in June 2009. The State updated the previous information, indicating that in February 2011

title had been given free and clear to three beneficiaries for the pending real estate of lot A of the Porvenir Estate. Likewise, it reported on the execution of a project to upgrade access roads to the Porvenir Estate properties.

385. The State asserted that in 2012 the BíoBío Regional Secretariat of the Ministry of National Assets did on-site work to make technical corrections and then administrative business to legalize the changes. The State reported that the operating premise was that each beneficiary's land was to be respected, and the idea was to help identify boundaries. It observed that the technical and legal corrections necessary to transfer title to the tracts of land in Lots B and C will be completed in the first half of 2013. It also pointed that the procedure requires the permission of the families involved. At an on-site meeting held on December 10, 2012, those families were advised of the procedure and what it will mean.

386. In their communication of December 26, 2013, the petitioners underlined that this item of the commitment remains unfulfilled, since although the land was handed over, there are still serious water problems in both the Santa Inés and La Suerte sectors, to the point that Mrs. Mercedes Huentao has not been able to use the land, and that this situation persists despite many reports from government officials. They also referred to the lack of access to La Suerte sector, where there is not an adequate road for vehicles to enter. According to the petitioners, neither has the State delivered the houses, and that 18 beneficiaries were informed that they had to use the government's regular subsidy system, which was not part of the terms initially discussed by the parties. The petitioners further indicated that they were required to show a social welfare card, that would identify the degree of vulnerability of the applicants, which they consider, as yet another requirement being imposed that was not part of the original agreement. As for pensions, the petitioners reported that Mr. Fermin Beroiza had stopped receiving his ENDESA pension in March 2012. Finally, on the subject of production assistance, the petitioners stated in that communication that although the State had guaranteed that 1,500 production units would be available, the amount supplied was inadequate, and they requested direct delivery of the resources.

387. The State indicated in its January 2014 report that a Cooperation Agreement was signed between the National Corporation and Regional Indigenous Development of the Bío Bío and the Ministry's Regional Secretariat for implementation of the Porvenir Estate Replanting Project supported by Resolution No. 1505 of November 6, 2013. According to the State, under this project 24 plots of land in parcel B will be replanted, given the Porvenir Estate subdivision of Quilaco commune. According to the State, in December 2013 on-site activities to establish the boundaries were carried out.

388. In their latest communication dated December 26, 2013, the petitioners stated that in general, they considered that the State had not honored the commitments set forth in items 1(a), 2(b) and (c), all of 3, and 5 of the agreement.

389. In a communication dated December 2, 2014, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending. The parties did not furnish the information requested.

390. The Commission appreciates the measures the State has taken to honor the commitments it made under the Friendly Settlement Agreement. While it observes that a number of commitments have been fulfilled, and some measures are still in the process of being implemented, it urges the State to continue to work towards honoring all of these commitments. Therefore, the Commission concludes that the State has partially fulfilled the Friendly Settlement Agreement. Consequently, the Commission will continue to monitor the pending commitments.

Case 12.469, Report No. 56/10, Margarita Cecilia Barbería Miranda (Chile)

391. In Report No. 56/10 of 18 March 2010, the Commission found that the State of Chile is liable for violation of Margarita Barbería Miranda's right to equal protection, as set forth in Article 24 of the American Convention, by applying to her case a discriminatory provision that prohibited her from practicing as a lawyer in Chile solely because she was a foreigner. Because of this situation, the IACHR found that the

State also violated its general obligations to respect and guarantee all human rights of the victim, without any discrimination whatsoever, as set forth in Article 1(1) of the American Convention, further violating its duty to adopt domestic legal provisions that would align its law with its international commitments in this matter, as enshrined in Article 2 of the Convention.

392. The Commission made the following recommendations to the State:

1. That measures be taken to amend the Chilean law that precludes individuals from the practice of law solely on the grounds that they are aliens, and in particular the norms contained in the Organic Code of Tribunals of Chile.
2. That Margarita Barbería Miranda be permitted to take the oath of attorney and practice law in Chile.
3. That Margarita Barbería Miranda be adequately compensated for the violations established in the present report.

393. In Report No. 56/10, the Commission gave a very positive assessment to actions taken by the State of Chile related to compliance with the first and second recommendations, to wit, passing Law 20,211 that modified Article 526 of the Organic Code of the Courts; and swearing in Margarita Barbería Miranda as an attorney on 16 May 2008, before the Supreme Court of Chile; hence these two recommendations are considered as fulfilled, leaving only the full reparations to the victim pending.

394. On 29 November 2010 the IACHR sent a communication requesting information of the parties on the status of compliance with the second recommendation, which had to do with reparations for the violations established in the Commission's report. In a communication dated 29 December 2010, the State reported that at the end of 2008 it held a meeting with Ms. Margarita Barbería and suggested the possibility that she press for satisfaction of her financial claims by pursuing recognized domestic procedures under Chilean law. The State also indicated that the petitioner rejected this proposal, reiterating her expectation that she be compensated for material and moral injury suffered as a result of the legal prohibition that had hindered her from being sworn in as an attorney. Additionally, the State of Chile stated that Ms. Barbería had not introduced adequate evidence of the injury to sustain the following requests: university scholarships for each of her three children; a full scholarship for graduate studies at the doctoral, master's or professional degree level in a law-related subject of interest to the petitioner; a furnished office; an automobile; and a lump-sum payment of US\$ 90,000.00.

395. In a note date 16 November 2011 the petitioner reported to the IACHR that the State of Chile had not provided adequate compensation for the violations she had suffered. For its part, on 21 December 2011, the State of Chile sent a communication in which it reiterated in the same terms the information it had provided in its note submitted on 29 November 2010.

396. By a communication received on January 15, 2013, the petitioner claimed that in 2012 she had no contact with representatives of the Chilean State in connection with fulfillment of the Commission's recommendation. For its part, on January 4, 2013, the State sent a communication repeating what it had previously reported, specifically that while it had suggested to the petitioner that she press for satisfaction of her financial claims by pursuing recognized domestic procedures under Chilean law, Mrs. Barbería had not opted to pursue that course of action.

397. In a communication dated March 1, 2013, the petitioner said that she was without recourse to action in the domestic courts because under the rules governing the country's statute of limitations, which are set out in Book IV, Title XLII of the Civil Code, the overall time limit on taking legal action in the regular jurisdiction is five years. She said that the facts on which any hypothetical action might be based had occurred 12 years ago. She also said that she lacked another of the requirements: a legally enforceable basis for her claim, which did not include the records of the Inter-American Commission. Finally, the petitioner said that

her reparation claims were intended to redress the harm caused by the seven years in which she was arbitrarily excluded from practicing law.

398. In a communication dated January 9, 2014, the State indicated that in similar cases in which the IACHR has issued a report on the merits, the State Defense Council has offered an alternative, whereby the petitioner would file a *juicio de hacienda* [a suit to which the fiscal authority is a party] to pursue the State's responsibility for the acts investigated by the Commission, which the State Defense Council could resolve, if the quorum required by the law is achieved. The State cited a precedent in which the petitioner had succeeded in obtaining reparations. The State indicated that it was waiting for the petitioner to initiate this mechanism or to restate its reparation claims. This information was forwarded to the petitioner on April 21, 2014, but no information on her decision has been received to date.

399. In a communication dated December 4, 2014, the Commission asked the parties to provide up-to-date information on the status of the recommendations whose implementation was pending.

400. On January 18, 2015, the petitioner reported that there had been no changes in the Chilean State's intention to comply with the recommendation. Petitioner further noted that in the past three years, the State had not made any attempts to seek a convergence of views or shown any intention of reaching an agreement.

401. As of the date this report was written, the State has not provided the information requested.

402. The Commission takes note of the obstacles for the compliance with the recommendation related to adequate reparations to Margarita Barbería Miranda, and urges the parties to work together to comply with this clause. The Commission therefore concludes that the Chilean State has partially complied with the aforementioned recommendations. Consequently, it will continue to monitor the recommendation not yet honored.

Case 11.654, Report No. 62/01, Riófrío Massacre (Colombia)

403. In Report No. 62/01 of April 6, 2001, the Commission concluded that the State was responsible for the violation of the right to life, enshrined in Article 4 of the American Convention, in the massacre perpetrated by State agents and members of paramilitary groups of the following persons: Miguel Enrique Ladino Largo, Miguel Antonio Ladino Ramírez, María Cenaida Ladino Ramírez, Carmen Emilia Ladino Ramírez, Julio Cesar Ladino Ramírez, Lucely Colorado, Dora Estela Gaviria Ladino, Celso Mario Molina, Rita Edelia de Molina, Ricardo Molina, Freddy Molina, Luz Edelsy Tusarma Salazar, and Hugo Cedeño Lozano. In addition, it concluded that the State was responsible for having breached its special duty of protection, under Article 19 of the American Convention, to the detriment of minors Dora Estela Gaviria Ladino and Luz Edelsy Tusarma Salazar. The Commission also concluded that the Colombian State was responsible for violating the right to humane treatment, enshrined in Article 5 of the Convention, to the detriment of Hugo Cedeño Lozano, Miguel Ladino, Cenaida Ladino, Ricardo Molina Solarte, and Celso Mario Molina Sauza, and of breaching its duty to provide effective judicial protection to the victims in this case under Articles 8 and 25 of the American Convention, in conjunction with Article 1(1) of the same.

404. The IACHR made the following recommendations to the Colombian State:

1. Conduct an impartial and effective investigation in ordinary jurisdiction with a view to prosecuting and punishing those materially and intellectually responsible.
2. Take steps to ensure that the families of the victims are duly compensated.
3. Take steps to prevent any future occurrence of similar events in accordance with its duty to prevent and guarantee the basic rights recognized in the American Convention, as well as adopting the measures necessary to give full force and effect to the doctrine

developed by the Constitutional Court of Colombia and by the Inter-American Commission in investigating and prosecuting similar cases through the ordinary criminal justice system.

405. Based on the information provided by the State in 2013, and regarding recommendation No. 1, the State has reiterated that the criminal case has been reassigned to Specialized Prosecutor's Office 48 of the Human Rights and International Humanitarian Law Unit of the Office of the Attorney General of the Nation and that it remains at the preliminary investigation stage. It also reiterated that since October 1998, the decision to acquit the members of the military forces in the disciplinary proceeding brought against them was upheld and that some of their harsher sentences were made more lenient (dismissal became reprimand and suspension of duties became acquittal). The State further reported that during 2013, an investigation was conducted "as a mechanism to formally implicate some individuals who, as a result of the evidence gathered thus far, may be connected to the crimes that are the subject of the case."

406. With respect to recommendation No. 2, the State reiterated that, as of 2004, there has been compliance with a conciliation agreement between Colombia and the family members of the victims and it requested the IACHR declared that there has been compliance with the obligation set forth under recommendation No. 2 of Report 62/01.

407. As for recommendation No. 3, the State reiterated the information submitted during the monitoring stage, regarding the permanent incorporation, by the Ministry of National Defense, of policies on Human Rights (HR) and International Humanitarian Law (IHL), tailored to all members of the public security forces and the development of guiding principles of leadership, promotion and respect for HR and IHL; as well as prevention, deterrence, control, integration and recognition. Additionally, it reported that under Directive No. 003 of January 8, 2013, the General Command of the Armed Forces, the organizational structure and operation of the Delegated Inspections was adjusted to include among their duties issues pertaining to HR, IHL and other things. Consequently, the State requested the IACHR to find that recommendation No. 3 of Report 62/01 has been fully complied with.

408. As regards the third recommendation, the State of Colombia provided additional information by means of a communication submitted to the IACHR on April 7, 2014. In that communication the State submitted information regarding the measures adopted domestically to prevent homicides of protected persons, among which they highlighted the advancements in intelligence procedures, operations, and logistics, with the establishment of an Operational Manual to be used by the Army, the Navy, and the Air Force; as well as the issuance of Law 1621 of April 17, 2013, whose purpose is to strengthen the legal framework of the agencies that carry out intelligence activities and it establishes limits and mechanisms for oversight and supervision for those activities, which must be in "strict compliance with the Constitution, the law, international humanitarian law, and international human rights law."

409. In that communication the State makes a list of the different courses, workshops, and diploma programs that have been designed and given with the aim of expanding and reinforcing the legal and operational knowledge of the armed forces, within which specific issues are highlighted such as sexual violence, human rights, international humanitarian law, operations law, medical mission, training instructors, and the use of force to maintain order. The State also indicates that those trainings have been carried out both as part of the basic curriculum of the armed forces, and through extracurricular courses, and it gives a statistical estimate of the officers trained in these areas. In addition, it states that a human rights certification was established for all officers who aspire to be promoted to colonel or general.

410. Finally, in that above-noted communication the State mentions that measures have been adopted to improve the system for evaluating the military units, as well as the implementation of a differentiated system for applying the Rules of Engagement (ROE).

411. On November 26, 2014, the IACHR once again asked both parties for information on implementation of the recommendations. To date no information has been received from either one.

412. In light of the foregoing, the Commission concludes that there has been partial compliance with the recommendations. Therefore, the Commission will continue to monitor the items that remain pending, especially in relation to the first recommendation of the report.

Case 11.710, Report No. 63/01, Carlos Manuel Prada González, and Evelio Antonio Bolaño Castro (Colombia)

413. In Report No. 63/01 of April 6, 2001, the Commission established that the State was responsible for violating the American Convention at Articles 4, to the detriment of Evelio Antonio Bolaño Castro; 4 and 5, to the detriment of Carlos Manuel Prada González; and 8(1), 25, and 1(1) to the detriment of both victims and their families. This was as the result of the extrajudicial execution, at the hands of state agents, of Carlos Manuel Prada González and Evelio Antonio Bolaño Castro, and the failure to judicially clarify the incident.

414. In Report No. 63/01, the IACHR made the following recommendations to the State:

1. Carry out a full, impartial, and effective investigation within the ordinary jurisdiction with a view to judging and punishing those responsible for the extrajudicial execution of Carlos Manuel Prada and Evelio Antonio Bolaño Castro
2. Adopt the measures necessary to ensure that the victims' next-of-kin receive adequate and timely reparations for the violations determined in the Report.
3. Take the steps necessary to prevent any future occurrence of similar events in accordance with its duty to prevent and guarantee the basic rights recognized in the American Convention, as well as adopt the measures necessary to give full force and effect to the doctrine developed by the Constitutional Court of Colombia and by the Inter-American Commission in investigating and prosecuting similar cases through the ordinary penal justice system.

415. The IACHR has been monitoring the State compliance of the recommendations it issued and on November 26, 2012 it requested information from both parties. On January 2, 2013 the State submitted the information requested by the IACHR regarding the measures adopted for the compliance of the three recommendations, while the petitioners submitted additional information on January 24. On October 2, 2013, the IACHR requested updated information from both parties on compliance with the pending items. The State's response to this request was received that November. The petitioners did not respond to the request for information.

416. With regard to recommendation No. 1, the State has reiterated that the case has been reassigned to Specialized Prosecutor's Office 16 of the Human Rights and International Humanitarian Law Unit of the Office of the Attorney General of the Nation. In this regard, it reiterated that convictions were handed down against several of the 9 individuals for the crime of being an accessory after the fact by giving favorable treatment. It also noted that on May 2, 2012, three individuals were convicted for the crime of the aggravated homicides of Carlos Manuel Prada and Evelio Antonio Bolaño, and that an appeal filed by the attorneys of the defendants was pending. Based on the foregoing, the State requested the IACHR to find that there is full compliance with the first recommendation of Report 63/01.

417. With respect to recommendation No. 2, the State reiterated that as of 2009, payment of damages for pain and suffering to the next-of-kin of Carlos Manuel Prada and Evelio Antonio Bolaño was fully complied with and it requested the IACHR to find that there is compliance with the obligation set forth in recommendation No. 2 of Report 63/01.

418. Regarding recommendation No. 3, the State reiterated the information it has submitted as of 2010. The State submitted information concerning the introduction of policies and lines of action in human rights and international humanitarian law intended for all members of law enforcement, emphasized the

work of the Superior Council of the Judiciary to implement the doctrine developed by the Constitutional Court on the definition of the competence of ordinary courts when dealing with serious human rights violations and reported on the measures taken to transfer cases involving possible human rights violations from the military justice system to the regular courts. Given the importance of the topic and its heavy impact on the evaluation of the duty to guarantee and protect human rights, and inasmuch as all branches of government were constantly monitoring this problem, the State asked the Commission once again to find that recommendation No. 3 had been fully carried out.

419. In response, the petitioners recognized that significant progress has been made in compliance with the first recommendation, acknowledging in this regard the convictions handed down for the crimes of the instant case. Notwithstanding, they believe that the investigations should remain open “until all of those responsible [who are] implicated are identified, prosecuted and punished,” and that the crime of “accessory after the fact’ as a type of criminal charge be examined” inasmuch as it could constitute a “mechanism of impunity for extrajudicial executions.” As for the second recommendation, the petitioners recognized as a significant step forward the payment of compensation to the victims as provided under the decision of the Council of State in the instant case, and deem that at the same time other actions or mechanisms should be taken or put into place to contribute to the full reparation of the next-of-kin of the victims.

420. With regard to recommendation No. 3, in their communication of January 24, 2013, the petitioners described the amendment to the Political Constitution approved by the Congress of the Republic under Legislative Act 02 of 2012, pertaining to military jurisdiction of criminal justice, as a serious aspect linked to compliance viewing it as substantially expanding the scope of competence of the military justice system to hear cases of violations of international humanitarian law, as well as of human rights violations such as those committed in the instant case. [Footnote: Note of secretariat: as of the date of the approval of the instant Annual Report, and based on information of public knowledge, under the decision of the Constitutional Court, Legislative Act 02 of 2012 had been declared unconstitutional. See: Press release No. 41 of the Constitutional Court. October 25, 2013. Available at: <http://www.corteconstitucional.gov.co/>

421. On December 1, 2014, the IACHR once again requested information on implementation of the recommendation from both parties, and to date neither has responded.

422. Based on the foregoing, and given that in the criminal case there are decisions pending review, the Commission concludes that there has been partial compliance with the recommendations. Therefore, the Commission will continue to monitor pending items.

Case 11.712, Report No. 64/01, Leonel de Jesús Isaza Echeverry (Colombia)

423. In Report No. 64/01 of April 6, 2001, the Commission concluded that the State was responsible for violating the right to life of Leonel de Jesús Isaza Echeverry, enshrined in Article 4 of the American Convention; the right to human treatment of Ms. María Fredesvinda Echeverry, enshrined in Article 5 of the American Convention; the right to humane treatment and the breach of the obligation to adopt special measures of protection with regard to the child Lady Andrea Isaza Pinzón, established in Articles 5 and 19 of the American Convention; as well as the breach of the duty to afford effective judicial protection to the victims of this case, in keeping with Articles 8 and 25, in conjunction with Article 1(1) of the Convention. This case has to do with the responsibility of state agents for the death of Mr. Leonel de Jesús Isaza Echeverry, the harm to the personal integrity of Ms. María Fredesvinda Echeverry and the child Lady Andrea Isaza Pinzón, and the failure to clarify these events judicially.

424. The IACHR made the following recommendations to the Colombian State:

1. Conduct an impartial and effective investigation before ordinary jurisdiction for the purpose of judging and sanctioning those responsible for the extrajudicial execution of Mr. Leonel de Jesús Isaza Echeverry.
2. Adopt the measures necessary for reparation of the consequences of violations committed to the detriment of María Fredesvinda Echeverry and Lady Andrea Isaza Pinzón, as well as providing due indemnity for the relatives of Leonel de Jesús Isaza Echeverry.
3. Take the steps necessary to prevent any future occurrence of similar events in accordance with its duty to prevent and guarantee the basic rights recognized in the American Convention, as well as adopting the measures necessary to give full force and effect to the doctrine developed by the Constitutional Court of Colombia and by the Inter-American Commission in investigating and prosecuting similar cases through the ordinary criminal justice system.

425. The IACHR has been monitoring the State compliance of the recommendations it issued. Accordingly, on November 3, 2012, a working meeting of the parties was held wherein the steps taken for compliance with the first and third recommendations were addressed, particularly the possibility that this type of case not be investigated under military jurisdiction. On January 2, 2013 the State submitted the information regarding the steps taken to comply with the three recommendations. On February 5, 2013, the State submitted additional information on compliance with the agreements reached at the working meeting of November 2012.

426. As to recommendation No. 1, the State has reiterated the information on the decision handed down in November 2004 acquitting the defendants under the principle of *in dubio pro reo*. However, it added that a motion to review the ruling was filed with the Supreme Court of Justice in order to enforce proper due process procedures and ensure that a legally pre-established judge with jurisdiction to hear the matter presides (guarantee of natural judge).⁵⁵

427. The State has reiterated that by Payment Resolution No. 2512 the conciliation agreement was carried out, as the payment of compensation was made to María Fredesvina Echeverri de Isaza and Lady Andrea Isaza Pinzón and requested the IACHR to find that there was compliance with the obligation set forth in recommendation No. 2 of Report 64/01.

428. With respect to recommendation No. 3, the State reiterated the information submitted in 2010 and 2011 on making Human Rights (HR) and International Humanitarian Law (IHL) policies permanent, applying them to all members of the public security forces and developing the guiding principles of leadership, promotion and respect for HR and IHL; as well as prevention, deterrence, control, integration and recognition. It mentioned the Comprehensive HR and IHL Policy that was issued in January 2008, the HR and IHL School of the Military Forces being up and running as of 2009 and ongoing progress made by the Constitutional Court in setting legal precedents to define the limits of military criminal jurisdiction. In light of the foregoing, the State requested the IACHR to find full compliance with recommendation No. 3 of Report 64/01.

429. On October 2, 2013 and November 26, 2014, the IACHR asked both parties updated information on the points pending for compliance. To the date of closure of this report, IACHR has not received the updated information from the State.

⁵⁵ The State submitted the date of the filing of the motion for review and a copy in its communication of February 5, 2013; however, as of the date of approval of the instant Annual Report, the Commission has not received information from the parties on the processing of said action.

430. The petitioners responded on February 12 of 2015, indicating in relation to the investigation, that there have not been major advances since the working meeting of 2012. According to the petitioners, the Attorney General of the Nation had informed that on November 6, 2012, a revision action had been filed before the Supreme Court of Justice of Colombia against the decision that absolved all the agents involved in the Criminal Military Justice System. The petitioners indicated that on June 12, 2014, they filed a request of information before the Attorney General of the Nation, to obtain data on the said revision action. However, they have not received an answer from the Supreme Court of Justice or from the Attorney General of the Nation.

431. In relation to the recommendation number 3, the petitioners indicated that there are three legislative initiatives currently before the Colombian Congress, that are related to the accusatory system in the Criminal Military Justice System; investigation, sanction and judgment of the military forces according to the IHL; and the constitutional reform for the judgment of military forces for crimes committed in active duty and with the occasion of the service. According to the petitioners the objective of the said initiative is to broaden the scope of the Criminal Military Justice System to the judgment of human rights violations and other infractions to international humanitarian law. The petitioners consider that all of the above mentioned, represents a great risk for the advancements on standards in this subject that have been established by the IACHR in the different cases related with this issue and in the respective country reports, as well as the advancements of the Constitutional Court in its judgments on this thematic.

432. Based on the foregoing, the Commission concludes that there has been partial compliance with the recommendations. Therefore, the Commission shall continue to monitor pending items. The Commission invites the parties to provide additional documentation related to the said legislatives initiatives.

Case 11.141, Report No. 105/05, Villatina Massacre (Colombia)

433. On July 29, 2002, by Report No. 105/05⁵⁶, the Commission approved and recognized the partial implementation of a friendly settlement agreement signed on July 29, 1998, in the case known as the "Villatina Massacre." In summary, the petition alleged the responsibility of state agents in the massacre of children Johana Mazo Ramírez, Johny Alexander Cardona Ramírez, Ricardo Alexander Hernández, Giovanni Alberto Vallejo Restrepo, Oscar Andrés Ortiz Toro, Ángel Alberto Barón Miranda, Marlon Alberto Álvarez, Nelson Dubán Flórez Villa, and the youth Mauricio Antonio Higueta Ramírez, perpetrated on November 15, 1992 in the Villatina neighborhood of the city of Medellín.

434. That friendly settlement agreement incorporates the terms of an agreement originally signed on May 27, 1998, in the course of an initial attempt to reach a friendly settlement in the matter. The agreement recognizes the responsibility of the State for the violation of the American Convention, the right to justice and individual reparation for the victims' next-of-kin, as well as an element of social reparation with components related to health, education, and a productive project. In addition, it provides for erecting a monument in a park in the city of Medellín so as to recover the historical memory of the victims. The Commission observes that the operative part of the agreement reflects the recommendations of the Committee to Give Impetus to the Administration of Justice (Comité de Impulso para la Administración de Justicia) created in the context of the agreement originally signed on May 27, 1998.

435. In Report No. 105/05, the Commission highlighted the implementation by the State of a large part of the commitments assumed in the agreement, and it called on it to continue carrying out the rest of the commitments assumed, in particular the commitment to provide effective guarantees and judicial protection to the victims and their next-of-kin, as prescribed in Articles 8(1) and 25 of the American Convention, by continuing the investigation into the facts so as to allow for the identification, prosecution, and sanction of the persons responsible.

⁵⁶ Report No. 105/05, Case 11.141, Villatina Massacre, Colombia, October 27, 2005, available at <http://www.cidh.oas.org/annualrep/2005eng/Colombia11141.eng.htm>.

436. On November 15, 2012 the IACHR requested information from both parties about the compliance of the friendly settlement agreement. On December 19, 2012 the State submitted the information requested by the IACHR regarding the measures adopted, the petitioners did not submit the information requested.

437. On October 2, 2013, the IACHR requested information from both parties on compliance with the pending items. By communication of March 25, 2014, the Colombian State submitted that information. In respect of justice, the State noted that the facts continue to be under investigation in the Office of the Attorney General (Fiscalía General de la Nación) and that for the time being there are not enough elements to pursue an appeal (*la acción de revisión*), it will continue providing the IACHR further information on this point. As for the publication and dissemination of the Friendly Settlement Agreement, the State reported that on March 13, 2014, a meeting was held between the parties in the city of Medellín in order to work together to review the documents and prepare the content of the publication. The State reports that once it has the final version of the document, the appropriate steps will be taken to have it printed.

438. On November 25, 2014, the IACHR once again requested information on compliance with the recommendations, which has not been submitted by the parties to date.

439. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission shall continue to monitor pending items, especially those related to the possibility of filing an appeal and the publication of the agreement by mutual agreement of the parties.

Case 12.009, Report No. 43/08 Leydi Dayán Sánchez (Colombia)

440. On February 28, 2006, the Commission approved a report pursuant to Article 50 of the American Convention by which it concluded that the State was responsible for violating the rights to life, to a fair trial, rights of the child, and right to judicial protection, corresponding to Articles 4, 8, 19, and 25 of the American Convention in relation to its Article 1(1), to the detriment of the child Leydi Dayán Sánchez Tamayo, and that the State had violated the rights to judicial guarantees and judicial protection corresponding to Articles 8 and 25 of the American Convention in relation to Article 1(1) of that international instrument, to the detriment of the next-of-kin of Leydi Dayán Sánchez Tamayo. This case has to do with the responsibility of state agents in the death of the child Leydi Dayán Sánchez Tamayo, which occurred on March 21, 1998, in Ciudad Kennedy, Bogotá, and the failure to clarify the facts of the case judicially.

441. With the approval of the referenced report, the Commission established a series of deadlines for the State to carry out the recommendation made therein in relation to truth, justice, and reparation. After considering the information provided by both parties and the actions carried out by the State in furtherance of the recommendations on promoting an action for review before the regular courts, the ceremonies to recover the historical memory of Leydi Dayán Sánchez, the trainings for the National Police on the use of firearms in keeping with the principles of necessity, exceptionality, and proportionality; and the payment of compensation to the victim's next-of-kin, it decided to issue Report 43/08 pursuant to Article 51 of the American Convention, and to publish it.

442. In its Report, the Commission indicated that while the investigation that is currently under way before the regular courts had not yielded results, one should value the impetus given to the action for review, specifically, the decision of the Chamber of Criminal Cassation of the Supreme Court of Justice, which declared the grounds for review that set aside the judgments of acquittal handed down by the military criminal courts based on the conclusion adopted in the Article 50 report, and ordered that the case be removed to the Office of the Attorney General so that a new investigation could be initiated before the regular courts. Nonetheless, given that the information provided by the State did not indicate that the review process had produced any results in relation to implementation of the recommendation on administration of justice, on July 23, 2008, by Report No. 43/08, the IACHR made the following recommendation to the State:

1. Carry out an impartial and effective investigation in the general jurisdiction with a view to prosecuting and punishing those responsible for the death of Leydi Dayán Sánchez Tamayo.

443. On October 4, 2013, the IACHR requested information from both parties on compliance with the items still pending. The petitioners have not responded to the request for information.

444. On December 3, 2013, the State submitted its response reporting that in October 2013, Criminal Case Backlog-Clearing Circuit Court No. 55 of Bogota issued a conviction and sentenced an individual to a jail term of 36 years and 6 months. Additionally, it highlighted that a serious and impartial investigation was conducted in the proceedings by the Office of the Attorney General of the Nation. The State also noted the active participation of the representatives of the victim's family therein, as a civil party to the criminal proceedings and having the chance to voice their legal position in case.

445. On November 25, 2014, the IACHR once again asks the parties to provide information on compliance with the recommendations. To the date of closure of this report the IACHR has not received the requested information.

446. Based on the foregoing, the Commission concludes that there has been partial compliance with the recommendation. Therefore, the Commission will continue to monitor compliance.

Petition 401-05, Report No. 83/08, Jorge Antonio Barbosa Tarazona (Colombia)

447. On October 30, 2008, in its Report No. 83/08⁵⁷, the Commission approved and recognized partial compliance of a friendly settlement agreement signed on September 22, 2006 regarding Petition 401-05 of Jorge Antonio Barbosa Tarazona. Briefly stated, the petition claimed that agents of the State were responsible for the disappearance of Jorge Antonio Barbosa Tarazona on October 13, 1992 in the Department of Magdalena, and that the judicial authorities were unjustifiably delayed in investigating, prosecuting, and punishing those allegedly responsible.

448. The aforementioned friendly settlement includes the terms of the agreement signed on September 22, 2006. It recognizes the responsibility of the State for the facts of the petition, for pecuniary damages to be paid to the victim's next of kin, as well as non-pecuniary damages including components related to health and education, the presenting of a plaque to the memory of Jorge Antonio Barbosa Tarazona and formal document with the same content, signed by an officer of the Ministry of National Defense. The agreement also includes the undertaking of judicial action towards the identification of those responsible for the disappearance and subsequent death of Jorge Antonio Barbosa Tarazona and for the search of the victim's remains.

449. In its Report No. 83/08 the Commission underscored the State's compliance with the commitments made in the agreement and recognized efforts made by the Republic of Colombia and the next of kin of Jorge Antonio Barbosa to reach a friendly settlement. The Commission also stated that it will give a special follow-up to compliance with the commitments related to the clarification of the facts, the recovery of the victim's remains, and the prosecution and punishment of those responsible.

450. In 2012, the State reported that the Criminal Appeals Chamber of the Supreme Court of Justice settled the motion to review filed by the Office of the Inspector General of the Nation against the ruling of February 15, 1993 (which terminated the investigation of an individual for the crime of homicide) and the ruling of April 15, 2002 (which precluded investigation of three individuals for the crime of simple abduction). In its judgment of September 26, 2012, the Supreme Court of Justice vacated both decisions and ordered the investigation to be transferred to the Office of the Attorney General of the Nation. The State

⁵⁷ Report No. 83/08, Petition 421-05, Jorge Antonio Barbosa Tarazona, Colombia, October 30, 2008, available at <http://www.cidh.oas.org/annualrep/2008eng/Colombia401-05.eng.htm>

noted that because of this, the investigations will be reopened and continued in order to determine what happened and who is responsible.

451. With regard to the search for the remains of Mr. Jorge Antonio Barboza Tarazona, the State informed that the case was registered in the Single Virtual Identification Center (CUVI) and was filed at the National Unit of Prosecutors for Justice and Peace, to be included on the list of individuals pending identification among those who were found in the exhumations of that Unit. Lastly, the State requested the IACHR to find that the State has fully complied with its obligations under the friendly settlement agreement.

452. In response, on April 11, 2013, the petitioners contended: “they have the right as the victims to know what technical and scientific efforts have been made by the Colombian State in the search for the remains of the victims.” Specifically, they claimed that the State must submit information regarding: i) “whether it is true that members of the military confessed that the body was left under N.N.[Unclaimed] status in the cemetery of Cienega – Magdalena;” ii) what investigations have been conducted and for how long by the authorities in charge for the purpose of locating the remains; and iii) “what are the reasons or circumstances for which it has been impossible to locate the remains, even though it is known that the remains are located at a particular cemetery.” This information was forwarded to the State in an IACHR communication of April 30, 2013, requesting its response within a period of one month.

453. On October 8, 2013 and November 25, 2014 the IACHR requested information from both parties on compliance with the items pending, but no response has been received. To the date of closure of this report the IACHR has not received the requested information.

454. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor the items pending.

Case 10.916, Report No. 79/11, James Zapata Valencia and José Heriberto Ramírez (Colombia)

455. On October 21, 2010, the Commission approved Merits Report No. 113/10, pursuant to Article 50 of the American Convention. In said report, the Commission concluded that the Republic of Colombia violated the right to life, the right to humane treatment and the right to personal liberty, enshrined in Articles 4, 5 and 7 of the American Convention, to the detriment of James Zapata Valencia and José Heriberto Ramírez Llanos, in connection with the provisions of Article 1.1 of the aforementioned international instrument. Likewise, it concluded that the State violated the rights of the child of Jose Heriberto Ramirez Llanos, who was 16 years of age at the time of the incidents. And lastly, the IACHR also concluded that the State was responsible for the violation of the right to humane treatment, to a fair trial and to judicial protection, enshrined in Articles 5, 8 and 25 of the Convention, to the detriment of the next-of-kin of the victims and in conjunction with the general obligation to respect and ensure of Article 1.1 of the Convention.

456. In approving the aforementioned Report, the Commission established several deadlines for the State to move towards compliance with the recommendations set forth therein. After considering the information provided by both parties and the efforts made by the State to comply with the recommendations, the Commission decided to issue Report No. 79/11, pursuant to Article 51 of the American Convention and publish it. In said report, the IACHR recommended the following to the State:

1. That it conduct a full, impartial, effective investigation within a reasonable time into the circumstances in which James Zapata Valencia and the child José Heriberto Ramírez Llanos died.
2. That it adopt the necessary measures to ensure a due investigation into the cases of the executions perpetrated by State security agents.

3. That it provide adequate reparations to the families of James Zapata Valencia and José Heriberto Ramírez Llanos, taking into account the child special condition of José Heriberto Ramírez at the time of the events.

457. The IACHR has been monitoring State compliance with the recommendations it issued. Accordingly, on March 13, 2013, a working meeting of the parties was held regarding compliance with said recommendations. On October 4, 2013, the IACHR requested information from both parties on compliance with the recommendations.

458. On April 5, 2013, the petitioners submitted information regarding recommendation No. 3. On this topic, they noted that even though in July 2012, Resolution No. 3937 was approved by the Ministers of the Interior, Foreign Relations, Justice and of Law, who decided “to issue an opinion favorable to compliance with Report No. 71 of 2011 [...] as provided by and for the purposes of Law 288 of 1996 [...],” they contended that as of the present date no conciliation hearing has been convened as provided for in the procedure of Law 288, and that there has been a 15 month delay of said proceeding. In this regard, they note that the information received from the government officials claims that the Ministry that is responsible for paying the compensation has not been assigned, nor has a request for conciliation been filed with the Office of the Public Ministry [of the Office of the Inspector General]. In response to the IACHR’s request for information, on October 31, 2013, the petitioners reiterated that the procedure to convene the conciliation hearing has not been complied with despite several requests and arguments on the rights of petition that were filed with domestic authorities. Said information was forwarded to the State for its comments.

459. In response, on May 30, 2013, the State reported on a new meeting that was held on May 23, 2013, in the context of the Working Group on “implementation and follow-up to compliance with judgments of the Inter-American Court of Human Rights and other orders and recommendations issued by international human rights bodies in individual cases” in order to establish a timeline of steps for compliance with orders issued under Report No. 71 of March 31, 2011 of the Commission, and consequently [in compliance] with resolution of the Committee of Ministers No. 3937 of July 6, 2012. The IACHR requested the Colombian State to submit information on the May 23, 2013 meeting.

460. On July 11, 2013, the State noted that at the meeting “alternatives were examined so that in accordance with the competence of the different institutions related to the subject matter, compliance with the orders of the Honorable Commission in its Report No. 71 of March 31, 2011, and consequently with [the resolution of] Committee of Ministers resolution No. 3937 of July 6, 2012 is made feasible.” Said information was forwarded to the petitioners for their reference.

461. In response to the request for information made by the IACHR, the State submitted information on compliance with the three recommendations on December 2, 2013.

462. With respect to recommendation No. 1, the State reiterated that the Human Rights and IHL Unit of the Office of the Attorney General of the Nation is conducting a criminal investigation under case file number 169. The State submitted a list of steps taken in the investigation from 1998 to 2013.

463. Regarding recommendation No. 2, the State reiterated on “numerous measures adopted in order to prevent executions perpetrated by agents of State security, as well as to move the respective investigations forward and, as the case may warrant, provide reparation to the victims of this criminal conduct.” In this regard, the State mentioned the state policy of zero tolerance for human rights violations by the public security forces, the legal framework to punish arbitrary deprivation of life and the death of persons in protective custody, the administrative framework to prevent and ensure non-repetition of arbitrary deprivation of life or homicides of individuals in protective custody, the judicial framework to ensure the investigation, prosecution and punishment of those allegedly responsible for punishable conduct that may constitute arbitrary deprivation of life or homicide of protected individuals, and the judicial framework to ensure full reparation for the damages caused as a consequence.

464. As for recommendation No. 3, the State noted that even though progress has been made regarding administrative and legal proceedings of consultation to enforce the measures of reparation, “unfortunately a final consensus has not been reached on the inter-institutional matters that make it possible to approve a decision based on law, in keeping with the constitutional and legal framework, as to what state entity would be responsible for representing the Colombian State at the conciliation hearing to be convened by the Office of the Public Ministry [...]”

465. On November 26, 2014, the IACHR asked both parties for information about compliance with the points pending. To the date of closure of this report, IACHR has not received the updated information from the State.

466. The petitioners responded on February 12, 2015, indicating in relation to recommendation 1, that there have not been significant advancements in the criminal procedure, and that they had unsuccessfully waited for the performance of several activities of the investigation to be done by the State Attorney 11 of the Human Rights and Humanitarian Law Specialized Unit. In relation to recommendation 3, the petitioners indicated that they filed an enforcement action so that the Colombian State complied with the recommendations of the IACHR contained in the Report 79/11, and on February 26, 2014, the Administrative Tribunal of Cundinamarca issued a judgment declaring the non-compliance of the State, from parte of the Presidency of the Republic of Colombian, as well as from part of the Ministry of Foreign Relations. The petitioners informed that after this decision was issued, the Presidency and the Ministry of Foreign Relations filed an appeal due to the lack of legitimacy that was resolved by the Council of State on June 12, 2014, confirming the decision of first instance. The petitioners indicated after the decision of the Council of State, that a meeting was organized with State representatives to discuss the amount of the monetary reparation, however, despite having arrived to an agreement, the State has not disburse the payment yet.

467. Based on the foregoing, the Commission concludes that there has been partial compliance with the recommendations. Accordingly, the Commission will continue to monitor compliance.

Case 12.476, Report No. 67/06, Oscar Elias Biscet *et al.* (Cuba)

468. In Report No. 67/06 of October 21, 2006, the IACHR concluded that the Cuban State was responsible for violations of Articles I (right to life, liberty, personal security), II (right to equality before the law), IV (right to freedom of investigation, opinion, expression, and dissemination), V (right to protection of honor, personal reputation, and private and family life), VI (right to a family and to protection thereof), IX (right to inviolability of the home), X (right to the inviolability and transmission of correspondence), XI (right to preservation of health and well-being), XVIII (right to justice), XX, (right to vote and to participate in government), XXI (right of assembly), XXII (right of association), XXV (right of protection from arbitrary arrest), and XXVI (right to due process of law) of the American Declaration, to the detriment of Messrs. Nelson Alberto Aguiar Ramírez, Osvaldo Alfonso Valdés, Pedro Pablo Álvarez Ramo, Pedro Argüelles Morán, Víctor Rolando Arroyo Carmona, Mijail Bárzaga Lugo, Oscar Elías Biscet González, Margarito Broche Espinosa, Marcelo Cano Rodríguez, Juan Roberto de Miranda Hernández, Carmelo Agustín Díaz Fernández, Eduardo Díaz Fleitas, Antonio Ramón Díaz Sánchez, Alfredo Rodolfo Domínguez Batista, Oscar Manuel Espinosa Chepe, Alfredo Felipe Fuentes, Efrén Fernández, Juan Adolfo Fernández Saínez, José Daniel Ferrer García, Luís Enrique Ferrer García, Orlando Fundora Álvarez, Próspero Gaínza Agüero, Miguel Galbán Gutiérrez, Julio César Gálvez Rodríguez, Edel José García Díaz, José Luís García Paneque, Ricardo Severino González Alfonso, Diosdado González Marrero, Léster González Pentón, Alejandro González Raga, Jorge Luís González Tanquero, Leonel Grave de Peralta, Iván Hernández Carrillo, Normando Hernández González, Juan Carlos Herrera Acosta, Regis Iglesias Ramírez, José Ubaldo Izquierdo Hernández, Reynaldo Miguel Labrada Peña, Librado Ricardo Linares García, Marcelo Manuel López Bañobre, José Miguel Martínez Hernández, Héctor Maseda Gutiérrez, Mario Enrique Mayo Hernández, Luís Milán Fernández, Rafael Millet Leyva, Nelson Moline Espino, Ángel Moya Acosta, Jesús Mustafá Felipe, Félix Navarro Rodríguez, Jorge Olivera Castillo, Pablo Pacheco Ávila, Héctor Palacios Ruiz, Arturo Pérez de Alejo Rodríguez, Omar Pernet Hernández, Horacio Julio Piña Borrego, Fabio Prieto Llorente, Alfredo Manuel Pulido López, José Gabriel Ramón Castillo, Arnaldo Ramos Lauzurique, Blas Giraldo Reyes Rodríguez, Raúl Ramón Rivero Castañeda, Alexis Rodríguez Fernández, Omar Rodríguez Saludes, Martha Beatriz Roque Cabello, Omar Moisés Ruiz Hernández, Claro Sánchez Altarriba, Ariel Sigler

Amaya, Guido Sigler Amaya, Miguel Sigler Amaya, Ricardo Enrique Silva Gual, Fidel Suárez Cruz, Manuel Ubals González, Julio Antonio Valdés Guevara, Miguel Valdés Tamayo, Héctor Raúl Valle Hernández, Manuel Vázquez Portal, Antonio Augusto Villareal Acosta, and Orlando Zapata Tamayo.

469. The international responsibility of the Cuban State derived from the events of March 2003, when there were massive detentions of human rights activists and independent journalists based on the argument that they had engaged in subversive, counterrevolutionary activities against the State and that they had disseminated illicit propaganda and information. Subsequently, all of them were tried in very summary proceedings, in which their rights to defense were violated, and they were convicted and subjected to prison terms ranging from six months to 28 years.

470. The Commission made the following recommendations to the Cuban State:

1. Order the immediate and unconditional release of the victims in this case, while overturning their convictions inasmuch as they were based on laws that impose unlawful restrictions on their human rights.
2. Adopt the measures necessary to adapt its laws, procedures and practices to international human rights laws. In particular, the Commission is recommending to the Cuban State that it repeal Law No. 88 and Article 91 of its Criminal Code, and that it initiate a process to amend its Constitution to ensure the independence of the judicial branch of government and the right to participate in government.
4. Redress the victims and their next of kin for the pecuniary and non-pecuniary damages suffered as a result of the violations of the American Declaration herein established.
5. Adopt the measures necessary to prevent a recurrence of similar acts, in keeping with the State's duty to respect and ensure human rights.

471. As was noted in the 2011 Annual Report, the Cuban Government released the victims of Case 12.476, who as of that year were still deprived of their liberty, most of which moved to Spain and, those who refused to leave Cuba, were granted a "furlough."

472. However, their convictions were not vacated, even though the statutory basis for them placed unlawful restrictions on their human rights. As for the second, third and fourth recommendation of the IACHR, the Cuban State has not taken any steps thus far to comply with them.

473. On October 4, 2013 and December 8, 2014, the Commission requested up-to-date information from the parties on the status of compliance with the recommendations that were put forth in the instant case. None of the parties submitted that information.

474. The Commission reiterates its appreciation to the State for releasing all of the victims of Case 12.476. Nonetheless, as it did not have up-to-date information on compliance with the other recommendations, the IACHR concludes that the State has partially complied with them. Accordingly, the Commission will continue supervising the points still pending.

Case 12.477, Report No. 68/06, Lorenzo Enrique Copello Castillo *et al.* (Cuba)

475. In Report No. 68/06 of October 21, 2006, the IACHR concluded that the Cuban State was responsible for: (1) violations of Articles XVIII and XXVI of the American Declaration to the detriment of Messrs. Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García, and Jorge Luis Martínez Isaac; (2) violations of Article I of the American Declaration to the detriment of Messrs. Lorenzo Enrique Copello Castillo, Bárbaro Leodán Sevilla García, and Jorge Luis Martínez Isaac. The responsibility of the Cuban State derives from submitting the victims to very summary trials that did not guarantee respect for the procedural guarantees of a fair trial, and the subsequent execution of the victims on April 11, 2003, pursuant to a judgment handed down in a procedure that did not have the proper guarantees of protection.

476. The Commission made the following recommendations to the Cuban State:

1. Adopt the measures necessary in order to adapt its laws, proceedings, and practices in line with international human rights law, especially those that relate to situations described in the present report. In particular, the Commission recommends the Cuban State reform its Constitution to ensure the independence of its judiciary.
2. Make reparations to the families of the victims for the material and psychological damages they have suffered by virtue of the violations of the American Declaration established here.
3. Adopt all measures necessary to ensure that similar events may not occur again, in accordance with the duty of the State to protect and guarantee human rights.

477. On October 4, 2013 and December 8, 2014 the Commission requested the parties to provide updated information on the status of compliance with the recommendations made in the present case. On October 16, 2013 and December 19, 2014 the petitioners reported that there was no evidence that the Cuban State had carried out the recommendations of the IACHR and asked the Commission to continue monitoring the case until the State fully carries out the recommendations. The State did not submit any information.

478. Based on the foregoing, the Commission concludes that the State has not complied with the recommendations. Therefore, the Commission will continue to monitor the pending items.

Case 11.421, Report No. 93/00, Edison Patricio Quishpe Alcívar (Ecuador)

479. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to life, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The incident that led to the agreement was the death of Edison Patricio Quishpe at a police station on September 7, 1992, after he had been arrested and subjected to torture and other forms of inhuman, cruel, and degrading treatment.

480. On October 5, 2000, the IACHR adopted Friendly Settlement Report No. 93/00⁵⁸, in which it acknowledged that the State had complied with the payment of a compensation in the amount of US\$30,000, and decided:

2. To urge the State to take the necessary measures to carry out the commitment to pursue civil and criminal proceedings and to seek to impose punishment on those persons who, in the performance of government functions or under the color of public authority, are

⁵⁸ Report No. 93/00, Case 11.421, Edison Patricio Quishpe Alcívar, Ecuador, October 5, 2000, available at <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.421.htm>

considered to have participated in the alleged violation, and the payment of interest for the delinquency in payment of the compensation.

3. To continue to monitor and supervise implementation of the friendly settlement, and in that context to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months as to performance of the obligations assumed by the State under this friendly settlement.

481. On October 4, 2013, the IACHR requested information on compliance from both parties. On November 19, 2013, the petitioners indicated that the State has still not taken any judicial steps to investigate, prosecute and punish those responsible for the murder of the victim nor has it punished those judges whose conduct has allowed the case to remain in impunity, who by not adequately disposing of the case and by allowing the case to become time-barred with the passage of time.

482. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, which had verbally reported that it had conducted "investigative activities such as on-site inspections and the taking of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

483. On November 25, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated, as they had stated in their previous communication, that the matter remained in a state of impunity.

484. The State did not reply to the IACHR's request for information.

485. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor the items pending.

Case 11.439, Report No. 94/00, Byron Roberto Cañaverl (Ecuador)

486. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the arrest of Mr. Byron Roberto Cañaverl on May 26, 1993, at the hands of state agents who subjected him to torture and other forms of cruel and inhumane treatment.

487. On November 19, 2000, the IACHR adopted Friendly Settlement Report No. 94/00⁵⁹, in which it acknowledged that the State had complied with the payment of indemnification in the amount of US\$7,000, and decided:

2. To urge the State to take the measures needed to carry out the pending commitment to bring civil, criminal, and administrative proceedings against those persons who, in the

⁵⁹ Report No. 94/00, Case 11.439, Byron Roberto Cañaverl, Ecuador, October 5, 2000, available at: <http://cidh.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.439.htm>

performance of state functions, participated in the alleged violations, and to pay interest for the delinquency in payment of the compensation.

3. To continue to monitor and supervise implementation of the friendly settlement agreement, and in this context to remind the Ecuadorian State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on progress in carrying out the obligations assumed by the State under this friendly settlement.

488. On October 4, 2013, the IACHR requested information on compliance from both parties. On November 19, 2013, the petitioners informed that the Ecuadorian State had not taken any steps to investigate, prosecute and punish the acts alleged in the petition before the Commission.

489. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

490. On November 26, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication. The State did not reply to the IACHR's request for information.

491. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor the items pending.

Case 11.466, Report No. 96/00, Manuel Inocencio Lalvay Guamán (Ecuador)

492. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with a series of arrests of Mr. Manuel Inocencio Lalvay Guamán that took place between 1993 and 1994 at the hands of state agents, who subjected him to torture and other forms of cruel and inhumane treatment.

493. On October 5, 2000, the IACHR adopted Friendly Settlement Report No. 96/00⁶⁰, in which it acknowledged that the State had complied with the payment of a compensation in the amount of US\$25,000, and decided:

2. To urge the State to take the measures needed for carrying out the commitments still pending with respect to bringing to trial the persons considered responsible for the facts alleged.

3. To continue to monitor and supervise compliance with each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of

⁶⁰ Report No. 96/00, Case 11.466, Manuel Inocencio Lalvay Guzmán, Ecuador, October 5, 2000, available at <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.466.htm>

the Attorney General, of its commitment to inform the IACHR, every three months, as to the performance of the obligations assumed by the State under this friendly settlement agreement.

494. On October 4, 2013, the IACHR requested information on compliance with the items pending. On November 21, 2013, the petitioners reiterated that in 1999 the Police Court ruled that the criminal action was barred by statute of limitations, and that the State had not taken any action to set aside that decision, which, according to the petitioners, is a violation of the right in question, since the police judges acted without jurisdiction to adjudicate human rights violations.

495. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

496. On November 26, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners indicated that the State had still not taken any steps to set aside the decision of the Police Courts that ruled that the action was barred by statute of limitations, and they informed that the State had failed to take any actions to sanction the police judges who assumed the authority to hear and decide criminal matters involving human rights violations, for which reason those acts remain unpunished.

497. The State did not reply to the request for information.

498. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor the items pending.

Case 11.584, Report No. 97/00, Carlos Juela Molina (Ecuador)

499. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the arrest of the minor Carlos Juela Molina on December 21, 1989, by an agent of the State who subjected him to torture and other forms of cruel and inhumane treatment. The investigation of the police officer involved in the incident was taken up by the police criminal justice system, which sent the proceedings to the archive.

500. On October 5, 2000, the IACHR adopted Friendly Settlement Report No. 97/00⁶¹, in which it acknowledged that the State had complied with the payment of indemnification in the amount of US\$15,000, and decided:

2. To urge the State to take the measures needed to comply with the pending commitments to punish the persons responsible for the violation alleged.

⁶¹ Report No. 97/00, Case 11.584, Carlos Juela Molina, Ecuador, October 5, 2000, available at <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.584.htm>.

3. To continue to monitor and supervise compliance with each and every point of the friendly settlement agreement, and in this context to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months regarding performance of the obligations assumed by the State under this friendly settlement agreement.

501. On October 4, 2013, the IACHR requested information from both parties about compliance with the pending items. On November 19, 2013, the petitioners reported that the State had not brought any legal action for the investigation, prosecution, and punishment of the police judges who had assumed jurisdiction to which they were not entitled to investigate human rights violations, and under which they shelved the case in 1995 upon finding that it was barred by statute of limitations.

502. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners again indicated that the State had not brought any action against those police judges, and added that the State had also failed to take any actions to punish those directly responsible for the violations committed against the victim.

503. The State did not reply to any of the IACHR's requests for information.

504. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor the items pending.

Case 11.783, Report No. 98/00, Marcia Irene Clavijo Tapia (Ecuador)

505. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the arrest of Marcia Irene Clavijo Tapia, carried out without an arrest warrant on May 17, 1993. The victim was subjected to torture and other forms of cruel and inhumane treatment at the time of her arrest, kept in preventive custody for four years, and then the charges against her were dismissed.

506. On October 5, 2000⁶², the IACHR adopted Friendly Settlement Report No. 98/00, in which it acknowledged that the State had complied with the payment of indemnification in the amount of US\$63,000, and decided:

2. To urge the State to take the measures necessary to carry out the commitments pending with respect to bringing to trial and punishing the persons responsible for the violations alleged, and to paying interest for the delinquency in payment of the compensation.

3. To continue to monitor and supervise each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State of its commitment to report to the IACHR every three months regarding performance of the obligations assumed by the State under this friendly settlement agreement.

507. On October 4, 2013 and on November 26, 2014, the IACHR asked both parties for information on compliance with pending items. Neither of the parties submitted any information.

⁶² Report No. 98/00, Case 11.783, Marcia Irene Clavijo Tapia, Ecuador, October 5, 2000, available at <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.783.htm>

508. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor the items pending.

Case 11.868, Report No. 99/00, Carlos Santiago and Pedro Restrepo Arismendy (Ecuador)

509. On May 14, 1998, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged that “the domestic judicial proceeding was characterized by unjustified delays, excessive technicalities, inefficiency, and denial of justice. The Ecuadorian State could not demonstrate that it was not its official agents who illegally and arbitrarily detained brothers Carlos Santiago and Pedro Andrés Restrepo Arismendy, to the point of torturing them and taking their lives, nor could it refute that those actions were at odds with the Constitution, with our country’s legal framework, and with respect to the international conventions that guarantee human rights.” The State also agreed to pay compensatory damages, to conduct a search for the bodies, and to prosecute the guilty. The case deals with the detention and subsequent disappearance of the brothers Carlos Santiago and Pedro Andrés Restrepo on January 8, 1988, at the hands of officers of the National Police.

510. On October 5, 2000, the IACHR adopted Friendly Settlement Report No. 99/00⁶³, in which it acknowledged that the State had complied with the payment of indemnification in the amount of US\$2,000,000, and decided:

2. To urge the State to take the measures needed to comply with the commitments still pending to carry out the total, definitive, and complete search for the bodies of the two brothers, and the criminal trial of the persons considered to have participated in the torture, disappearance, and death of the Restrepo Arismendy brothers, as well as in covering up those acts.
3. To continue to monitor and supervise compliance with the settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report “periodically, upon request of the Inter-American Commission on Human Rights or the Inter-American Court of Human Rights, as to the performance of the obligations assumed by the State under this friendly settlement.”

511. On March 15, 2013, the State submitted information on progress in the steps taken for compliance. In this regard, it reported on the creation of the Operational Team, which goes by the name of “POR LA VERDAD Y JUSTICIA” [“For Truth and Justice”], within the Ministry of the Interior, in order to facilitate the search and discovery of victims’ remains. It further reported that the Ministry of the Interior had launched a “far-ranging communications campaign” to secure information on the whereabouts of the victims’ remains. The State also noted that the Argentine Forensic Anthropology Team has assisted in the process of investigation. Additionally, it reported that “since the time the Operational Team began to perform its duties, the Restrepo family has participated in the investigation,” mainly through attendance at periodic meetings to be briefed on progress and to listen to their [the family’s] requests.

512. With regard to the criminal investigation, the State reported that the matter is under the responsibility of a prosecuting attorney of the Truth and Human Rights Commission of the Office of the Attorney General of the State and that the process is in the preliminary stage. In this regard, the State noted that “there is total secrecy with regard to the investigation being conducted by the prosecuting attorney,” and that it would report at the proper time when the case moves to the next stage of the investigation. This information was forwarded to the petitioners for their comments, and as of the date of approval of the instant Annual Report, the petitioners have not submitted their reply.

⁶³ Report No. 99/00, Case 11.868, Carlos Santiago and Pedro Restrepo Arismendy, Ecuador, October 5, 2000, available at: <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.868.htm>

513. On October 04, 2013 and on November 26, 2014, the IACHR requested information from both parties on compliance with the items still pending, but no replies have been received.

514. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor the items pending.

Case 11.991, Report No. 100/00, Kelvin Vicente Torres Cueva (Ecuador)

515. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, to equal protection, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the arrest of Kelvin Vicente Torres Cueva, detained without an arrest warrant on June 22, 1992. The victim was subjected to torture and other forms of cruel and inhumane treatment, kept incommunicado for 33 days, and held in preventive custody for more than six years, after which he was released.

516. On October 5, 2000, the IACHR adopted Friendly Settlement Report No. 100/00⁶⁴, in which it acknowledged that the State had complied with the payment of indemnification in the amount of US\$50,000, and decided:

2. To urge the State to make the decisions needed to carry out the pending commitments to bring to trial the persons considered responsible for the facts alleged, and to pay interest for the delinquency in payment of the compensation.

3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in that context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on performance of the obligations assumed by the State under this friendly settlement agreement.

517. On October 4, 2013, the IACHR asked both parties to report on compliance with the pending items. On November 19, that year, the petitioners reiterated that, despite the time elapsed since the signing of the agreement, the State had not complied with the obligation it accepted regarding investigation, prosecution and punishment of those responsible. Additionally, they claimed that the State had not reported on any steps taken to overturn the judgment handed down in the absence of the victim, when the Constitution clearly provides that the trial stage of the proceedings shall take place in the presence of the defendant, in order to ensure his legitimate right of defense. They added that said judgment, which they contend violates domestic legislation and was adopted in the absence of Kelvin Torres, could be retaliation against him because he had the courage to file suit against the State and charge prosecutors and judges with violating his rights.

518. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have

⁶⁴ Report No. 100/00, Case 11.991, Kelvin Vicente Torres Cueva, October 5, 2000, available at: <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.991.htm>

verbally reported that it had conducted “investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution’s investigation.” The State agreed to forward that information in writing; however, this Commission has not received it to date.

519. On November 26, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners again indicated that the State had not taken any action against the perpetrators of the acts, or any actions to overturn the aforementioned judgment. The State, for its part, did not reply to the request for information.

520. In consideration whereof, the IACHR concludes that the State has only partially complied with the friendly settlement agreement. Therefore, the Commission will continue monitoring the items pending.

Case 11.478, Report No. 19/01, Juan Clímaco Cuéllar *et al.* (Ecuador)

521. On June 25, 1998, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, to equal protection, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals the arrests of Froilán Cuéllar, José Otilio Chicangana, Juan Clímaco Cuéllar, Henry Machoa, Alejandro Aguinda, Demetrio Pianda, Leonel Aguinda, Carlos Enrique Cuéllar, Carmen Bolaños, Josué Bastidas, and Harold Paz, which were carried out without arrest warrants between December 18 and 21, 1993, by hooded members of the Army. The victims were kept incommunicado and subjected to torture and other forms of cruel and inhumane treatment; they were then held in preventive custody for between one and four years, after which they were released.

522. On February 20, 2001 the IACHR adopted Friendly Settlement Report No. 19/01⁶⁵ in which it acknowledged that the State had complied with the payment of indemnification in the amount of US\$100,000 to each of the victims, and decided:

2. To urge the State to adopt the measures needed to comply with the commitments pending with respect to the trial of the persons presumed to be responsible for the facts alleged.
3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR every three months of compliance with the obligations assumed by the State under this friendly settlement.

523. On October 07, 2013 and December 1, 2014, the IACHR asked both parties to report on compliance with the items still pending. Neither the State nor the petitioners responded to the request for information.

524. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.512, Report No. 20/01, Lida Ángela Riera Rodríguez (Ecuador)

525. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating,

⁶⁵ Report No. 19/01, Case 11.478, Juan Clímaco Cuéllar *et al.*, Ecuador, February 20, 2001, available at: <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.478.htm>

through the actions of its state agents, the right to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals the duration of the preventive custody in which Lida Ángela Riera Rodríguez was held in her trial for abetting the crime of embezzlement. The victim was detained on January 7, 1992, on June 26, 1995, she was convicted to a two-year prison term as an as an accessory after the fact, when she had already been in custody for three years and six months.

526. On February 20, 2001, the IACHR adopted Friendly Settlement Report No. 20/01⁶⁶, in which it acknowledged that the State had complied with the payment of indemnification in the amount of US\$20,000 to the victim, and decided:

2. To urge the State to adopt the necessary measures to conclude implementation of the commitment regarding the trial of persons implicated in the facts alleged.
3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR, every three months, of its compliance with the obligations assumed by the State under this friendly settlement agreement.

527. On October 4, 2013, the IACHR asked both parties to report on compliance with the items still pending. In response, on November 19, 2013, the petitioners reported that the State had not taken any judicial action to investigate, prosecute and punish those responsible for the violations committed against the victim and, consequently, the case became time-barred under the statute of limitations, while the judges who delayed the case from going forward have enjoyed impunity from prosecution.

528. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

529. On November 25, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

530. The State did not reply to the request for information.

531. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.605, Report No. 21/01, René Gonzalo Cruz Pazmiño (Ecuador)

532. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to life, to a fair trial, and to judicial protection, in breach of the

⁶⁶ Report No. 20/01, Case 11.512, Lida Ángela Riera Rodríguez, Ecuador, February 20, 2001, available at: <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.512.htm>

American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. This was in connection with the death of René Gonzalo Cruz Pazmiño, which took place on June 20, 1987, at the hands of a member of the Army.

533. On February 20, 2001, the IACHR adopted Friendly Settlement Report No. 21/01⁶⁷, in which it acknowledged that the State had complied with the payment of compensation damages in the amount of US\$30,000 to the victim, and decided:

2. To urge the State to adopt the necessary measures to conclude implementation of the commitment to prosecute the persons implicated in the facts alleged.

3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR every three months of compliance with the obligations assumed by the State under this friendly settlement.

534. On October 4, 2013, the IACHR asked both parties to report on compliance with the items still pending. In response, the petitioners reported that on November 19, 2013, the State had not taken any judicial action to investigate, prosecute and punish those responsible for the violations committed against the victim. On the contrary, in light of the time elapsed as of the present date, the case would have reached the Statute of Limitations, because 10 years had passed, as established in the Criminal Code, counted from the date of the fact or the beginning of the trial, which bars prosecution when no court judgment has been issued during that time in cases where the offense is punishable by a term of imprisonment, such as the offense of murder.

535. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

536. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

537. The State did not reply to the request for information.

538. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.779, Report No. 22/01, José Patricio Reascos (Ecuador)

539. On June 11, 1999, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages

⁶⁷ Report No. 21/01, Case 11.605, René Gonzalo Cruz Pazmiño, Ecuador, February 20, 2001, available at: <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.605.htm>

and to prosecute the guilty. This was in connection with the duration of the preventive custody in which José Patricio Reascos was held during his prosecution for narcotics use. The victim was detained on September 12, 1993, and, on September 16, 1997, he was sentenced to an 18-month prison term, when he had already been in custody for four years.

540. On February 20, 2001, the IACHR adopted Friendly Settlement Report No. 22/01⁶⁸, in which it acknowledged that the State had complied with the payment of indemnification in the amount of US\$20,000 to the victim, and decided:

2. To urge the State to adopt the measures needed to comply with the commitments pending with respect to the trial of the persons presumed to be responsible for the facts alleged.

3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to inform the IACHR every three months of compliance with the obligations assumed by the State under this friendly settlement.

541. On October 8, 2013, the IACHR requested information from both parties regarding the state of compliance with pending items. The petitioners responded on November 21, 2013, by saying that the State had not initiated any judicial or administrative proceeding towards the investigation and punishment of those responsible for the alleged facts and that the delay had led the matter to lapse within the domestic jurisdiction.

542. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

543. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

544. The State did not reply to the request for information.

545. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.992, Report No. 66/01, Dayra María Levoyer Jiménez (Ecuador)

546. In Report No. 66/01 of June 14, 2001, the IACHR concluded that the Ecuadorian State had violated, with respect to Mrs. Dayra María Levoyer Jiménez, the following rights enshrined in the American Convention: the right to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in conjunction with the general obligation to respect and ensure of Article 1.1 of the Convention. This was in connection with the violations of physical integrity and the denial of liberty suffered by Mrs. Levoyer Jiménez,

⁶⁸ Report No. 22/01, Case 11.779, José Patricio Reascos, Ecuador, February 20, 2001, available at: <http://www.cidh.oas.org/annualrep/2000eng/ChapterIII/Friendly/Ecuador11.779.htm>

who was detained on June 21, 1992, without an arrest warrant, and kept incommunicado for 39 days, during which time she was subjected to psychological torture. She was held in custody without a conviction for more than five years, and finally all the charges against her were dismissed.

547. The Commission issued the following recommendations to the State:

1. Proceed to grant full reparations, which involves granting adequate compensation to Mrs. Dayra Maria Levoyer Jimenez;
2. Order an investigation to determine responsibility for the violations detected by the Commission and eventually to punish the individuals responsible;
3. Take such steps as are necessary to reform *habeas corpus* legislation as indicated in the present report, as well as to enact such reforms with immediate effect.

548. On October 8, 2013, the IACHR requested information from both parties on compliance with the remaining items. On November 19, 2013, the petitioners claimed that the State had not yet opened any judicial or administrative investigation to identify and punish those responsible for the crimes, nor had it taken any steps to provide reparation for the damages caused to the victim. Regarding compliance with the third recommendation, they reiterated the information pertaining to the entering into force of the 2008 Constitution, which provides that the *habeas corpus* remedy must be heard by a judicial authority.

549. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

550. On November 26, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners again indicated that the State had taken no actions against the perpetrators of the acts, or steps to provide reparation to the victim. They further added that the victim's property remained confiscated and in the possession of the State.

551. The State did not reply to the request for information.

552. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.441, Report No. 104/01, Rodrigo Elicio Muñoz Arcos *et al.* (Ecuador)

553. On August 15, 2001, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, to equal protection, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with arrest of the Colombian citizens Rodrigo Elicio Muñoz Arcos, Luis Artemio Muñoz Arcos, José Morales Rivera, and Segundo Morales Bolaños, who were detained without an arrest warrant on August 26, 1993, by officers of the National Police. The victims were kept incommunicado and subjected to torture and other forms of cruel and inhumane treatment.

554. On October 11, 2001, the IACHR adopted Friendly Settlement Report No. 104/01⁶⁹, in which it acknowledged that the State had complied with paying each victim the amount of US\$10,000 as indemnification, and decided:

2. To remind the State that it must comply fully with the friendly settlement agreement by instituting judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise compliance with each and every point of the friendly settlement agreements, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months as to compliance with the obligations assumed by the State under these friendly settlements.

555. On October 8, 2013, the IACHR asked both parties to report on compliance with the items still pending. The petitioners responded on November 19, 2013, by reiterating that the State had not complied with the element requiring the commencement of a judicial or administrative proceeding to investigate, identify, and punish the police officers responsible for the facts alleged before the Commission.

556. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

557. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners repeated what they had stated in their previous communication.

558. The State did not reply to the request for information.

559. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.443, Report No. 105/01, Washington Ayora Rodríguez (Ecuador)

560. On August 15, 2001, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the arrest of Washington Ayora Rodríguez, detained without an arrest warrant on February 14, 1994. The victim was kept incommunicado and subjected to torture and other forms of cruel and inhumane treatment, after which he was released on the grounds that there was no motive for his arrest.

⁶⁹ Report No. 104/01, Case 11.441, Rodrigo Elicio Muñoz Arcos *et al.*, October 11, 2001, available at: <http://www.cidh.oas.org/annualrep/2001eng/Ecuador11441.htm>

561. On October 11, 2001, the IACHR adopted Friendly Settlement Report No. 105/01⁷⁰, certifying that the victim had been paid compensatory damages in the amount of US\$30,000, and decided:

2. To remind the State that it should fully implement the friendly settlement by beginning judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise the implementation of each and every point of the friendly settlement agreement, and in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR, every three months, on the implementation of the obligations assumed by the State under this friendly settlement agreement.

562. On October 8, 2013, the IACHR asked both parties to submit information on compliance with the pending items. In response, the petitioners reported on November 19, 2013 that the State has not taken any judicial action to investigate, prosecute and punish those responsible for the violations committed against the victim.

563. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

564. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners repeated what they had stated in their previous communication.

565. The State did not reply to the request for information.

566. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.450, Report No. 106/01, Marco Vinicio Almeida Calispa (Ecuador)

567. On August 15, 2001, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to life, to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. This case deals with the death of Marco Vinicio Almeida Calispa, which occurred on February 2, 1988, while he was in the custody of police officers, and with the failure of the courts to clear up the incident.

⁷⁰ Report No. 105/01, Case 11.443, Washington Ayora Rodríguez, October 11, 2001, available at: <http://www.cidh.oas.org/annualrep/2001eng/Ecuador11443.htm>

568. On October 11, 2001, the IACHR adopted Friendly Settlement Report No. 106/01⁷¹, certifying that the amount of US\$30,000 had been paid as compensatory damages to the victim's next-of-kin and decided:

2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

569. On October 8, 2013, the IACHR asked both parties to report on compliance with the items still pending. The petitioners responded on November 19, 2013 that the State had not taken any judicial action to investigate, prosecute and punish those responsible for the violations committed against the victim. On the contrary, given the length of time that has elapsed to date, legal action is reportedly barred by the 10-year statute of limitations provided in the Criminal Code.

570. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

571. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication and added that the State had also failed to take any actions to sanction the police judges who had assumed jurisdiction, to which they were not entitled, to hear and decide matters involving human rights violations.

572. The State did not reply to the request for information.

573. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.542, Report No. 107/01, Ángel Reiniero Vega Jiménez (Ecuador)

574. On August 15, 2001, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to life, to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. This case deals with the arrest of Ángel Reiniero Vega Jiménez, violently detained in his home by state agents without an arrest warrant on May 5, 1994. After being subjected to torture and other forms of cruel and inhumane treatment, the victim died in a hospital. The charges against the officers involved were dismissed by the police criminal justice system.

⁷¹ Report No. 106/01, Case 11.450, Marco Vinicio Almeida Calispa, October 11, 2001, available at: <http://www.cidh.oas.org/annualrep/2001eng/Ecuador11450.htm>

575. On October 11, 2001, the IACHR adopted Friendly Settlement Report No. 107/01⁷², certifying that the amount of US\$30,000 had been paid as indemnification to the victim's next-of-kin, and decided:

2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.
3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

576. On October 4, 2013 the IACHR asked both parties to report on compliance with the items still pending. On November 19 that year, the petitioners reiterated that the police judges, who did not have jurisdiction over the acts in question because they were human rights violations, dismissed the charges against the perpetrators and shelved the case. At that time, the petitioners added that the State had not taken any action to set aside that decision on the grounds that it was issued by police judges who lacked subject matter jurisdiction, nor had it brought any action to punish those judges or the perpetrators of the acts at issue in this case.

577. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

578. On November 26, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication, and added that the acts remained unpunished.

579. The State did not reply to the request for information.

580. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.574, Report No. 108/01, Wilberto Samuel Manzano (Ecuador)

581. On August 15, 2001, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to life, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. This case deals with the death of Wilberto Samuel Manzano as a result of the actions of state agents on May 11, 1991. The victim was wounded with a firearm

⁷² Report No. 107/01, Case 11.542, Ángel Reiniero Vega Jiménez, October 11, 2001, available at: <http://www.cidh.oas.org/annualrep/2001eng/Ecuador11542.htm>

and then illegally detained by police officers in civil clothing, following which he died in a hospital. The charges against the officers involved were dismissed by the police criminal justice system.

582. On October 11, 2001, the IACHR adopted Friendly Settlement Report No. 107/01⁷³, certifying that the amount of US\$30,000 had been paid as compensatory damages to the victim's next-of-kin, and decided:

2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.

3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

583. On October 8, 2013, the IACHR asked both parties to report on compliance with the items still pending. On November 19 that year, the petitioners reiterated that the State had not taken any judicial action to investigate, prosecute and punish those responsible for the violations committed against the victim. On the contrary, given the length of time that has elapsed to date, legal action is reportedly barred by the 10-year statute of limitations provided in the Criminal Code.

584. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

585. The State did not reply to any of the IACHR's requests for information.

586. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.632, Report No. 109/01, Vidal Segura Hurtado (Ecuador)

587. On August 15, 2001, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to life, to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. This case deals with the arrest of Vidal Segura Hurtado, detained without an arrest warrant by officers of the National Police in civilian clothing on April 8, 1993. The victim was subjected to torture and other forms of cruel and inhumane treatment; he was then executed and his body was found on May 8, 1993, on the beltway surrounding the city of Guayaquil.

588. On October 11, 2001, the IACHR adopted Friendly Settlement Report No. 109/01⁷⁴, in which it acknowledged that the State had complied with the payment of compensatory damages in the amount of US\$30,000 to the victim's next-of-kin, and decided:

2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.

⁷³ Report No. 108/01, Case 11.574, Wilberto Samuel Manzano, October 11, 2001, available at: <http://www.cidh.oas.org/annualrep/2001eng/Ecuador11574.htm>

⁷⁴ Report No. 109/01, Case 11.632, Vidal Segura Hurtado, October 11, 2001, available at: <http://www.cidh.oas.org/annualrep/2001eng/Ecuador11632.htm>

3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

589. On October 8, 2013, the IACHR asked both parties to report on compliance with the items still pending. In response, the petitioners reported on November 19, 2013, that the State had not taken any judicial action to investigate, prosecute and punish those responsible for the violations committed against the victim. On the contrary, given the length of time that has elapsed to date, legal action is reportedly barred by the 10-year statute of limitations provided in the Criminal Code.

590. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

591. On November 26, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

592. The State did not reply to the request for information.

593. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 12.007, Report No. 110/01, Pompeyo Carlos Andrade Benítez (Ecuador)

594. On August 15, 2001, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the arrest of Pompeyo Carlos Andrade Benítez, detained without an arrest warrant on September 18, 1996. After he had been held for ten months, the preventive custody order was canceled and a dismissal order was issued; however, the victim remained in detention.

595. On October 11, 2001, the IACHR adopted Friendly Settlement Report No. 110/01⁷⁵, in which it acknowledged that the State had complied with paying the victim the amount of US\$20,000 as compensatory damages, and decided:

2. To remind the State that it must fully implement the friendly settlement agreement, bringing judicial proceedings against the persons implicated in the violations alleged.

⁷⁵ Report No. 110/01, Case 12.007, Pompeyo Carlos Andrade Benítez, October 11, 2001, available at <http://www.cidh.oas.org/annualrep/2001eng/Ecuador12007.htm>

3. To continue to monitor and supervise compliance with each and every one of the points of the friendly settlement agreement, and, in this context, to remind the State, through the Office of the Attorney General, of its commitment to report to the IACHR every three months on compliance with the obligations assumed by the State under this friendly settlement.

596. On October 8, 2013 and on November 26, 2014, the IACHR requested both parties to report on the state of compliance with pending items. Neither of the parties submitted the information requested.

597. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 11.515, Report No. 63/03, Bolívar Franco Camacho Arboleda (Ecuador)

598. On July 17, 2002, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the duration of the preventive custody in which Bolívar Franco Camacho Arboleda was held during his trial for illegal possession of cocaine. The victim was placed in detention on October 7, 1989. On January 24, 1995, he was acquitted and, in February 1995, he was released, after he had been imprisoned for more than five years (63 months).

599. On October 10, 2003, the IACHR adopted Friendly Settlement Report No. 63/03⁷⁶, in which it acknowledged that the State had complied with paying the victim the amount of US\$30,000 as compensatory damages, and decided:

2. To remind the State that it must comply fully with the friendly settlement agreement by initiating judicial proceedings against the persons involved in the alleged violations.

3. To continue with its monitoring and supervision of compliance with each and every point in the friendly settlement, and in this context to remind the State, through the Attorney General, of its commitment to report every three months to the IACHR on compliance with the obligations assumed by the State under this friendly settlement.

600. On October 8, 2013, the IACHR asked both parties to report on compliance with the items still pending. In response, the petitioners reiterated on November 21, 2013, that the State had not instituted any judicial or administrative proceeding to investigate, identify and punish the police, judges and prosecutors responsible for the facts alleged to the Commission.

601. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

⁷⁶ Report No. 63/03, Case 11.515, Bolívar Franco Camacho Arboleda, October 10, 2003, available at: <http://www.cidh.oas.org/annualrep/2003eng/Ecuador.11515.htm>

602. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication. They further stated that, given the length of time that had elapsed since the time of the events, the statute of limitations provided under the domestic law had expired.

603. The State did not reply to the request for information.

604. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 12.188, Report No. 64/03, Joffre José Valencia Mero, Priscila Zoreida Valencia Sánchez, Rocío Valencia Sánchez (Ecuador)

605. On November 12, 2002, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the arrest of Joffre José Valencia Mero, Priscila Zoreida Valencia Sánchez, and Rocío Valencia Sánchez, detained without an arrest warrant by police officers on March 19, 1993. On March 28, 1993, the victims were placed in preventive custody as part of their prosecution for the crimes of drug trafficking and asset laundering. The victims were kept in preventive custody for more than five years, following which they were acquitted.

606. On October 10, 2003, the IACHR adopted Friendly Settlement Report No. 64/03⁷⁷, in which it acknowledged that the State had complied with paying each victim the amount of US\$25,000 as indemnification, and decided:

2. To remind the State that it must comply fully with the Friendly Settlement Agreement by initiating judicial proceedings against the persons involved in the alleged violations.

3. To continue with its monitoring and supervision of compliance with each and every point in the friendly settlement; and, in this context, to remind the State, through the Attorney General, of its commitment to report every three months to the IACHR on compliance with the obligations assumed by the State under these friendly settlements.

607. On October 8, 2013, the IACHR asked both parties to report on compliance with the items still pending. In response, the petitioners reported on November 19, 2013, that the State had not yet initiated any civil, criminal or administrative actions to punish the police officers, judges, and prosecutors responsible for the facts alleged.

608. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

609. The State did not reply to any of the IACHR's requests for information.

610. In consideration whereof, the IACHR concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

⁷⁷ Report No. 64/03, Case 12.188, Joffre José Valencia Mero, Priscila Zoreida Valencia Sánchez, Rocío Valencia Sánchez, October 10, 2003, available at <http://www.cidh.oas.org/annualrep/2003eng/Ecuador.12188.htm>

Case 12.394, Report No. 65/03, Joaquín Hernández Alvarado, Marlon Loor Argote, and Hugo Lara Pinos (Ecuador)

611. On November 26 and December 16, 2002, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the right to humane treatment, to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. This case deals with the firearm attack on the vehicle carrying Joaquín Hernández Alvarado, Marlon Loor Argote, and Hugo Lara Pinos on May 22, 1999, perpetrated by officers of the National Police. Following the attack the victims were taken into custody, without arrest warrants, and subjected to torture and other forms of cruel and inhumane treatment; they were later released, on the grounds that the attack and arrest were the result of a “police error.”

612. On October 10, 2003, the IACHR adopted Friendly Settlement Report No. 65/03⁷⁸, in which it acknowledged that the State had complied with paying compensation in the amounts of US\$100,000 to Mr. Hernández, US\$300,000 to Mr. Loor, and US\$50,000 to Mr. Lara, and decided:

2. To remind the State that it must comply fully with the friendly settlement agreements by initiating judicial proceedings against the persons involved in the alleged violations.
3. To continue with its monitoring and supervision of compliance with each and every point in the friendly settlements; and, in this context, to remind the State, through the Attorney General, of its commitment to report every three months to the Commission on compliance with the obligations assumed by the State under these friendly settlements.

613. On October 8, 2013 and December 1, 2014, the IACHR asked both parties to report on compliance with the items still pending, but received no response.

614. Based on the foregoing, the IACHR concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Petition 12.205, Report No. 44/06, José René Castro Galarza (Ecuador)

615. On October 10, 2005, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the general obligation of respecting and ensuring rights, the right to humane treatment, to personal liberty, to a fair trial, and to judicial protection, and the duty of adopting domestic legal provisions, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty.

616. This case deals with the duration of the preventive custody in which José René Castro Galarza was held during his prosecution for drug trafficking, acting as a front, and illegal enrichment. The victim was detained, without an arrest warrant, on June 26, 1992. He was then kept incommunicado for 34 days. On November 22, 1996, the illegal enrichment charges against the victim were dismissed; on March 23, 1998, the fronting charges were dismissed; and he was sentenced to an eight-year prison term for drug trafficking, which was reduced to six years on September 15, 1997. The victim was kept in prison even though he had been in custody for six years, and he was released on June 16, 1998.

617. On March 15, 2006, the IACHR adopted Friendly Settlement Report No. 44/06⁷⁹, in which it acknowledged that the State had complied with the payment of compensatory damages to the victim in the

⁷⁸ Report No. 65/03, Case 12.394, Joaquín Hernández Alvarado, Marlon Loor Argote and Hugo Lara Pinos, October 10, 2003, available at: <http://www.cidh.oas.org/annualrep/2003eng/Ecuador.12394.htm>

amount of US\$80,000; in addition, it said would continue to follow up on and monitor all the points in the friendly settlement agreement and, in that context, reminded the parties of their commitment to keep the IACHR apprised regarding its implementation.

618. On October 8, 2013, the IACHR asked both parties to report on compliance with the items still pending. In response, the petitioners indicated on November 19, 2013, that the State had not initiated any action to punish the police officers and prosecutors responsible for the facts, nor had it carried out all necessary reparations measures and lifted the prohibition against transferring ownership of the property of the of Mr. José René Castro Galarza. They added that they had requested the State to lift the precautionary measures prohibiting transfer of the victim's property and that the Ministry of Justice (the institution in charge of complying with the agreement entered into between the State and the victim) told them that it could not order records in the register of property to be expunged.

619. In this regard, the petitioners claimed that the precautionary measure prohibiting transfer of the victims property was issued in 1992, and that 20 years had elapsed without the victim being able to use and enjoy his property, which would be a serious breach of the friendly settlement agreement and a violation of his right to property stemming from arbitrary acts of State agents. Consequently, the IACHR was requested to urge the State to cease the violations against the victim and proceed to lift the aforementioned precautionary measures.

620. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

621. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

622. The State did not reply to the request for information.

623. Based on the foregoing, the IACHR concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Petition 12.207, Report No. 45/06, Lisandro Ramiro Montero Masache (Ecuador)

624. On September 20, 2005, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the general obligation of respecting and ensuring rights and the right to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty. The case deals with the arrest of Lisandro Ramiro Montero Masache, detained without an arrest warrant on June 19, 1992. The victim was held in preventive custody for more than five years, following which the charges were dismissed.

⁷⁹ Report No. 44/06, Case 12.205, José René Castro Galarza, March 15, 2006, available at: <http://www.cidh.oas.org/annualrep/2006eng/ECUADOR.12205eng.htm>

625. On March 15, 2006, the IACHR adopted Friendly Settlement Report No. 45/06⁸⁰, in which it acknowledged that the State had complied with the payment of compensation to the victim in the amount of US\$60,000; in addition, it said would continue to follow up on and monitor all the points in the friendly settlement agreement and, in that context, reminded the parties of their commitment to keep the IACHR apprised regarding its implementation.

626. On October 18, 2013 the IACHR asked both parties to report on compliance with the items still pending. In response, on November 19, 2013, the petitioners asserted that the State had not instituted any (civil, criminal or administrative) actions aimed at investigating, prosecuting and punishing those responsible for the violations committed against the victim.

627. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

628. The State did not reply to any of the requests for information.

629. Based on the foregoing, the IACHR concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

Case 12.238, Report No. 46/06, Myriam Larrea Pintado (Ecuador)

630. Following the adoption of Admissibility Report No. 8/05, the parties reached a friendly settlement agreement on February 23, 2005. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the general obligation of respecting and ensuring rights and the right to personal liberty, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages, to remove her name from the public criminal records, to publish its acknowledgment of responsibility, and to prosecute the guilty. The case deals with the duration of the preventive custody in which Myriam Larrea Pintado was held during her prosecution for an alleged fraudulent transfer of property. The victim was imprisoned from November 11, 1992, to May 6, 1994, and was acquitted on October 31, 1994.

631. On March 15, 2006, the IACHR adopted Friendly Settlement Report No. 46/06⁸¹, in which it acknowledged that the State had complied with the payment of compensatory damages to the victim in the amount of US\$275,000; in addition, it said would continue to follow up on and monitor all the points in the friendly settlement agreement and, in that context, reminded the parties of their commitment to keep the IACHR apprised regarding its implementation.

632. On February 8, 2013, the petitioners reiterated that the State had not taken any judicial action to investigate, prosecute and punish those responsible for the violations committed against the victim. They also noted that the State only has complied with the item of financial compensation.

633. On October 8, 2013 and December 1, 2014, the IACHR asked both parties to report on the status of compliance with the items still pending and received no response from either one.

634. Based on the foregoing, the IACHR concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

⁸⁰ Report No. 45/06, Case 12.207, Lizandro Ramiro Montero Masache, March 15, 2006, available at: <http://www.cidh.oas.org/annualrep/2006eng/ECUADOR.12207eng.htm>

⁸¹ Report No. 46/06, Case 12.238, Myriam Larrea Pintado, March 15, 2006, available at: <http://www.cidh.oas.org/annualrep/2006eng/ECUADOR.12238eng.htm>

Case 12.558, Petition 533-01, Report No. 47/06, Fausto Mendoza Giler and Diógenes Mendoza Bravo (Ecuador)

635. On September 20, 2005, through the good offices of the Commission, the parties reached a friendly settlement agreement. In that agreement, the Ecuadorian State acknowledged its responsibility for violating, through the actions of its state agents, the general obligation of respecting and ensuring rights and the right to life, to a fair trial, and to judicial protection, in breach of the American Convention on Human Rights. The State also agreed to pay compensatory damages and to prosecute the guilty.

636. This case deals with the arrest of Fausto Mendoza Giler and Diógenes Mendoza Bravo on March 19, 2000, by members of the Special Operations Group (GOE) of the police. The victims were beaten, following which Fausto Fabricio Mendoza died. Diógenes Mendoza Bravo lodged a private suit against the police officers involved in the arrest and, on July 20, 2000, a generalized trial commencement deed was adopted in which none of those officers was named.

637. On March 15, 2006, the IACHR adopted Friendly Settlement Report No. 47/06⁸², in which it acknowledged that the State had complied with the payment of compensatory damages to the victim in the amount of US\$300,000; in addition, it said would continue to follow up on and monitor all the points in the friendly settlement agreement and, in that context, reminded the parties of their commitment to keep the IACHR apprised regarding its implementation.

638. On October 4, 2013, the IACHR requested both parties to report on the state of compliance with the pending items. In response, the petitioners reported that on November 19, 2013, the State had not taken any judicial action to investigate, prosecute and punish those responsible for the violations committed against the victims, nor against the police judges, who improperly assumed jurisdiction to try cases of human rights violations.

639. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded to the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, who would have verbally reported that it had conducted "investigative activities such as on-site inspections and the collection of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

640. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

641. The State did not reply to the request for information.

642. Based on the foregoing, the IACHR concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor pending items.

⁸² Report No. 47/06, Petition 533-01, Fausto Mendoza Giler *et al.*, March 15, 2006, available at <http://www.cidh.oas.org/annualrep/2006eng/Ecuador533.01eng.htm>

Case 12.487, Report No. 17/08 Rafael Ignacio Cuesta Caputi (Ecuador)

643. In Report No. 17/08⁸³ of March 14, 2008, the Commission concluded that the Ecuadorian State had incurred international responsibility for violation of Rafael Ignacio Cuesta Caputi's rights to a fair trial, to judicial protection and to freedom of expression, set forth in articles 8(1), 25 and 13 of the American Convention, in conjunction with its general obligation under Article 1(1) to respect and ensure the Convention-protected rights. The present case concerns the Ecuadorian State's responsibility for failure to properly investigate the facts surrounding the explosion of a bomb that Mr. Cuesta Caputi was holding in the course of practicing his profession of journalism.

644. The Commission made the following recommendations to the State:

1. Publicly acknowledge international responsibility for the human rights violations established by the IACHR in the present report.
2. Carry out a complete, impartial, and effective investigation into the attack on Rafael Ignacio Cuesta Caputi.
3. Grant adequate reparation to Mr. Rafael Ignacio Cuesta Caputi for the violations of his right to judicial guarantees, to judicial protection, to personal integrity, and to freedom of thought and expression.

645. On October 8, 2013, the IACHR requested both parties to report on the state of compliance with the pending items.

646. On October 25, that year, the petitioner reiterated that "there has been no change" in compliance with the recommendations "and the situation has remained the same since late 2010." In this regard, he noted there was only partial compliance with the recommendations pertaining to publishing a public apology and dedicating a commemorative plaque. As for reparation, he claimed that there has been no effort made by the State to comply with this recommendation. In a subsequent communication dated January 20, 2014, the petitioner informed the IACHR that there was still a disagreement regarding the amount of compensation, and that the amount would have to be reevaluated and examined in order to determine a value that was fair and consistent with the principles governing this matter with respect to pecuniary and non-pecuniary damages.

647. On December 1, 2014, the IACHR once again requested information from both parties regarding compliance. The petitioner responded on January 26, 2015, that there have been no advancements since 2010.

648. The State did not reply to the request for information.

649. Based on the foregoing, the Commission concludes that there has been partial compliance with the recommendations made in Report No. 17/08. Accordingly, the Commission will continue to monitor for compliance.

Case 12.525, Report No. 84/09 Nelson Iván Serrano Sáenz (Ecuador)

650. In Report No. 84/09⁸⁴ of August 6, 2009, the Commission concluded that the State was responsible for violation of the rights to humane treatment, personal liberty, to a fair trial, nationality,

⁸³ Report No. 17/08, Case 12.497, Rafael Ignacio Cuesta Caputi, March 14, 2008, available at: <http://www.cidh.oas.org/annualrep/2008eng/Ecuador12487eng.htm>

⁸⁴ Report No. 84/09, Case 12.535, Nelson Iván Serrano Sáenz, August 6, 2009, available at: <http://www.cidh.oas.org/annualrep/2009eng/Ecuador12525eng.htm>

freedom of movement and residence, and judicial protection, recognized in articles 5, 7, 8, 20, 22 and 25, respectively, of the American Convention, in relation to articles 1(1) and 2 thereof, by virtue of the unlawful detention of Nelson Iván Serrano Sáenz, a citizen with dual Ecuadorian and United States citizenship, and his immediate deportation to the United States to face trial for the murder of four people in the state of Florida, where he was subsequently convicted and sentenced to die.

651. The IACHR made the following recommendations to the Ecuadorian State:

1. Continue granting legal assistance to Nelson Iván Serrano Sáenz according to international law.
2. Modify domestic legislation to ensure simple and effective recourse to courts pursuant to Article 25 of the American Convention for anyone subject to deportation proceedings.
3. Provide adequate reparations for the violations of Nelson Iván Serrano Sáenz's rights established in this report.

652. On October 4, 2013 y on November 25, 2014, the IACHR requested both parties to report on compliance with the items still pending and received no response from either one.

653. The Commission therefore concludes there has been partial compliance with the recommendations made in Report 84/09. Accordingly, the Commission will continue to monitor compliance with those recommendations.

Petition 533-05, Report No. 122/12, Julio Rubén Robles Eras (Ecuador)

654. On October 10, 2006, through the good offices of the Commission, the parties reached a friendly settlement agreement. The Ecuadorean State recognized its responsibility for violations of the right to life, humane treatment, a fair trial and judicial protection and its obligation to respect and ensure human rights under the American Convention on Human Rights. Additionally, the State pledged to pay compensation and to both civilly and criminally prosecute the individuals who were implicated in the act violating the Convention. The case involves the death of Mr. Julio Ruben Robles Eras and gave rise to two criminal proceedings. One case was under military jurisdiction, presided over by the First Judge of the Third Military Zone and the other case was under civilian jurisdiction and was prosecuted by the Assistant Government Attorney of Macará and the Seventh Judge for Criminal Matters of Loja. The case brought in the civilian court was joined with the case being heard in the military justice system.

655. On November 13, 2012, the IACHR approved Friendly Settlement Report No. 122/12⁸⁵ finding that the State had made good on the payment of US\$300,000.00 as financial compensation, and had made some progress in complying with the non-pecuniary measures of reparation. Consequently, the IACHR decided to:

1. Approve the terms of the agreement entered into by the parties on October 10, 2006.
2. Continue to monitor the commitments of the Ecuadorean State pending compliance and, for this purpose, remind the parties of their commitment to report periodically to the IACHR on compliance thereof.

656. On October 4, 2013, the IACHR requested both parties to report on compliance with the items still pending. On November 20, 2013, the petitioners reported that the State made good on paying the

⁸⁵ Report No. 122/12, Petition 533-05, Julio Rubén Robles Eras, November 13, 2012, available at: <http://www.oas.org/es/cidh/decisiones/amistosas.asp>

amount of compensation provided for in the agreement entered into and had undertaken the creation of an adjudicatory unit that ordered police and military courts to become part of the Regular Civilian Judiciary Service.

657. Additionally, they reported that the State pledged to institute civil and criminal proceedings to make it possible to adequately determine the circumstances of the death of the victim and the degree of responsibility of each perpetrator, though they reported that they were not aware as to whether or not said proceedings had been brought yet and the status thereof.

658. In a communication dated May 27, 2014, the National Director of Human Rights of the Attorney General's Office forwarded the IACHR a report drafted by the Ecuadorian Ministry of Justice, Human Rights, and Religious Affairs on the situation of some cases that are in compliance with the friendly settlement process or the recommendations contained in a report on the merits. With respect to this specific case, the State underscored its compliance with the financial reparation, as well as with the commitment of the Attorney General's Office to ensure the application of the principle of jurisdictional uniformity, in order for the military and police courts to be incorporated into the judiciary. It also mentioned the elimination of the practice of hazing within the armed forces.

659. In that communication, the State specified that the Office of the Director of the Truth and Human Rights Commission had sent official letters to the Office of the Public Prosecutor in order for it to conduct the pertinent investigations. In addition, the State indicated that a meeting had been held with the Office of the Prosecutor General, which in addition, the State had verbally reported that it had conducted "investigative activities such as on-site inspections and the taking of statements, for purposes of gathering evidence prior to the initiation of the Prosecution's investigation." The State agreed to forward that information in writing; however, this Commission has not received it to date.

660. On November 25, 2014, the IACHR once again requested information from both parties regarding compliance. In a communication dated December 17, 2014, the petitioners reiterated what they had stated in their previous communication.

661. The State did not reply to the request for information.

662. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Accordingly, the Commission will continue to monitor the pending items.

Case 12.631, Report No. 61/13, Karina Montenegro et al. (Ecuador)

663. On December 18, 2008, a friendly settlement agreement was signed between the Ecuadorian State and Tania Shasira Cerón Paredes, Karina Montenegro, Leonor Briones, Martha Cecilia Cadena, and Nancy Quiroga. In the agreement, the Ecuadorian State acknowledged its international responsibility for the violation of the rights to humane treatment, personal freedom, and judicial protection, the rights of the child, and the obligation to respect and guarantee the human rights enshrined in the American Convention on Human Rights. Additionally, the State agreed to pay compensation, and to civilly and criminally prosecute the individuals who took part in the violation. The case concerns the unlawful detention of these 5 women. On the date of their detention, 4 of them were pregnant, and Mrs. Martha Cecilia Cadena was 68 years of age; under Ecuadorian law, pregnant women and persons over the age of 65 cannot be deprived of their liberty, and such persons are subject to house arrest rather than pretrial detention. The petition also contains allegations regarding the conditions in which these women were forced to spend their pregnancies and give birth, as well as the prison conditions in which they still live with their minor children.

664. On July 16, 2013, the Commission adopted Report No. 61/13, thereby approving the friendly settlement agreement between the parties. The report concluded that the State had complied partially with the following clauses, which continue to be monitored by the IACHR:

1. Pecuniary reparation measures
2. Immediate medical attention for Martha Cadena and her transfer to a prison house or correctional prison
3. The State's assurances of the non-repetition of acts of discrimination against pregnant women deprived of their liberty or elderly or disabled women
4. Training for public servants from the National Police, the Office of the Public Prosecutor, the Bureau of Prisons, the Constitutional Court, the Habeas Corpus Unit of the Mayor's Office, the Judiciary, and other appropriate legal practitioners
5. Provision of personnel and resources for compliance with the guarantee of house arrest
6. Creation of a prison house or correctional prison
7. Provision of materials to existing childcare facilities at detention centers and the creation of childcare facilities at existing centers
8. Creation of a special medical attention program for pregnant women, their children, and elderly persons
9. The Office of the Attorney General and the Office of the Deputy Secretary of Human Rights of the Ministry of Justice will file complaints with Police Headquarters, the National Council of the Judiciary, and the Office of the Prosecutor General, seeking the imposition of sanctions against those responsible for failing to carry out the house arrest, for which the respective proceedings shall be initiated to investigate the police, judicial, and other personnel who have failed to comply with or failed to execute the court orders mandating house arrest

665. On March 26, 2014, the petitioners submitted new information regarding compliance. They asserted therein that the financial reparation measures had been met in their entirety, and therefore the IACHR deems that part of the agreement satisfied.

666. With respect to the other clauses, in spite of the fact that the petitioners acknowledge progress on some of them—such as the provision of materials to existing childcare facilities—they insist that the State has not complied with them in their entirety and that the IACHR should continue to monitor compliance.

667. In a communication dated May 12, 2014, the State sent information regarding compliance. With respect to point 4 *supra*, the State submitted a list of human rights and gender training sessions held on different occasions between 2012 and 2014, in particular for medical and penitentiary staff. The State also presented information about ongoing education programs on human rights and gender, specifically sexual and domestic violence, at the prosecutors' school. The State further indicated that the Council of the Judiciary has held educational and training sessions for judiciary employees. Finally, it reported on training sessions on gender issues that have been provided to police personnel through the Ongoing Comprehensive Training Program (PCIC).

668. Among other information, and with regard to measures of non-repetition, the State presented the fact that the Comprehensive Criminal Code provides for an electronic monitoring device in cases in which pretrial detention is replaced by house arrest. The State affirms that the use of this mechanism has been established as a mandatory preventive measure and alternative to the deprivation of liberty and that it is consistent with the international standards. Additionally, it presented information on the New Penitentiary Management Model that aims to create new regional detention centers under a self-management plan, and gives the example of the Guayas Detention Center, which opened in August 2013 and has been upheld as a pilot plan for this new management model. Finally, the State also mentions the existence of two childcare centers that are reportedly already operating in the Women's Detention Centers in Quito and Guayaquil.

669. That information was forwarded to the petitioners on July 15, 2014, and there has been no reply to date. On December 1, 2014 the IACHR requested updated information on compliance. To date, no information has been received from either party.

670. In view of the fact that no recent information has been received from the parties and that the petitioners have not submitted any observations on the State's last communication, the IACHR will continue to monitor the pending items.

Case 12.249, Report No. 27/09, Jorge Odir Miranda Cortez et al. (El Salvador)

671. In Report No. 47/03, of October 8, 2003, the IACHR concluded that the Salvadoran State was responsible for: i) violation of Article 25 of the American Convention on Human Rights, to the detriment of Jorge Odir Miranda Cortez and 26 other persons identified in the processing of the petition, by virtue of the fact that a petition they attempted to file seeking amparo relief was not the simple and effective remedy required under the international human rights obligations undertaken by the Salvadoran State; ii) violation of Article 2 of the Convention, by virtue of the fact that El Salvador's amparo law did not meet the requirements set forth in Article 25 of the American Convention, as it was not the simple and prompt recourse required under Article 25 of the Convention; and iii) violation of Article 24 of the Convention, to the detriment of Mr. Jorge Odir Miranda Cortez. The Commission did not find a violation of Article 26 of the Convention.

672. According to the complaint, the State had failed to provide the 27 victims –all of whom were infected with the HIV/AIDS virus- the medications that together constitute the HIV/AIDS triple therapy needed to save their lives and improve their quality of life, thereby placing them in a situation that, in their judgment, constituted cruel, inhuman and degrading treatment. They also alleged that they were discriminated against by the Salvadoran Social Security Institute because they had HIV/AIDS. They said that the almost two years that passed before a decision was handed down on the petition they filed seeking amparo relief in order to claim violation of their rights was an unreasonable period and violated their rights to judicial guarantees and judicial protection.

673. The IACHR made the following recommendations to the Salvadoran State:

- a) Implement legislative measures to amend the provisions governing amparo, in order to make it the simple, prompt and effective remedy required under the American Convention, and
- b) Make adequate reparations to Jorge Odir Miranda Cortez and the other 26 victims mentioned in the record of Case 12.249 –or their beneficiaries, as appropriate- for the human rights violations herein established.

674. In its Merits Report No. 42/04 (Article 51), dated October 12, 2004, the IACHR evaluated the measures that El Salvador had taken to comply with the recommendations made. It concluded that those recommendations had not been fully carried out. Accordingly it reminded the Salvador State of its previous recommendations.

675. Subsequently, the IACHR adopted its Merits Report No. 27/09 (Article 51 – Publication), of March 20, 2009. There, the Commission concluded that the Salvadoran State had complied with the second recommendation made in Report No. 47/03, but observed that the recommendation it had made suggesting legislative amendment of the amparo laws had still not been carried out. Accordingly, it reiterated this recommendation.

676. In 2011, regarding the first recommendation, the Salvadorian State informed that the Draft Law of the Constitutional Procedural Law - presented before the Legislative Assembly in 2002 - was still under study by the Committee on Legislation and Constitutional Affairs.

677. On November 14, 2013, the IACHR asked the parties to provide updated information on the status of compliance with the pending recommendation. Regarding the recommendation to reform the provisions governing amparo, the State argued that the draft Law of the Constitutional Procedure Law continues to be under consideration by the Supreme Court of Justice. Once it is approved, it will be sent to the Committee on Legislation and Constitutional Affairs. The petitioners indicated that they are unaware of any progress of said Draft Law even though it was introduced years ago. They also argued that the Draft Law has the same problems as the previous one because it does establish the time frame for admitting the process of the amparo action, which constitutes an obstacle to access to justice.

678. With regards to the economic reparation, the State argued that the draft agreement for releasing the remaining funds on the amount of \$ 32,000.00 was transferred to the Asociación Atlacatl, and that the organization has still not submitted its respective observations. The petitioners said that said agreement was received on September 25 2013 and is currently under review.

679. On October 30, 2013, the parties held a working meeting during the 149th Regular Period of Sessions of the IACHR in which they reiterated their positions.

680. On December 8, 2014, the IACHR once again requested up-to-date information on compliance. To date, none of the parties has responded to that request.

681. Based on the above, the Commission concludes that the State has not complied with the recommendations. Therefore, the Commission will continue to monitor the pending items.

Case 12.028, Report No. 47/01, Donnason Knights (Grenada)

682. In Report No. 47/01 dated April 4, 2001, the Commission concluded the State was responsible for: a) violating Mr. Knights' rights under Articles 4(1), 5(1), 5(2) and 8(1), in conjunction with a violation of Article 1(1) of the American Convention, by sentencing Mr. Knights to a mandatory death penalty; b) violating Mr. Knights' rights under Article 4(6) of the Convention, in conjunction with a violation of Article 1(1) of the American Convention, by failing to provide Mr. Knights' with an effective right to apply for amnesty, pardon or commutation of sentence; c) violating Mr. Knights' rights under Article 5(1) and 5(2) of the American Convention, in conjunction with a violation of Article 1(1) of the American Convention, because of Mr. Knights' conditions of detention; and d) violating Mr. Knights' rights under Articles 8 and 25 of the Convention, in conjunction with a violation of Article 1(1) of the Convention, by failing to make legal aid available to him to pursue a Constitutional Motion.

683. The IACHR issued the following recommendations to the State:

1. Grant Mr. Knights an effective remedy which includes commutation of sentence and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in violation of the rights and freedoms guaranteed under the Convention, including Articles 4, 5, and 8, and in particular, to ensure that no person is sentenced to death pursuant to a mandatory sentencing law.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the American Convention to apply for amnesty, pardon or commutation of sentence is given effect in Grenada.
4. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the American Convention and the right to judicial protection under Article 25 of the American Convention are given effect in Grenada in relation to recourse to Constitutional Motions.

5. Adopt such legislative or other measures as may be necessary to ensure that the right to humane treatment under Article 5(1) and Article 5(2) of the American Convention in respect of the victim's conditions of detention is given effect in Grenada.

684. On December 4, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above since 2009.

685. Based on the foregoing, the Commission reiterates that there is partial compliance with its recommendations in this case. Accordingly, the IACHR will continue to monitor the items still pending compliance.

Case 11.765, Report No. 55/02, Paul Lallion (Grenada)

686. In Report No. 55/02 dated October 21, 2003, the IACHR concluded that the State of Grenada was responsible for: a) violating Mr. Lallion's rights under Articles 4(1), 5(1), 5(2) and 8(1), in conjunction with a violation of Article 1(1) of the American Convention, by sentencing Mr. Lallion to a mandatory death penalty; b) violating Mr. Lallion's rights under Article 4(6) of the Convention, in conjunction with a violation of Article 1(1) of the American Convention, by failing to provide Mr. Lallion with an effective remedy to apply for amnesty, pardon or commutation of sentence; c) violating Mr. Lallion's rights under Article 5(1) of the American Convention, in conjunction with a violation of Article 1(1) of the American Convention, because of its failure to respect Mr. Lallion's right to physical, mental, and moral integrity by confining him in inhumane conditions of detention; d) for violating Mr. Lallion's rights under Articles 8 and 25 of the Convention, in conjunction with a violation of Article 1(1) of the Convention, by failing to make legal aid available to Mr. Lallion to pursue a Constitutional Motion; and e) violating Mr. Lallion's right to personal liberty as provided by Article 7(2), 7(4), and 7(5) of the Convention, in conjunction with Article 1(1) of the Convention by failing to protect his right to personal liberty, and to be brought promptly before a judicial officer.

687. The IACHR issued the following recommendations to the State:

1. Grant Mr. Lallion an effective remedy which includes commutation of sentence and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in violation of the rights and freedoms guaranteed under the Convention, including Articles 4, 5, and 8, and in particular, to ensure that no person is sentenced to death pursuant to a mandatory sentencing law in Grenada.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the American Convention to apply for amnesty, pardon or commutation of sentence is given effect in Grenada.
4. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the American Convention and the right to judicial protection under Article 25 of the American Convention are given effect in Grenada in relation to recourse to Constitutional Motions.
5. Adopt such legislative or other measures as may be necessary to ensure that the right to humane treatment under Article 5(1) of the American Convention in respect of Mr. Lallion's conditions of detention is given effect in Grenada.
6. Adopt such legislative or other measures as may be necessary to ensure that the right to personal liberty under Article 7(2), Article 7(4), and 7(5) of the American Convention in respect of Mr. Lallion is given effect in Grenada.

688. December 4, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above since 2009.

689. Based on the foregoing, the Commission reiterates that there is partial compliance with its recommendations in this case. Accordingly, the IACHR will continue to monitor the items still pending compliance.

Case 12.158, Report No. 56/02 Benedict Jacob (Grenada)

690. In Report No. 56/02 dated October 21, 2003, the Commission concluded that the State was responsible for: a) violating Mr. Jacob's rights under Articles 4(1), 5(1), 5(2) and 8(1), in conjunction with a violation of Article 1(1) of the American Convention, by sentencing Mr. Jacob to a mandatory death penalty; b) violating Mr. Jacob's rights under Article 4(6) of the Convention, in conjunction with a violation of Article 1(1) of the American Convention, by failing to provide Mr. Jacob with an effective remedy to apply for amnesty, pardon or commutation of sentence; c) violating Mr. Jacob's rights under Article 5(1) of the American Convention, in conjunction with a violation of Article 1(1) of the American Convention, because of its failure to respect Mr. Jacob's rights to physical, mental, and moral integrity by confining him in inhumane conditions of detention; and d) violating Mr. Jacob's rights under Articles 8 and 25 of the Convention, in conjunction with a violation of Article 1(1) of the Convention, by failing to make legal aid available to him to pursue a Constitutional Motion.

691. The IACHR issued the following recommendations to the State:

1. Grant Mr. Jacob an effective remedy which includes commutation of sentence and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in violation of the rights and freedoms guaranteed under the Convention, including Articles 4, 5, and 8, and in particular, to ensure that no person is sentenced to death pursuant to a mandatory sentencing law in Grenada.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the American Convention to apply for amnesty, pardon or commutation of sentence is given effect in Grenada.
4. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the American Convention and the right to judicial protection under Article 25 of the American Convention are given effect in Grenada in relation to recourse to Constitutional Motions.
5. Adopt such legislative or other measures as may be necessary to ensure that the right to humane treatment under Article 5(1) of the American Convention in respect of Mr. Jacob's conditions of detention is given effect in Grenada.

692. On December 4, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above since 2009.

693. Based on the foregoing, the Commission reiterates that there is partial compliance with its recommendations in this case. Accordingly, the IACHR will continue to monitor the items still pending compliance.

Case 11.625, Report No. 4/01, María Eugenia Morales de Sierra (Guatemala)

694. In Report No. 4/01 of January 19, 2001, the IACHR indicated that “it fully recognizes and appreciates the reforms carried out by the State of Guatemala in response to the recommendations put forth in Report 86/98. As recognized by the parties, said recommendations constitute a significant step forward in protecting the fundamental rights of the victim and of women in general in Guatemala. These reforms represent a measure of substantial compliance with the Commission’s recommendations, and are consistent with the obligations of the State as a party to the American Convention.” For this reason, it concluded that the State had implemented a significant portion of the recommendations issued in Report 86/98.

695. In this same Report, the Commission indicated that it was not in a position to conclude that the State had fully complied with the recommendations and reiterated that the Guatemalan State was responsible for having violated the rights of María Eugenia Morales de Sierra to equal protection, respect for her family life, and respect for her private life, established at Articles 24, 17, and 11 of the American Convention on Human Rights in relation to the title and section 1 of Article 110 and Article 317(4), and that accordingly the State was responsible for breaching the obligation imposed by Article 1 to respect and ensure those rights enshrined in the Convention, as well as the obligation imposed on it by Article 2 to adopt legislation and other measures necessary for upholding those rights of the victim.

696. The Commission made the following recommendations to the Guatemalan State:

1. Adapt the pertinent provisions of the Civil Code to balance the legal recognition of the reciprocal duties of women and men in marriage and take the legislative and other measures necessary to amend Article 317 of the Civil Code so as to bring national law into conformity with the norms of the American Convention and give full effect to the rights and freedoms guaranteed to María Eugenia Morales de Sierra therein.
2. Redress and adequately compensate María Eugenia Morales de Sierra for the damages done by the violations established in this Report.

697. On March 3, 2006, the petitioners and the Guatemalan State signed an “Agreement for Specific Compliance with Recommendations” for the purpose of formalizing the obligations of the State. In that agreement, María Eugenia Morales de Sierra expressly waived the economic reparation that the IACHR recommended be paid to her in her status as victim because “her struggle consists of uplifting the dignity of women.”

698. Regarding the compliance of these recommendations, the petitioner has contended as on earlier occasions, that Article 317 of the Guatemalan Civil Code has not been amended and that, consequently, her rights under the American Convention are still being violated and that she had not been given any “reparation or compensation for the damages caused.”

699. In response, the State has reiterated that it has implemented all of the reforms to the Civil Code that had been deemed necessary by the IACHR and that the only reform pending was Article 317 of said body of laws. In this regard, it has reiterated that the Draft Law to amend the article had been introduced by the Executive Branch in the National Congress, where it was awaiting approval.

700. With regard to the recommendation on redress and adequate compensation to María Eugenia Morales de Sierra, as was noted earlier, it is on record in the “Agreement for Specific Compliance with Recommendations,” entered into by the parties on March 3, 2006 that Attorney Morales de Sierra expressly stated “that her struggle is to bring dignity to women and, therefore, she has no personal pecuniary interest, expressly waiving the economic redress that was recommended by the IACHR in her status as a victim.”

701. On October 4, 2013, the Commission asked the parties to submit updated information on the state of compliance with the recommendations. In 2013, the petitioners indicated that no substantive steps

have been taken to give impetus to the reform of Article 317 of the Civil Code. They indicated that the State has merely said that an opinion has been expected on a legislative initiative aimed at amending that article since October 2, 2007. The State did not submit any information in this regard.

702. On December 8, 2014, the IACHR once again requested information on compliance. On January 7, 2015, the petitioners claimed that the recommendations have still not been implemented; Article 317 of the Civil Code has still not been amended and adequate reparation has not been provided for the damages caused by the established violations.

703. On January 8, 2014, the State responded that legislative measures have been taken to amend the said article. It further claimed that draft Law 3688, which had been introduced on October 2, 2007, before Congress, had not been approved and, therefore, on December 1, 2010, the Women's Committee of the Congress had introduced a new bill in order to amend the said article, which thus far has not been approved by the plenary.

704. With respect to the second recommendation, the State reiterated that the petitioner had waived monetary compensation. It also made it clear that there were two other items of the agreement on compliance with the recommendations that have not been implemented by the State, because of the difficulty it had in coordinating implementation thereof with the petitioner. Other pending commitments mentioned by the State would be: compliance with the recommendations of the Special Rapporteur on the Rights of Women; working with the IACHR to present the report on violence against Guatemalan women; scholarships for elementary school girls; training and specialization on gender-related topics; among other sensitization and dissemination campaigns on the subject matter.

705. Based on the foregoing, the Commission reiterates that the State has partially complied with the recommendations. Consequently, the Commission will continue to monitor the pending items.

Case 9207, Report No. 58/01, Oscar Manuel Gramajo López (Guatemala)

706. In Report No. 58/01 of April 4, 2001, the IACHR concluded that the Guatemalan State had violated the rights of Mr. Oscar Manuel Gramajo López to life (Article 4), humane treatment (Article 5), personal liberty (Article 7), and judicial protection (Articles 8 and 25), in conjunction with the obligation to ensure the rights protected in the Convention, established at its Article 1(1). According to the antecedents, on November 17, 1980, Oscar Manuel Gramajo López and three companions were detained by and subsequently disappeared by members of the National Police, who had the help of members of the Treasury Police and some members of the military. The detention took place in circumstances in which the victim and his friends were in the home of one of the latter, listening to the radio with the volume turned all the way up, having a few drinks, when a neighbor reported them to the police because of the noise they were making.

707. In Report No. 58/01 the Commission made the following recommendations to the Guatemalan State:

1. Conduct an impartial and effective investigation of the facts reported to determine the circumstances and fate of Mr. Oscar Manuel Gramajo López, which would establish the identity of those responsible for his disappearance and punish them in accordance with due process of law.
2. Adopt measures for full reparation of the violations determined, including: steps to locate the remains of Mr. Oscar Manuel Gramajo López; the necessary arrangements to accommodate the family's wishes in respect of his final resting place; and proper and timely reparations for the victim's family.

708. On October 7, 2013, the Commission asked the parties to supply updated information on the status of compliance with the recommendations made in this case. The petitioners did not supply any information.

709. The State reported on the first recommendation that the Internal Armed Conflict Special Cases Unit of the Human Rights Section of the Office of the Public Prosecutor had drawn up an investigation plan but that it was classified pursuant to Article 314 of the Criminal Procedure Code and therefore specific details could not be provided about the investigation. However, it did mention that the Public Ministry was investigating the instant case, and that as progress reports are produced they will be sent to the IACHR.

710. As to the second recommendation of the IACHR, the State reported the following:

- a) Concerning the search for the remains of Mr. Oscar Manuel Gramajo Lopez, it indicated that the Forensic Anthropology Foundation of Guatemala (FAFG) –an autonomous, technical-scientific non-governmental organization- interviewed and took DNA samples of the family members of Mr. Gramajo Lopez. A comparison of said samples, as well as samples secured from the bone remains recovered in the exhumations by the FAFG at different locations in Guatemala, had been run to check them against the genetic data in its database (BDD) and, thus far, Oscar Manuel Gramajo Lopez has not been successfully identified.
- b) Regarding the necessary arrangements to accommodate the wishes of the family as to the final resting place of the remains of Mr. Oscar Manuel Gramajo, the State indicated that once his remains are located and identified, it will – with the approval of his family –coordinate efforts related to his final resting place.
- c) With regard to the recommendation to award proper and timely reparations to the victim’s family, it stated that on December 5, 2008, the National Reparations Program awarded economic reparation in the amount of twenty four thousand quetzals to Mrs. Edelia Lopez Escobar as a result of the forced disappearance of her son Oscar Manuel Gramajo, thus this commitment was carried out.

711. On December 5, the IACHR asked again for information on compliance. The State replied on January 5, 2015, by reiterating the information it had previously submitted. Thus far, there has been no reply from the petitioner.

712. The Commission therefore concludes that the recommendations have been partially fulfilled. Accordingly, the Commission will continue to monitor for compliance with the pending points.

Case 10.626 Remigio Domingo Morales and Rafael Sánchez; Case 10.627 Pedro Tau Cac; Case 11.198(A) José María Ixcaya Pixtay *et al.*; Case 10.799 Catalino Chochoy *et al.*; Case 10.751 Juan Galicia Hernández *et al.*; and Case 10.901 Antulio Delgado, Report No. 59/01 Remigio Domingo Morales *et al.* (Guatemala)

713. In Report No. 59/01 of April 7, 2001, the IACHR concluded that the Guatemalan State was responsible for violating the following rights: (a) the right to life, to the detriment of Messrs. Remigio Domingo Morales, Rafael Sánchez, Pedro Tau Cac, José María Ixcaya Pictay, José Vicente García, Mateo Sarat Ixcoy, Celestino Julaj Vicente, Miguel Calel, Pedro Raguez, Pablo Ajiataz, Manuel Ajiataz Chivalán, Catrino Chanchavac Larios, Miguel Tiu Imul, Camilo Ajuquí Gimón, and Juan Tzunux Us, as established at Article 4 of the American Convention; (b) the right to personal liberty in the case of Messrs. Remigio Domingo Morales, Rafael Sánchez, Pedro Tau Cac, and Camilo Ajuquí Gimón, as established at Article 7 of the American Convention; (c) right to humane treatment, to the detriment of Messrs. Remigio Domingo Morales, Rafael Sánchez, Pedro Tau Cac, and Camilo Ajuquí Gimón, as established at Article 5 of the American Convention and Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture; in addition, in the case of the attempts to extrajudicially execute Messrs. Catalino Chochoy, José Corino, Abelino Baycaj, Antulio Delgado, Juan Galicia Hernández, Andrés Abelino Galicia Gutiérrez, and Orlando Adeldo Galicia Gutiérrez, the Commission concluded that the Guatemalan State was responsible for violating the right to humane treatment, as established at Article 5 of the American Convention; (d) the rights of the child in the case of

children Rafael Sánchez and Andrés Abelicio Galicia Gutiérrez, as established at Article 19 of the American Convention; (e) judicial guarantees and judicial protection, to the detriment of all the victims, both those extrajudicially executed and those who suffered attempted extrajudicial execution, as established at Articles 8 and 25 of the American Convention. (f) In addition, the IACHR considered the Guatemalan State responsible in all cases for having breached the obligation to respect and ensure the rights protected in the American Convention on Human Rights, as established at Article 1 thereof.

714. According to the background information, the IACHR determined that each of cases 10,626; 10,627; 11,198(A); 10,799; 10,751; and 10,901 referred to complaints in which it was indicated that the alleged material perpetrators of the various human rights violations were the Civil Self-Defense Patrols (PAC) or the Military Commissioners, and after considering the nature of the operations of the PAC and the Military Commissioners, the chronological framework of the various complaints, and the *modus operandi* used in each of the facts alleged, the Commission decided, in keeping with Article 40 of its Regulations in force at the time, to join the cases and refer to them in a single report.

715. In Report No. 59/01, the Commission made the following recommendations to the States:

1. That it conduct a thorough, impartial and effective investigation to determine the circumstances of the extrajudicial executions and attempted extrajudicial executions of each victim and the attendant violations, and punish those responsible.
2. That it takes the necessary measures so that the next-of-kin of the victims of the extrajudicial executions might receive adequate and prompt compensation for the violations herein established.
3. That it takes the necessary measures so that the victims of the attempted extrajudicial executions might receive adequate and prompt compensation for the violations herein established.
4. That it effectively prevents a resurgence and reorganization of the Self-defense Civil Patrols.
5. That in Guatemala the principles established in the United Nations "Declaration on the right and responsibility of individuals, groups and institutions to promote and protect universally recognized human rights and fundamental freedoms" be promoted and that the necessary measures be taken to ensure that the right of those who work to secure respect for fundamental rights is respected and that their life and personal integrity are protected.

716. With regard to Case 10.626 (Remigio Domingo Morales and Rafael Sanchez) in Report 59/01, on April 24, 2006, the IACHR decided under Resolution 1/06 to correct the aforementioned Report, declaring that on June 28, 1990, Remigio Domingo Morales and Rafael Sanchez were detained by members of the Civil Self-Defense Patrols (PAC) and were taken on that same day to Huehuetenango Hospital to be treated for multiple blunt-force sharp instrument injuries that they presented; both of them were discharged from the hospital on July 3, 1990. The State of Guatemala and the petitioners were notified of the above-cited Resolution and it was subsequently published in Report N^o 59/01.

717. On October 8, 2013, the Commission requested updated information from the parties regarding compliance with the recommendations set forth in Report No. 59/01. The petitioners did not provide any information.

718. In its reply, the State addressed Case 10.626 (Remigio Domingo Morales and Rafael Sanchez) and stated that if the petitioners believe that their rights had been violated by the State during the internal armed conflict, the National Reparations Program (PNR) was in place and functioning, and that its purpose was to provide reparation to the victims of human rights violations, which occurred during said conflict, provided that they qualify for reparation under Program criteria.

719. As to the fourth recommendation of Report 59/01, the State reiterated that the Civil Self-Defense Patrols (PAC) were dissolved under Decree 143-96 of the Congress of the Republic of Guatemala, dated November 28, 1996, and that the process of disarmament of the PAC had been verified by the Office of the Prosecutor for Human Rights of Guatemala and by the United Nations Verification Mission in Guatemala, (MINUGUA).

720. As for the fifth recommendation, the State asserted “that it is organized to ensure that all of its inhabitants enjoy their rights and freedoms, set forth in the Constitution of Guatemala [and], that constitutes the ethical and legal imperative of the domestic legal order.” In this regard, it indicated that it “guarantees the right of freedom of expression of all persons in the national territory.”

721. On December 5, 2014, the IACHR made another request for up-to-date information on compliance with recommendations. As of the present date, no response has been received from either of the parties.

722. The Commission therefore concludes that the recommendations have been partially fulfilled. Accordingly, the Commission will continue to monitor for compliance with the pending points.

Case 9111, Report No. 60/01, Ileana del Rosario Solares Castillo, Ana María López Rodríguez⁸⁶ y Luz Leticia Hernández (Guatemala)

723. In Report on the Merits No. 60/01 of April 4, 2001, the IACHR concluded that the Guatemalan State had violated the rights of Ileana del Rosario Solares Castillo, Ana María López Rodríguez, and Luz Leticia Hernández to life (Article 4), humane treatment (Article 5), personal liberty (Article 7), judicial guarantees (Article 8), and judicial protection (Article 25), all in conjunction with the obligation to ensure the rights protected in the Convention, as established in Article 1(1) of the same Convention. These violations occurred as a result of the detention and subsequent forced disappearance of Ileana del Rosario Solares Castillo, Ana María López Rodríguez, and Luz Leticia Hernández at the hands of agents of the Guatemalan State on September 25, 1982, in the case of Ms. Solares Castillo; and on November 21, 1982, in the case of Ms. López Rodríguez and Ms. Hernández.

724. The Commission made the following recommendations to the State:

1. Conduct an impartial and effective investigation into the facts of this complaint to determine the whereabouts and condition of Ileana del Rosario Solares Castillo, Ana María López Rodríguez, and Luz Leticia Hernández, to identify the persons responsible for their disappearance, and to punish them in accordance with the rules of due legal process.
2. Take steps to make full amends for the proven violations, including measures to locate the remains of Ileana del Rosario Solares Castillo, Ana María López Rodríguez, and Luz Leticia Hernández, the arrangements necessary to fulfill their families’ wishes regarding the final resting place of their remains, and adequate and timely compensation for the victims’ relatives.

725. In the instant case, the State entered into an agreement on compliance with the recommendations issued by the IACHR in Merits Report No. 60/01 on December 19, 2007 with the next-of-kin of victim Ileana del Rosario Solares Castillo, and on October 14, 2010 with the next-of-kin of Ana Maria Lopez Rodriguez.

⁸⁶ The State reported in a note dated December 18, 2012 that the correct name of the victim is Ana Maria Lopez Rodriguez and not Maria Ana as it appeared in the IACHR Report.

726. The next-of-kin of victim Luz Leticia Hernandez Agustin have informed the State that after reaching a consensus on economic reparation or measures of moral reparation, the State must hand over the remains of Luz Leticia.

727. On October 8, 2013, the Commission requested the parties to provide updated information on compliance with the recommendations set forth in Report No. 60/01.

728. With regard to the first recommendation, that is, to investigate the incidents that were the subject of the complaint pertaining to the forced disappearance of Ileana del Rosario Solares Castillo, Ana Maria Lopez Rodriguez and Luz Leticia Hernandez, which took place in 1982, to determine those who are responsible for it and punish them, the State informed that the Office of the Public Prosecutors had opened two investigations (File MP001/2006/12842 for the forced disappearance of Ileana del Rosario Solares Castillo and File MP001/2006/67766 for the forced disappearance of Ana Maria Lopez Rodriguez and Luz Leticia Hernandez) and that the investigations are still on-going. The petitioners reported that they are aware that the Public Ministry continues the investigation, but that no criminal charges have yet to be brought against any of the persons responsible.

729. As for the second recommendation, to adopt measures of reparation, including: measures to locate the remains of the three women detainees, who disappeared in 1982, and help to accommodate the wishes of their next of kin regarding the final resting place of their remains, the State has previously reported that the Forensic Anthropology Foundation of Guatemala (FAFG) –an autonomous, scientific/technical non-governmental organization- performed exhumations and that when it completed the appropriate examination, the FAFG would provide the results of the exhumations. The petitioners said that to date the remains of Ana María López Rodríguez have not been located.

730. On December 5, 2014, the IACHR made another request for information on compliance with the recommendations. On January 5, 2014, the State reported the following to the IACHR on the component of adequate and timely reparation for family members of victims Rosario Solares Castillo and Ana María López Rodríguez, (showing the degree of compliance with the agreements entered into by the parties):

Commitments stemming from the agreement on recommendation compliance as provided in Report No. 60/01	Family members of Ileana del Rosario Solares Castillo	Family members of Ana María López Rodríguez
Recognition of international responsibility and apology	Implemented	Implemented
Unveiling of commemorative plaque in memory of the victim	Implemented	In the process of implementation
Payment of economic reparation	Implemented	Implemented
Seed capital for creating a foundation	Implemented	Implemented
Printing of CD with biography of the victim and case summary	Implemented	NA
Printing of education brochure	NA	In the process of implementation
Scholarships	NA	Implemented
Commitments stemming from the agreement on recommendation compliance as provided in Report No. 60/01	Family members of Ileana del Rosario Solares Castillo	Family members of Ana María López Rodríguez
Promoting approval of Law 3.590 (which creates the Commission for the Search of Disappeared Detainees)	In the process of implementation	In the process of implementation
Promote the prosecution and punishment of those responsible for the forced disappearances	In the process of implementation	In the process of implementation
Building a wall in the USAC plaza	In the process of implementation	NA

731. With regard to Luz Leticia Hernández, the State claims that the family members decided to not take part in the negotiation.

732. The family members of Ana María López Rodríguez agree with the State regarding the status of implementation of each of the reparations related to her.

733. On January 5, 2015, a communication was received from the petitioners claiming that the situation of impunity has continued, inasmuch as there has still is an unwarranted delay in instituting trial proceedings against those responsible for the forced disappearance of Luz Leticia Hernández and Ana María López Rodríguez.

734. Based on the above, the Commission expresses its appreciation for the State's actions and concludes that there has been partial compliance with the recommendations summarized above. As a result, the Commission will continue to monitor the pending items.

Case 11.382, Report No. 57/02, Workers at the Hacienda San Juan, Finca "La Exacta" (Guatemala)

735. In Report No. 57/02, of October 21, 2002, the IACHR concluded that the Guatemalan State had failed to carry out the obligations imposed on it by Article 1(1) of the Convention, and had violated, in conjunction with Article 1(1) of the Convention, the right to life, enshrined at Article 4 of the Convention, as regards Efraín Recinos Gómez, Basilio Guzmán Juárez, and Diego Orozco; the right to humane treatment, enshrined in Article 5 of the Convention, in relation to Diego Orozco, the whole group of workers/occupants and their families, who suffered the attack of August 24, 1994, and especially the 11 persons who suffered grievous injuries: Pedro Carreto Loayes, Efraín Guzmán Lucero, Ignacio Carreto Loayes, Daniel Pérez Guzmán, Marcelino López, José Juárez Quinil, Hugo René Jiménez López, Luciano Lorenzo Pérez, Felix Orozco Huinil, Pedro García Guzmán, and Genaro López Rodas; the right of freedom of association, enshrined in Article 16 of the Convention, in relation to the workers at the La Exacta farm who organized a labor organization to put forth their labor demands to the landowners and administrators of the La Exacta farm, and to the Guatemalan courts, and who they suffered reprisals for this reason; the right of the child to special protection stipulated in Article 19 of the Convention, as regards the minors who were present during the August 24, 1994 incursion; the right to due process and judicial protection, protected by Articles 8 and 25 of the Convention, in relation to the organized workers who sought access to judicial remedies in relation to their labor demands, and in relation to the victims of the events of August 24, 1994, and their family members who sought justice in relation to those events. In addition, it concluded that the Guatemalan State had violated Articles 1, 2, and 6 of the Convention on Torture in relation to the torture suffered by Diego Orozco.

736. The Commission made the following recommendations to the Guatemalan State:

1. That it begins a prompt, impartial and effective investigation of the events that took place on August 24, 1994 to be able to detail, in an official report, the circumstances of and responsibility for the use of excessive force on that date.
2. That it takes the necessary steps to subject the persons responsible for the acts of August 24, 1994 to the appropriate judicial proceedings, which should be based on a full and effective investigation of the case.
3. That it makes reparations for the consequences of the violations of the rights listed, including the payment of fair compensation to the victims or their families.
4. That it takes the necessary measures to ensure that violations of the type that took place in this case do not recur in future.

737. On June 9, 2003, the parties entered into an "Agreement on the Rules for Compliance by the State of Guatemala with the Recommendations of the IACHR" and on October 24, 2003, they entered into an Agreement on Economic Reparation: Additionally they signed an *addendum* under which the Government undertook to appropriate 950,000 quetzals as economic reparation.

738. On October 8, 2013, the Commission requested updated information from the parties on the status of compliance with the recommendations issued in the instant case.

739. The State only addressed two of the recommendations issued by the IACHR in its Merits Report 57/02. With regard to the investigation related to the facts in the instant case, the State reiterated the information that it had previously submitted to the IACHR, on the investigation conducted by the Office of the Public Prosecutor in 2002 and 2008 in connection with the arrest warrants issued against several of the individuals charged with the crimes committed on August 24, 1994, when a group of people assaulted the workers occupying La Exacta farm and their families and, as a result of the assault, three workers were killed and at least eleven people were seriously injured. In addition, as regards the third recommendation of the IACHR on reparation, the State reported on some measures that have been taken in 2013, principally the awarding of 96 housing units and access to drinking water services. In addition, on this recommendation, the State had previously reported that in December 2003 the payment of 950,000.00 quetzals as economic reparation was completed. The petitioners indicated that since the State had not made specific and significant progress in carrying out the respective recommendations, they do not have updated information to present to the Commission.

740. On December 12, 2014, the IACHR made another request for updated information on compliance. On January 9, 2015, the State reiterated the items of its prior communication of 2013 and explained that that the commitment in the instant case pertaining to the building of the monument to honor the memory of the victims and improve the school infrastructure of the communities, has not been implemented because the National Peace Fund, the entity in charge of compliance with said item, has been dissolved. Due to the foregoing reason, the State asserted that the duties of said Fund will be taken over by the Ministry of Social Development, and that this entity will undertake the fulfillment of the aforementioned commitments as soon as possible.

741. Thus far, no information has been received from the petitioners.

742. In light of the foregoing, the IACHR expresses its appreciation for the measure adopted by the State as economic reparation and finds that the recommendations outlined above have been partially fulfilled. Consequently, the Commission will continue to monitor the pending items.

Case 11.312, Report on Friendly Settlement Agreement No. 66/03, Emilio Tec Pop (Guatemala)

743. On October 10, 2003, by Report 66/03, the Commission approved a friendly settlement agreement in the case of Emilio Tec Pop. In summary, the petitioners had alleged that on January 31, 1994, Emilio Tec Pop, 16 years of age, was heading from the municipality of Estor, department of Izabal, to the departmental capital of Cobán, Alta Verapaz, and in the early morning hours was detained by unknown individuals. Thirty-two days later, on March 3, 1994, the authorities from the military garrison at Estor handed Emilio Tec Pop over to his family members. The petitioners in this case stated that he was detained against his will and physically and psychologically abused; the soldiers are alleged to have threatened to kill Emilio, they beat him and cut up his hands with a knife.

744. In the Friendly Settlement Agreement, the State undertook to 1) Recognize state responsibility; 2) Grant reparation and assistance to the victim consisting of payment of USD \$2,000.00 in compensation and provide seed capital for basic grains to Mr. Emilio Tec Pop in order to raise his standard of living and, 3) Investigate and punish those responsible for the incidents charged in the petition.

745. According to information provided by the parties, the record shows that the State has complied with the commitments pertaining to recognition of international responsibility, reparation and assistance.

746. On October 4, 2013, the Commission requested up-to-date information from the parties on the status of compliance with the commitments made under the Friendly Settlement Agreement.

747. With respect to the commitment to investigate and punish those responsible, the petitioners assert that the information provided by the State does not make it possible to establish whether concrete and significant progress has been made in the investigation, prosecution and punishment of those responsible for the human rights violations against Emilio Tec Pop. In response, the State claimed that it is continuing to follow up on the criminal investigations aimed at prosecuting those responsible for the arbitrary detention of Emilio Tec Pop.

748. On December 10, 2014, the IACHR requested updated information on compliance with the pending item of the agreement. On January 9, 2015, the State submitted information claiming that as of the present time it has been unsuccessful at identifying any of the those responsible for the crimes and that as soon as any progress is made in the investigation, it will be reported to the IACHR. Thus far, no information has been received from the petitioners.

749. The IACHR appreciates the measures taken by the State as to recognition of international responsibility, payment of reparation and provision of assistance.

750. Because of the above, the Commission concludes that the friendly settlement agreement has been partially complied with. As a result, the Commission shall continue to monitor the pending item pertaining to investigation and punishment of those responsible.

Case 11.766, Report on Friendly Settlement Agreement No. 67/03, Irma Flaquer (Guatemala)

751. On October 10, 2003, by report No. 67/03, the Commission approved a friendly settlement agreement in the case of Irma Flaquer. By way of background, on October 16, 1980, journalist Irma Flaquer Azurdia was kidnapped while driving in a vehicle accompanied by her son Fernando Valle Flaquer in Guatemala City. In the incident Fernando Valle Flaquer was injured; he subsequently died at the Hospital General San Juan de Dios. As of that same date, the whereabouts of Irma Flaquer have not been known. The petitioners also argue that during the investigation of the case by the Guatemalan authorities, it was noted that while the government of that period formally lamented Flaquer's presumed death, there were few official efforts to investigate the incident. In addition, the minimal efforts made in the official investigation were excused by an amnesty law that in 1985 granted a general pardon, diluting both the responsibility and the participation of some sector of the state apparatus.

752. On March 2, 2001, the parties agreed on a friendly settlement of the case. By means of the friendly settlement agreement, the State recognized its institutional responsibility for the facts of the case and recognized the need "to continue with and vigorously reinforce administrative and legal measures aimed at identifying those responsible, determining the whereabouts of the victim and applying the appropriate criminal and civil punishment." In addition, at the third item in that agreement, the State undertook to study the petitions put forth by the petitioners as reparations, which consisted of the following points:

- (a) Establishment of a committee to expedite the judicial proceeding composed of two representatives each from COPREDEH and IPS;
- (b) Establishment of a scholarship for the study of journalism;
- (c) Erection of a monument to journalists who sacrifice their lives for the right to freedom of expression, symbolized in the person of Irma Marina Flaquer Azurdia;
- (d) Designation of a wing of a public library as a repository for all material related to the works of the journalist in question;
- (e) Naming of a public street after her;
- (f) Establishment of a university chair in journalism history;
- (g) Writing of letters to the relatives asking for forgiveness;
- (h) Organization of a course for the training and social rehabilitation of inmates in the Women's Correctional Centre (COF);
- (i) Compilation and publication of a book containing a selection of the best columns, writings and Articles of the disappeared journalist;

- (j) Production of a documentary;
- (k) Holding of a public ceremony to honor her memory.

753. In the Friendly Settlement Report, the Commission wrote it had been informed of the petitioners' satisfaction over compliance with most all of the items of the agreement. Likewise, based on information provided by the parties during report follow-up, it was established that the State complied with presenting a letter of apology to the victim's family members in a public ceremony held on January 15, 2009.

754. Additionally, compliance by the State was pending with regard to the following items: a) creating a journalism studies scholarship and b) creating a university chair or professorship on the history of journalism. Also, pending is the State's obligation to investigate the forced disappearance of Irma Flaquer Azurdia and the extrajudicial execution of Fernando Valle Flaquer.

755. On October 4, 2013, the IACHR requested up-to-date information from the parties on the status of compliance with the pending items of the agreement. The petitioners did not submit any information. The State only referred to the reparation consisting of the creation of a scholarship for studying journalism, and reported that it has not been possible to carry out this commitment since the procedures of the National Trust of Scholarships and State Credits (FINABECE) require that one indicate the type of scholarship and the conditions in which it will be delivered. In view of the foregoing, it indicated that it would be necessary to make the respective modification to the friendly settlement agreement between the parties.

756. On December 10, 2014, the IACHR made another request for information on compliance with the pending items of the agreement. On December 23, 2014, the petitioners reported that they have no up-to-date information on compliance with said items and demanded that all of the commitments must be fulfilled, mainly the commitment to investigate, prosecute and punish those responsible.

757. On January 9, 2015, the State reported to the IACHR that the commitment to create a journalism studies scholarship was still pending. With regard to the university chair on the History of Journalism, the State reported that the University of San Carlos of Guatemala -USAC-, added to the journalism studies program the course "History of Journalism." The IACHR notes as well that the obligation to investigate the forced disappearance of the victim is also pending.

758. Because of the above, the Commission concludes that the friendly settlement agreement has been partially complied with. As a result, the Commission shall continue monitoring the items that are pending.

Case 11.197, Report on Friendly Settlement Agreement No. 68/03, Community of San Vicente de los Cimientos (Guatemala)

759. On October 10, 2003, by Report No. 68/03, the Commission approved a friendly settlement report in the case of the "Community of San Vicente de los Cimientos." In summary, on August 24, 1993, the Centro para la Acción Legal en Derechos Humanos (CALDH) and the Consejo de Comunidades Étnicas Runujel Junam (CERJ), in representation of 233 indigenous families, filed a complaint with the IACHR in which they alleged that during the armed conflict the sector called Los Cimientos, located in Chajul, department of Quiché, where 672 indigenous families lived who were the owners in the sector, was invaded in 1981 by the Guatemalan Army, which established a garrison in the area. After threats of bombardment of the community and the assassination of two community members, the community of Los Cimientos was forced to abandon its lands in February 1982, leaving behind harvests of corn, beans, and coffee, and animals. One month after they fled, some families returned to the place, and found their homes had been burned and their belongings stolen. Subsequently, the community of Los Cimientos was expelled once again in 1994. On June 25, 2001, the community was violently evicted from their lands, of which they were the legal owners, by neighbors and other persons, apparently supported by the Government.

760. On September 11, 2002, the parties agreed on a friendly settlement in the case and established the following commitments:

1. Purchase, on behalf of all the members of the Los Cimientos Quiché community comprising the civic association "Community Association of Residents of Los Cimientos Xetzununchaj," the San Vicente Osuna estate, and its annex, the Las Delicias estate, which are adjacent to each other and are located in the municipality of Siquinalá, Escuintla department.
2. The community of Los Cimientos, through the Community Association of Residents of Los Cimientos Xetzununchaj civic association, and the Government, shall identify and negotiate, within sixty days following the settlement of the community, urgent projects to reactivate its productive, economic, and social capacities, with a view to fostering the community's development and wellbeing, and in consideration of the agrological study carried out and the record of the landmarks and limits of the San Vicente Osuna estate and its annex, the Las Delicias estate.
3. The individual land owners, land holders, and assigns of the estates comprising the Los Cimientos community, as a part of the commitments arising from the government's purchase on their behalf of the estates known as San Vicente Osuna and its annex, the Las Delicias estate, shall cede their current rights of ownership, holding, and inheritance to the Land Fund, in compliance with the provisions of Article 8(h) of the Land Fund Law, Decree No. 24-99.
4. The State shall be responsible for relocating the 233 families of the community of Los Cimientos, Quiché, together with their property, from the village of Batzulá Churranchó, Santa María Cunén municipality, Quiché department, to the San Vicente Osuna estate and its annex, the Las Delicias estate, located in Siquinalá municipality, Escuintla department.
5. The government shall provide the resources necessary to feed the 233 families during their transfer to and settlement in their new homes, and it shall accompany them with a duly equipped mobile unit for the duration of the transfer and until such time as a formal health facility is established in their settlement, in order to cater for any emergency that may arise.
6. For the community's location and resettlement, the government of the Republic will provide humanitarian assistance, minimal housing, and basic services.
7. The government of Guatemala agrees to organize the creation of a promotion committee that will be responsible for monitoring progress with the legal proceedings initiated against the individuals involved in the events of June 25, 2001, perpetrated against the owners of the Los Cimientos and Xetzununchaj estates.

761. By a communication dated October 4, 2013, the Commission asked the parties to supply updated information on the status of compliance with those points of the agreement that were still pending in this case.

762. As regards to item 7 on the initiative for the creation of a promotion committee that will be responsible for monitoring progress with the legal proceedings initiated against the individuals involved in the events of June 25, 2001, perpetrated against the owners of the Los Cimientos and Xetzununchaj estates, the State said that the fact that no one has been convicted in this case does not mean that no initiative has been taken to make progress; indeed, it said that Mateo Hernández Sánchez was arrested and investigated (the only person who has been arrested in the case). For their part, the petitioners indicated that the State continues to fail to follow through on its commitment to investigate, prosecute, and punish those responsible, for this case has been in total impunity for more than 12 years. In addition, they lamented that the only person prosecuted in this case was released due to an improper act by the Public Ministry in this case.

763. With regards to the cession of the current rights of ownership, holding, and inheritance to the Land Fund (item 3 of the agreement), the petitioners indicated that the information communicated by the State in 2013 is the same as that reported since 2010, thus they conclude that the State has not made progress in carrying out this commitment. They also said that they are waiting for COPREDEH to convene them to continue and conclude this process.

764. Regarding the granting of housing, as provided in the commitment “For the community’s location and resettlement, the Government of the Republic shall provide humanitarian assistance, minimum housing and basic services” (item 6 of the agreement), the petitioners reported that as of October 2013, of a total of 103 records of beneficiaries of housing, 65 socioeconomic studies had been approved, and that approval of the other 38 was pending. They also said that they are waiting for the Guatemalan Housing Fund (FOGUAVI) to declare and approve the 103 housing units.

765. The petitioners reported, however, that the “Specific Agreement” proposed by the State for implementation and compliance with certain measures of reparation has still not been signed into force.

766. On December 10, 2014, the IACHR requested updated information from the parties on compliance with the recommendations. In response, the State reported that item 4, regarding the transfer of 233 families to the farm known as Finca San Vicente Osuna and the annex thereto, Las Delicias, in the municipality of Siquinela, has been implemented by the State. The State also asserted that on December 29, 2014, FOPAVI (Housing Fund) issued a payment order, whereby two million two hundred and forty thousand quetzals were transferred as a subsidy to the entity that will execute construction of the first 64 houses for the beneficiaries. The State also reported that approval of the remaining 38 houses would be given at the Regular Meeting of the Board of Directors, which would be held in January 2015. With regard to item 7, the State submitted the same information as it had done on prior occasions. As of the present date, the petitioners have not submitted any further information.

767. The Commission values the information presented by the State and highlights the advancements reported. The Commission invites the State to strengthen its efforts to undertake the creation of the commission for the promotion and verification of the legal process followed against the people involved in the facts that occurred on June 25, 2001 against the owners of Los Cimientos and Xetzununchaj farms.

768. Because of the above, the Commission concludes that the friendly settlement agreement has been partially complied with. As a result, the Commission shall continue monitoring the items that are pending.

Petition 9.168, Report on Friendly Settlement No. 29/04, Jorge Alberto Rosal Paz (Guatemala)

769. On March 11, 2004, by Report 29/04, the Commission approved a friendly settlement agreement in the petition of “Jorge Alberto Rosal Paz.” In this matter, on August 12, 1983, Mr. Jorge Alberto Rosal Paz was detained while driving between Teculután and Guatemala City; his whereabouts are unknown to this day. On August 18, 1983, the IACHR received a petition submitted by Ms. Blanca Vargas de Rosal, alleging that the Guatemalan State was responsible for the forced disappearance of her husband.

770. On January 9, 2004, the parties agreed on a friendly settlement in the case. In the agreement, the State recognized its institutional responsibility for breaching its obligation, under Article 1(1) of the American Convention on Human Rights, to respect and ensure the rights enshrined in the American Convention, in addition to Articles 4, 5, 7, 8, 11, 17, 19, and 25. In addition, it stated that the main basis for reaching a friendly settlement was the search for the truth and the administration of justice, restoring dignity to the victim, reparations resulting from the violation of the victim’s human rights, and strengthening the regional human rights system.

771. On February 15, 2006, Ms. Blanca Vargas de Rosal reported that the only commitment carried out by the State was economic reparation; the commitments regarding education, actions to restore the victim's name, housing, investigation, and justice were still pending.

772. In a communication dated October 4, 2013, the Commission asked the parties to provide updated information on the status of compliance with the pending points of the agreement in this case.

773. The State indicated the following:

- Scholarship of Maria Luisa Rosal Paz: The State notes that it approved a budget for María Luisa Rosal Paz to pursue master's studies at McGill University in Canada, but that she had already completed a master's degree in Argentina with other funds.
- Scholarship of Jorge Alberto Rosal Vargas: On April 18, 2012, Jorge Alberto Rosal Paz requested an increase in the scholarship amount so it could cover an additional year of study. However, at a hearing before the IACHR held on November 3, 2012, the State indicated that it cannot make any further changes to the commitment it accepted and that it will only comply with what was approved in the financing agreement dated February 17, 2012.
- Land for a family home: The State reiterated that it has proposed to the petitioner awarding her the amount of money equal to the value of the property based on an appraisal conducted by the Cadastral Information Register, and that the proposal was turned down by the petitioner who found the amount of money offered to be insufficient.
- Process of investigation: The case investigation remains open.

774. The petitioners reported that Maria Luisa Rosal and Jorge Alberto Rosal have thus far received part of the scholarships. As for Maria Luisa, they noted that the awarding of the rest of the scholarship money for college studies is pending and asked that the possibility remain open of doing university studies at any university in any country⁸⁷.

775. With regard to the scholarship of Jorge Alberto Rosal, for which a non-reimbursable financing agreement of US\$ 48,382.70 was entered into,⁸⁸ payment of US\$5,327.05 is pending for the first years of the intermediate level and, that as a result of payment delay, he was unable to matriculate as a full time student, which set him back in his studies. They point out that he would require two more years of university studies in order to get his undergraduate degree and, two years for a master's degree.

776. Regarding family housing, the petitioners requested the State to conduct a new commercial appraisal so that the appraised value is consistent with the actual market value. They also noted that the investigation is still pending and that there are no concrete results that show implementation by the State in this regard.

777. On December 10, 2014, the IACHR made another request for up-to-date information on compliance with the recommendations. On January 9, 2015, the State submitted similar information to that mentioned above with regard to the scholarship for college studies granted to Maria Luisa Rosal Vargas and the investigations, which are still ongoing in the domestic level. With regard to Jorge Alberto Rosal Vargas, the State reported that in 2014, financing was requested and approved for the scholarship, as well as for room

⁸⁷ On December 2, 2011, the State reported that financing had been provided through FINABECE to María Luisa Rosal Vargas to allow her to take preparatory French classes before entering a master's program at McGill University in Montreal, Canada. However, on October 26, 2011 the beneficiary reported that she was not accepted in the master's program and asked that the scholarship be continued and the place of study be changed to National University of San Martín in Buenos Aires, Argentina. On this subject, the State indicated that it was impossible to transfer the funds because a new scholarship contract would have to be drawn up with FINABECE and that several meetings were being scheduled with the petitioners to resolve this situation.

⁸⁸ In addition, in response to a request from the petitioners, the scholarship was expanded on July 18, 2011 to include a non-reimbursable item for food and housing for the period April to December 2011 in the amount of US\$857.50.

and board, at George Mason University. The State has not provided any updated on-the-ground information regarding a place for the family to live.

778. As of the present date, the petitioners have not replied to the IACHR's request.

779. The Commission therefore concludes that the friendly settlement agreement has been partially complied with. Accordingly it will continue to monitor for compliance with those points still pending.

Petition 133-04, Report on Friendly Settlement Agreement No. 99/05, José Miguel Mérida Escobar (Guatemala)

780. On October 27, 2005, by Report No. 99/05, the Commission approved a friendly settlement agreement in the petition in the matter of "José Mérida Escobar." In summary, on February 19, 2004, the IACHR received a petition submitted by Amanda Gertrudis Escobar Ruiz, Fernando Nicolás Mérida Fernández, Amparo Antonieta Mérida Escobar, Rosmel Omar Mérida Escobar, Ever Obdulio Mérida Escobar, William Ramírez Fernández, Nadezhda Vásquez Cucho, and Helen Mack Chan alleging that the Guatemalan State was responsible for the extrajudicial execution of José Miguel Mérida Escobar on August 5, 1991. According to the petition, Mr. Mérida Escobar worked as Chief of the Homicide Section of the Department of Criminological Investigations of the National Police, and was in charge of the criminal investigation into the assassination of anthropologist Myrna Mack Chang. In the context of this criminal investigation, on September 29, 1990, he concluded that the main suspect in the assassination of Myrna Mack Chang was a member of the Security Department of the Presidential High Command of the Guatemalan Army. On August 5, 1991, Mr. Mérida Escobar was assassinated with gunshot wounds to the head, neck, left torso, and left arm; he died instantly.

781. On July 22, 2005, the parties agreed on a friendly settlement of the case. In the friendly settlement agreement, the State recognized its international responsibility for the violation of the rights enshrined in Articles 4, 5, 8, and 25 of the American Convention. Among the main commitments assumed in friendly settlement agreement No. 99/05 are:

- a) To take steps to ensure that the *Ministerio Público* conducts a serious and effective investigation.
- b) To make appropriate arrangements to establish a fellowship for police studies abroad.
- c) To look into the feasibility of drawing up a letter of recognition of the international responsibility of the State of Guatemala for the extrajudicial execution of José Miguel Mérida Escobar, which will be circulated to international organizations by way of the Official Gazette and the Internet.
- d) To take the relevant steps for the placement of a plaque in honor of police investigator José Miguel Mérida Escobar at the facilities of the Palace of the Civil National Police, in memory of José Miguel Mérida Escobar.
- e) To ensure that the appropriate authorities will take steps to determine the viability of changing the name of the Santa Luisa district in the Municipality of San José del Golfo, department of Guatemala, to the name of José Miguel Mérida Escobar.
- f) To take steps to ensure that the Executive Agency provides a life pension to the parents of José Miguel Mérida Escobar, Amanda Gertrudis Escobar Ruiz, and Fernando Nicolás Mérida Hernández, and a pension to his youngest son, Edilsar Omar Mérida Alvarado, until he completes his advanced technical studies.

- g) To take the relevant steps to ensure that the Ministry of Public Health provide for psychological treatment for Mrs. Rosa Amalia López, the widow of the victim, and for the youngest of his sons, Edilsar Omar Mérida Alvarado.
- h) The Government of the Republic pledges to take the relevant steps to ensure that the Ministry of Education arranges for a scholarship to be granted to the youngest son of the victim, Edilsar Omar Mérida Alvarado.

782. In its 2013 Annual Report,⁸⁹ The IACHR expressed its appreciation for the recognition of international responsibility by the State for violation of the rights enshrined under Articles 4, 5, 8 and 25 of the American Convention in the instant case. It also appreciated compliance with several of the commitments made by the State under the friendly settlement agreement it entered into with the petitioners. The IACHR noted that the commitments that are still pending are: investigating the facts of the case; establishing the rules of the 'Jose Miguel Merida Escobar' Scholarship and; circulation of the letter of recognition of international responsibility of the State to international agencies by way of Internet.

783. On December 10, 2014, the IACHR requested updated information on compliance. On January 9, 2015, the State replied, with regard to the fellowship for law enforcement studies, that the Secretariat of Planning and Programming of the Office of the President of the Republic (SEGEPLAN) suggested that the Friendly Settlement Agreement be expanded to define the details of the fellowship and, therefore, once the document is drafted, it would be forwarded to the IACHR. Additionally, the State reported that publication of the letter of recognition of its international responsibility to international agencies is still pending.

784. On January 16, 2015, the State submitted further information on the investigations, claiming that progress had been made by the Ministry of Public Prosecution and explaining that a date and time would be set for the oral trial proceedings against the defendants in the case to begin, which would be reported to the IACHR as soon as possible.

785. As of the present date, the petitioners have not submitted information.

786. The Commission greatly appreciates the efforts of the State to comply with the provisions of the Agreement and urges it to continue to effectively move forward with the investigation into and the prosecution of those involved in the incidents, as well as to comply with establishing the regulations of the fellowship and publishing the letter of recognition of responsibility to international agencies.

787. Based on the foregoing, the IACHR concludes that the friendly settlement agreement has been partially complied with. As a result, the Commission shall continue to monitor the items that are pending.

Case 10.855, Report on Friendly Settlement Agreement No. 100/05, Pedro García Chuc (Guatemala)

788. In Report No. 5/00 of February 24, 2000, the Commission concluded that the Guatemalan State was internationally responsible for the arbitrary execution of Mr. Pedro García Chuc and the violation of his rights to life, judicial protection, and judicial guarantees, among other rights enshrined in the American Convention. In this case, on March 5, 1991, at kilometer 135 of the route to the Western region, department of Sololá, several members of the state security forces captured Mr. García Chuc in the early morning hours. Two days later, the victim's corpse was located at the same place where he was captured, with several gunshot wounds. It is presumed that the extrajudicial execution was due to his work as president of the Cooperativa San Juan Argueta R.L., as well as his active participation in obtaining benefits for his community. The petition

⁸⁹ See IACHR, 2013 Annual Report, Chapter II, Section D: Status of Compliance with the IACHR's Recommendations, pars. 829-834. Available at: <http://www.oas.org/es/cidh/docs/annual/2013/docs-es/InformeAnnual-Cap2-D.pdf>

was presented by the victim's next-of-kin, and was one of a total of 46 petitions received by the Commission in 1990 and 1991 in which the State was allegedly responsible for the extrajudicial execution of a total of 71 men, women, and children, including Mr. García Chuc. After processing the cases before the IACHR, the Commission decided, in keeping with Article 40 of its Regulations, to join those cases and resolve them together.

789. In that report, the IACHR recommended to the Guatemalan State that it:

1. Carry out a complete, impartial, and effective investigation to determine the circumstances of the extrajudicial executions and related violations in the cases of the victims named in section VII, and to punish the persons responsible pursuant to Guatemalan law.
2. Adopt the measures necessary for the family members of the victims identified in paragraph 289 to receive adequate and timely reparation for the violations established herein.

790. On April 13, 2000, the Guatemalan State issued a formal statement in which it recognized its international responsibility for breaching Article 1(1) of the American Convention, accepted the facts set forth in Report No. 5/00 of the Commission, and undertook to make reparation to the victims' next-of-kin, based on the principles and criteria established in the inter-American human rights system. It also undertook to promote investigations into the facts, and, to the extent possible to prosecute the persons responsible. Finally, it undertook to report on progress in carrying out its obligations. On that same date the IACHR published Report No. 39/00.

791. On February 18, 2005, the State and the petitioners signed an "Agreement on Implementation of Recommendations. Case 10,855. Pedro José García Chuc," and on July 19, 2005, they signed an agreement on compensation. On October 27, 2005, the IACHR published Report No. 100/05 on the "Compliance Agreement" in this case.

792. During follow-up on compliance, the Guatemalan State reported that the commitments pertaining to payment of financial compensation to the victim's next-of-kin; creation of an Indigenous Association for Business Development –ASINDE–; public apology from the State and; measures to dignify the memory of the victim, were complied with.

793. On October 4, 2013, the IACHR requested up-to-date information from the parties on the status of compliance with the pending items of the agreement.

794. Regarding the recommendation to investigate the extrajudicial execution of Pedro Garcia Chuc, prosecute and punish those responsible, the State noted that said investigation is still ongoing. The petitioners, however, noted that the State had not taken actions to follow up on this commitment.

795. With regard to the other commitments emanating from the agreements executed by the parties, the State reiterated that the greatest difficulty in complying with them is the absence of and lack of interest shown by the petitioners in attending the scheduled meetings and their failure to submit the documentation required to streamline the procedures and be able to honor the commitments. For example, the State explained that it has not been possible to amend the Corporate Charter of ASINDE (Indigenous Association for Entrepreneurial Development) for the process of appointment of a new representative, because the petitioner has not yet submitted the Charter for it to be appropriately amended. As to the conveyance of a property to create the headquarters of the ASINDE, the State explained that the petitioners have not made any formal request as yet to the Municipal Council for the appropriate approval of conveyance of the property. It also asserted that the family members of Mr. Pedro García Chuc have stated their refusal to continue with the case in question.

796. In response, the petitioners claimed that the State has not taken actions to carry out its commitments entailing giving the property to ASINDE and providing technical training to the García Yax and García Chuc families. They also stated that the lack of specific and significant gains in carrying out the commitments pending is verified by the fact that the State continues to reiterate the information sent to the Commission since 2011.

797. On December 12, 2014, the IACHR requested updated information on compliance. On January 2015, the State claimed that the domestic investigation remains open. With regard to ASINDE, the State asserted that in addition to not being provided the Corporate Charter for the amendment thereof, as explained above, arrangements have not been made for it to be recorded with the Superintendent of Tax Administration (SAT), which has led to delinquent payment fees, which continue to accrue as they fail to be paid off. As for this item, the State reports that the petitioners have asked the State to cover the payment of the said fees in order to pay off the delinquent payment fees of the Association. In this regard the State explained that, while its commitment was to charter and finance ASINDE, the addition of these fees was a result of the petitioners' failure to meet the legal requirements and that this failure should not be attributed to the State.

798. With regard to the delivery of the property for the Association's operations, the State reiterated that the petitioners have still failed to comply with the request of the Ministry of Public Finances cited above.

799. As for technical training for the García Yax and García Chuc families, the State claimed that it forwarded the request to the Technical Institute for Training and Productivity (INTECAP) asking for support in providing free training for the Association staff, and that it agreed to provide the said training. Nonetheless, as reported by the State, the training could not be held, because both the legal representative and the other members of the Association and of the families were unable to take on the operation of the Association due to other professional or family responsibilities in different departments of the country. The State also claimed that the petitioners did not submit reports on economic resource management and activities undertaken in the Association and that they had reported that they cannot continue with it and that they would like to request that it be cancelled.

800. Lastly, the State asserted that it has summoned the petitioners to conduct follow-up on the commitments pending compliance and that it was not possible for them to attend.

801. The petitioners have not provided updated information as of the present date.

802. Because of the above, the Commission urges the petitioners to submit updated information, including their reply to the latest communication from the State, specifically regarding the argument of the State on procedural inactivity and alleged lack of interest in continuing with the commitments agreed to, pertaining to the Association. It also appreciates the information submitted by the State and concludes that the State has partially complied with the friendly settlement agreement. As a result, the Commission shall continue to monitor the items that are pending.

Case 11.171, Report No. 69/06, Tomas Lares Cipriano (Guatemala)

803. In Report No. 69/06 of October 21, 2006, the IACHR concluded that the Guatemalan State was responsible for: (a) the violation of the human right to life in keeping with Article 4 of the American Convention, in relation to Article 1(1) of that instrument, due to the extrajudicial execution, by state agents, on April 3, 1993, of Tomas Lares Cipriano; (b) the violation of the human rights to humane treatment, judicial guarantees, and judicial protection, enshrined at Articles 5, 8, and 25 of the American Convention, in relation to Article 1(1) of that instrument, for the events that occurred April 3, 1993, and their consequences of impunity, to the detriment of Tomas Lares Cipriano and his next-of-kin; and (c) consequently, for the breach of the obligation to respect the human rights and guarantees, imposed by Article 1(1) of the American Convention. The victim, Tomás Lares Cipriano, was a farmer, 55 years of age, a member of the Consejo de Comunidades Étnicas "Runujel Junam" (CERJ), and of the Comité de Unidad Campesina (CUC). As an active

community leader in his town, Chorraxá Joyabaj, El Quiché, he had organized numerous demonstrations against the presence of the army in his zone, and against the apparently voluntary but in fact compulsory service by the campesino farmers in the so-called Civilian Self-Defense Patrols (PAC). In addition, he had filed numerous complaints in relation to the threats against the local population by the Military Commissioners who acted as civilian agents of the army, patrol chiefs, and, on occasion, as soldiers. On April 30 of that same year, Tomas Lares Cipriano was ambushed and assassinated by Santos Chich Us, Leonel Olgadez, Catarino Juárez, Diego Granillo Juárez, Santos Tzit, and Gaspar López Chiquiaj, members of the PAC.

804. The IACHR made the following recommendations to the Guatemalan State:

1. To carry out a complete, impartial and effective investigation of the events reported, to judge and punish all those responsible, either as abettors or perpetrators, for human rights violations with prejudice to Tomás Lares Cipriano and his family members.
2. To make reparation for the violation of the aforementioned rights as established in paragraph 128 of this report.
3. To effectively prevent the resurgence and reorganization of the Civil Self-defense Patrols.
4. To adopt the necessary measures to avoid similar events in the future, pursuant to the duty of prevention and guarantee of fundamental human rights, recognized by the American Convention.

805. On October 8, 2013, the Commission requested the parties to provide updated information on the status of compliance with the recommendations. The petitioners did not submit information.

806. The State indicated that it believes that it has partially complied with the first recommendation inasmuch as Santos Chich Us has been punished since 1996 for the death of Tomas Lares Cipriano. However, the arrest of two of the men charged is still pending.

807. As for reparation, the State once again made reference to the lack of interest on the part of the victim's next-of-kin in the instant case, despite consistent attempts by the State, the last one being in December 2010. Consequently, it requests the IACHR to deem said recommendation to be fulfilled because the victim's next-of-kin are opposed to it.

808. As to the recommendation aimed at preventing a resurgence of the PACs, it reported that under Decree No. 143-96 of November 28, 1996, a repeal was issued for Decree 19-86 of January 17, 1986, which had instituted said patrols.

809. Concerning the recommendation pertaining to the measures of reparation, the State indicated that it has implemented prevention measures with regard to security and justice including: decree 40-2010 dated November 2, 2010 of the National Congress of Guatemala creating the National Mechanism for the Prevention of Torture and other Cruel, Inhuman or Degrading Treatment or Punishment; government decision 197-2012 creating the "Specific Cabinet for Security, Justice and Peace" as part of the Executive Branch, which is designed to aid in the implementation of proposals and public policies, aimed at enhancing governance, security and protection from violence and impunity in the country. It also mentioned approval of Decree 17-2009, the Law Strengthening Criminal Prosecution, which includes reforming the Criminal Code, the Criminal Code of Procedure, the Anti-Organized Crime Law and the Law Regulating Extradition Procedures. In the area of strengthening investigation of crime, the Office of the Public Prosecutor implemented the prosecution strategy for pursuing crimes committed by criminal organizations, in order to successfully dismantle them.

810. The IACHR notes that the State has partially complied with the recommendation regarding the crimes charged in the petition, to prosecute and punish those responsible. It also takes note that the beneficiaries of the economic reparation are not interested in receiving it.

811. On December 5, 2014, the IACHR requested additional information on compliance with the recommendations, specifically on the pending item pertaining to prosecuting and punishing the defendants in the case of the death of Tomas Lares Cipriano, for whom the arrest warrants have still not been executed. In a communication submitted by the State on January 5, 2015, the State claimed that the Public Ministry is continuing to monitor and look into the whereabouts of the two defendants in order to be able to execute the arrest warrants. The petitioners, however, have not submitted information as of the present date.

812. Based on the foregoing, the IACHR finds that the recommendations have been partially fulfilled and will continue to monitor compliance.

Case 11.658, Report No. 80/07, Martín Pelicó Coxic (Guatemala)

813. In Report No. 48/03 of October 8, 2003, the IACHR concluded that the Republic of Guatemala was responsible for: (1) violating Article 4 of the American Convention on Human Rights to the detriment of Martín Pelicó Coxic, in relation to Article 1(1) of said instrument; (2) violating Articles 5, 8, and 25 of the American Convention on Human Rights, in relation to Article 1(1) of that instrument, to the detriment of Martín Pelicó Coxic and his next-of-kin. The Commission determined that the responsibility of the Guatemalan State emanated from the extrajudicial execution perpetrated on June 27, 1995, by state agents, of Mr. Martín Pelicó Coxic, a Mayan indigenous member of an organization for the defense of the human rights of the Maya people, as well as the injuries inflicted on the victim and his next-of-kin by virtue of the facts mentioned and the subsequent impunity for the crime.

814. The Commission made the following recommendations to the Guatemalan State:

1. Conduct a complete, impartial, and effective investigation of the reported events leading to the prosecution and punishment of the material and intellectual authors of the human rights violations committed to the detriment of Martín Pelicó Coxic and his next of kin.
2. Comply with the obligations still pending in the area of reparations to the victim's next of kin.
3. Effectively prevent the reemergence and reorganization of the Civil Self-defense Patrols.
4. Promote in Guatemala the principles set forth in the United Nations "Declaration of the Right and Responsibility of Individuals, Groups, and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms," and take the necessary measures to ensure respect for the freedom of expression of those who have undertaken to work for the respect of fundamental rights and to protect their lives and personal integrity.
5. Adopt all necessary measures to prevent the recurrence of similar acts, in accordance with the responsibility to prevent and to guarantee the fundamental rights recognized in the American Convention."

815. On October 15, 2007, the IACHR approved Report No. 80/07, which provides for the publication of the previously mentioned reports. On this occasion, once again the Commission expressed its satisfaction at fulfillment of most of the commitments made in the Agreement to Comply with the Recommendations of Report No. 48/03, but it also reiterated to the State of Guatemala recommendations two and three as set forth in Report No. 12/07 and recommended that the investigation of the facts that were

reported be completed impartially and effectively investigated to bring to trial and punish the principal offenders and accessories who violated the human rights against Martín Pelicó Coxic and his next-of-kin.

816. By means of a communication dated October 8, 2013, the IACHR requested the parties to provide updated information on the status of compliance with the recommendations made for the present case.

817. Concerning the recommendation of conducting an investigation into the crimes charged in the petition, prosecuting and punishing those responsible, the State of Guatemala, as on earlier occasions, submitted a timeline of the investigation and punishments of those responsible for the crimes alleged in the petition and reiterated that the Criminal Trial Court handed down an acquittal of Pedro Chaperon, who had been charged with the homicide of Mr. Martin Pelico Coxic. Additionally, it noted that the complainant and plaintiff to the civil proceedings related to the criminal proceedings stressed that she was unaware of who was responsible for the death of her husband and that she was no longer interested in pursuing the investigation into the case.

818. Concerning this item, the petitioners stated that this case is still in impunity because there is no one punished for the death of Mr. Martin Pelicó. Also, the case files submitted by the State do not show any evidence that in recent years there has been a substantial progress in the clarification of the facts. The petitioners also requested a chronological report of the investigative actions; that report was submitted by the State through the IACHR, and they requested a detailed analysis of the viability of the criminal prosecution of those responsible.

819. As to the recommendation of providing reparation, the parties concur that the State has complied with these commitments.

820. The Commission concludes in its 2013 Annual Report that “the State has complied with the recommendations outlined above, except for the recommendation pertaining to investigation. Consequently, the Commission will continue to monitor this pending item.”⁹⁰ Consequently, on December 5, 2014, the IACHR requested updated information on said compliance. The State responded on January 5, 2014, arguing that it has continued to move forward in the domestic investigation into the incidents, even though the victim’s wife has not wanted the investigation to continue, inasmuch as this case involves a criminal offense of public action.

821. Based on the foregoing, the IACHR will continue to monitor the pending item pertaining to the investigation into the incidents.

Case 11.422, Report No. 1/12, Mario Alioto López Sánchez (Guatemala)

822. On January 26, 2012, by Report No. 01/12, the Commission approved a friendly settlement agreement in the case of Mario Alioto López Sánchez. In that case, on November 11, 1994, Mario Alioto López Sánchez, a law student at the Universidad de San Carlos de Guatemala, was with a group of students protesting the increase in urban transit fares, blocking the Avenida Petapa. The petitioners noted that approximately 100 National Police agents attempted to disperse the students by throwing tear gas canisters, shooting firearms, and beating them. Consequently, several tried to flee; approximately 23 were detained. Included in this group was Mario Alioto López Sánchez, who was beaten by the security officials at the time of his arrest; and even though he was hemorrhaging from a gunshot wound in his left thigh, he did not receive immediate medical care, having been taken to Hospital Nacional approximately two hours after his arrest, where he died the day after being admitted. As for the judicial proceeding domestically, on July 30, 1997, the Third Court for Criminal and Drug-trafficking Matters handed down its judgment. Danilo Parinello Blanco, Mario Alfredo Mérida Escobar, Salvador Estuardo Figueroa, and Carlos Enrique Sánchez Gómez were

⁹⁰ See IACHR, 2013 Annual Report, Chapter II, Section D: Status of Compliance with the Recommendations of the IACHR, par. 865, Available at: <http://www.oas.org/es/cidh/docs/annual/2013/docs-es/InformeAnual-Cap2-D.pdf>

convicted and sentenced to 10 years, as the perpetrators of the crime of premeditated homicide against Mario Alioto López Sánchez and for the crime of moderate lesions against students Julio Alberto Vásquez Méndez and Hugo Leonel Cabrera. Carlos Venancio Escobar Fernández was convicted and sentenced to 30 years of prison as the direct perpetrator of the crime of assassination against Mario Alioto López Sánchez and the crime of moderate lesions against the other two students. On appeal, the judgment was partially annulled, absolving the first four and reducing Escobar Fernández's sentence to 10 years in prison.

823. On October 19, 2011, the parties signed a friendly settlement agreement. In that agreement the State recognized its responsibility for the facts in the case, and indicated that carrying out the commitments that derive from the Agreement is based primarily on helping to achieve national reconciliation by seeking the truth and the administration of justice, dignifying the victim and next-of-kin, providing assistance or making reparation as a result of the alleged violation, and strengthening the inter-American human rights system. In addition, according to the fourth point of that agreement, the main commitments assumed in friendly settlement agreement No. 01/12 include:

1. Recognition of the International Responsibility of the State and acceptance of the facts

The State of Guatemala recognizes its international responsibility derived from the direct participation of agents of the State in committing the acts and for the violations of human rights committed against Mario Alioto López Sánchez under the American Convention on Human Rights, specifically the rights set forth at the following articles: right to life (Article 4), right to humane treatment (Article 5), freedom of association (Article 16), and judicial protection (Article 25), and the obligation to respect and ensure the rights enshrined in the American Convention on Human Rights (Article 1(1)).

Implementing the commitments that stem from this Agreement is based primarily on achieving national reconciliation through the search for the truth and the administration of justice in those cases whose nature so allows; dignifying the victim and family members; assistance or reparation resulting from the alleged violation; and strengthening the inter-American system for the promotion and protection of human rights.

2. Private Apology

(a) The Guatemalan State undertakes to hold a private ceremony with high-level authorities of the Ministry of Interior and the President of the Presidential Commission for Coordinating Executive Branch Policy on Human Rights (COPREDEH), in which it will recognize its international responsibility for the human rights violations committed against Mario Alioto López Sánchez and a letter signed by the President of the Republic of Guatemala will be delivered in which it apologizes for the harm caused the victim's family.

The parties agree that the ceremony will be held within three months of the date of signing this agreement.

(b) The parties undertake to ensure that the private ceremony will be held in the facilities occupied currently by the Ministry of Interior, and that the date, program, and time will be established in due course.

(c) The State undertakes not to make public the information in this Agreement, at the specific request of the victim's next-of-kin, to which end the parties will ask the illustrious Inter-American Commission of Human Rights to recognize, at the appropriate time, compliance by the State in relation to the commitments of this case, without disseminating the details.

3. Measures to honor the memory of the victim

(d) The State undertakes to place and unveil a commemorative plaque in the memory of the victim in the house ... whose material and content should be agreed upon with his next-of-kin.

(e) The State undertakes to seek, from the Universidad de San Carlos de Guatemala, books and videos that contain historical information on the struggle of Mario Alioto López Sánchez, which will be delivered to the victim's next-of-kin to be preserved.

4. Economic Reparation

(a) The State recognizes that accepting international responsibility stemming from the violation of the victim's human rights established in the American Convention on Human Rights implies the responsibility to pay fair compensation to the petitioners under the criteria which, by common agreement, are determined by the parties and the parameters established by national and international law.

The State, through the COPREDEH and in keeping with the actuarial study prepared by an expert on April 27, 2011, undertakes to grant economic compensation ... broken down as follows:

Compensation for actual damages:	
- Lost earnings	...
- Actual damages	...
Compensation for moral damages:	...
Total Compensation	...

5. Investigation, prosecution, and punishment of the persons responsible

The State of Guatemala undertakes, through the corresponding institutions, to give impetus to the investigation to identify, prosecute, and punish the persons who are the subjects of a criminal proceeding into their role as the persons allegedly responsible for the death of Mario Alioto López Sánchez, and to address this case through the Impetus Committee (Comité de Impulso).

The State of Guatemala undertakes to convene the Impetus Committee every four months for it to give a report on the progress in the investigation, to be forwarded to the Inter-American Commission on Human Rights, the legal representatives in the case, and the victim's next-of-kin.

824. In the Report on Friendly Settlement, the Commission reported that still pending implementation would be: (a) delivering to the family members the books and videos from the Universidad de San Carlos on the struggle of Mario Alioto López Sánchez, for the preservation of memory, and (b) the investigation into and sanction of the persons responsible.

825. On October 4, 2013, the IACHR asked the parties for updated information on the implementation of the other points pending of the agreement.

826. In relation to delivering the historical information to the family members, the State indicated that even though many initiatives have been taken vis-à-vis the Universidad de San Carlos – and even with the members of Mario Aliota Sánchez López's family – to obtain books and videos that contain historical information about his struggle, neither the University nor the family members have the respective materials. Consequently, the State said it was unable to carry out this commitment. Regarding the investigation into and punishment of the persons responsible for the events, the State indicated that it has carried out this commitment since, through what is now a firm judgment handed down on July 30, 1997, by the Third Court of

Criminal Matters, Drug-trafficking, and Crimes against the Environment, Carlos Venencio Escobar Fernández, responsible for the death of Mario Alioto López Sánchez, was convicted and sentenced to serve time in prison.

827. The petitioners indicated that in 2012 and 2013, the State has not taken the actions needed to advance in carrying out the commitments still pending.

828. On December 12, 2014, the IACHR requested updated information on compliance with the agreement. On January 9, 2015, the State replied by reiterating what it had already asserted in the paragraphs above in the instant report. It also requested the IACHR to ask the victim's next-of-kin for information about persons with background information about the Mr. Mario Alioto Lopez Sanchez's struggle, in order to comply with the pending measure to honor the memory of the victim. As of the current date, no information has been received from the petitioners.

829. In view of the foregoing, the Commission concludes that the State has partially carried out the friendly settlement agreement. Consequently, the Commission will continue to supervise the two points pending: delivering the historical memory to the family members, and investigating and punishing those responsible.

Case 12.546, Report No. 30/12, Juan Jacobo Arbenz Guzmán (Guatemala)

830. On March 20, 2012, by Report No. 30/12, the IACHR approved a friendly settlement in the case of Juan Jacobo Arbenz Guzmán. By way of background, Jacobo Arbenz Guzmán was elected the constitutional president of Guatemala in 1951 and served in that position until June 27, 1954, the date on which he was overthrown by a military coup headed up by Colonel Carlos Castillo Armas and directed from Honduras by the Central Intelligence Agency of the United States of America. Juan Jacobo Arbenz and his family, made up at that time of his wife, María Cristina Vilanova de Arbenz, and their children Juan Jacobo, María Leonora, and Arabella, were expelled from the country and forced to live in exile. Juan Jacobo Arbenz Guzmán died in exile on January 27, 1971. The *de facto* government confiscated the property of Mr. Arbenz Guzmán and his family. The government junta issued Decree No. 2, on June 2, 1954, and then the dictator Castillo Armas promulgated a second decree, No. 68. Article 1 of Decree 2, ordered intervening the assets, freezing and immobilizing the deposits, creditor accounts, securities, and current accounts of the persons who were on the lists drawn up by the Ministry of Finance and Public Credit; President Arbenz was on this list. Article 1 of Decree 68 established that all securities, actions, rights, assets, and property of all types would be adjudicated to the State as compensation, with no exception, which for any reason is under the control, possession, tenure, and usufruct of the former officials and employees that appear on the list mentioned in Decree 2. The property confiscated included the farm "Finca el Cajón," which was a property of the Arbenz family. Both Mr. Arbenz Guzmán while alive, and his next-of-kin after his death, called for the return of their properties.

831. On May 28, 1995, Mrs. María Cristina Vilanova Castro, the widow of Arbenz, brought an action challenging the constitutionality of Decrees 2 and 68, both of 1954, before the Constitutional Court of Guatemala. On September 26, 1996, the Court declared unconstitutional Article 1 of Decree 2 and Article 1 of Decree 68. In 1996, the Office of the Government Attorney (Procuraduría General) issued opinion 8-96, in which it recognized that one should study compensation for the next-of-kin of the former president, and that the matter should be debated in the legislative branch. On January 31, 2003, the Office of the Government Attorney issued a new opinion in which it states that the Constitutional Court judgment imposed an obligation on the State of Guatemala to return the properties or to pay compensation to his heirs.

832. On March 14, 2006, the IACHR found the case admissible for the alleged violation of Articles 8 (judicial guarantees), 21 (private property), 24 (equality before the law), and 25 (judicial protection). On May 19, 2011, the parties signed a friendly settlement agreement, the pertinent parts of which, with respect to reparation, are as follows:

(2) ECONOMIC REPARATION

....

The State of Guatemala, after a valuation conducted February 21, 2007, by the Bureau of Cadastre and Appraisal of Real Properties of the Ministry of Public Finance, at farm number 3443, folio 76 of book 40 of Escuintla of the General Registry of Property, called “Finca el Cajón,” situated in the municipality of Santa Lucía Cotzumalguapa of the department of Escuintla, undertakes to pay the sum of ... as economic reparation, for former president Juan Jacobo Árbenz Guzmán, to his wife María Cristina Vilanova and their children Juan Jacobo, María Leonora, and Arabella, all with the last names Árbenz Vilanova, a sum that includes both material and moral damages. The State of Guatemala undertakes to make the payment by bank transfer immediately once the Friendly Settlement Agreement has been signed and once the petitioners deliver the notarial act identifying the beneficiaries and the special power of attorney to Mr. Erick Jacobo Arbenz Canales, which authorizes him to sign this friendly settlement and to receive the payment of the economic reparation; these documents must have all the legal authorizations required to be considered to be fully valid under Guatemalan legislation. Once the transfer is made, the petitioner undertakes to sign an administrative act of settlement to be extended to the State of Guatemala.

(3) OTHER FORMS OF REPARATION

This Friendly Settlement Agreement establishes the commitment of the State of Guatemala to carry out the following commitments:

(a) Public Ceremony for Acknowledging International Responsibility: The State of Guatemala undertakes to dignify the memory of former president Juan Jacobo Árbenz Guzmán with a public ceremony for recognition of the international responsibility of the State, which will be held at the National Palace of Culture, and shall be presided over by the President of the Republic....

(b) Letter of Apology: The State of Guatemala undertakes to draft a letter of apology that the President of the Republic shall deliver to the family members of former President Árbenz Guzmán in the public ceremony for acknowledging responsibility. This letter will be signed by the President and published in the *Diario de Centro América* and in *El Periódico*.

(c) Designation of a hall in the National History Museum: The State of Guatemala undertakes to name, permanently, a hall of the National History Museum, to be known as the “Jacobó Arbenz Guzmán” hall.

On November 5, 2010, the State of Guatemala named the “Jacobó Arbenz Guzmán Reading Room” in the National History Museum, thus the petitioner accepted this act as part of the moral reparation in this case, as that ceremony was already held.

(d) Review of National Basic Curriculum: The State of Guatemala undertakes to take the necessary steps vis-à-vis the Ministry of Education to review the National Basic Curriculum specifically regarding the government of the then-constitutional President of the Republic of Guatemala, Colonel Juan Jacobo Árbenz Guzmán, and the events that occurred at the time of the 1954 military coup against him; after the State and the family members of former president Árbenz Guzmán have reviewed them, the State will take steps to implement the changes proposed.

(e) Diploma Program in Human Rights, Multiculturalism, and Reconciliation of the Indigenous Peoples: The State of Guatemala undertakes to create a “Diploma Program in Human Rights, Multiculturalism, and Reconciliation on Indigenous Peoples,” with the economic backing of the Universidad de San Carlos de Guatemala, in which there will be two sections: one in the western region, which will be made up of the departments of Quetzaltenango, as the principal location of the program, plus San Marcos, Retalhuleu, Suchitepéquez, Quiché, and Sololá; and the other in the eastern region, which will be made up of the departments of Zacapa, as the principal location, along with Chiquimula, Jalapa, El Progreso, and Jutiapa.

This diploma program is geared mainly to public officials of the executive and judicial branches, staff of other intermediate level offices, and indigenous leaders. It will have 10 face-to-face sessions, to be held once every two weeks. The diploma program will address issues that make it possible to analyze the inequalities among the Maya, Garifuna, Xinka, and Mestizo peoples for the purpose of helping to curb discriminatory practices.

(f) Naming of the Highway to the Atlantic: The State of Guatemala undertakes to take steps vis-à-vis the appropriate institution for the highway to the Atlantic be named “Juan Jacobo Arbenz Guzmán” in the course of 2011. Once that request is authorized, a public ceremony will be held for the naming of that highway.

(g) Restitution of an area of the Finca el Cajón: As mentioned above, farm number 3443, folio 76, of book 40 of Escuintla of the General Property Registry, called “Finca el Cajón,” situated in the municipality of Santa Lucía Cotzumalguapa, department of Escuintla, a property of the Árbenz Vilanova family, was confiscated by the State of Guatemala by Decree 2 of July 5, 1954 of the Government Junta and registered to the State of Guatemala, as regulated by Decree 68 of August 6, 1954, issued by the *de facto* President. Subsequently that farm was divided into lots by the National Institute for Agrarian Transformation (INTA). In 1996 and 2006, the Constitutional Court handed down judgments in cases 305-95 and 1143-2005, finding Decrees 2 and 68 to be unconstitutional.

In legal opinion 29-2003, issued by the Consultations Section of the Office of the Government Attorney (Procuraduría General de la Nación), that institution considered as follows: “The judgment of the Constitutional Court that corresponds to case 305-95 of September 26, 1996, which found unconstitutional and without any effect the provisions that were the basis for the expropriation, practically created an obligation for the State of Guatemala that consists of returning the properties or, in the alternative, paying compensation to the heirs thereof; accordingly that judgment is a decision of great importance for defining the dubious situation that led to the case that is analyzed today.”

In view of the foregoing, the State of Guatemala undertakes to take the steps and conduct the studies required to verify whether there is any area that is part of the Finca el Cajón that is owned by the State. If so, the State of Guatemala will take the statutory and/or administrative steps necessary for that part of the farm to be returned to the family members of former president Árbenz Guzmán.

If the study and the steps taken by the State in relation to the Finca el Cajón indicate that there is no area under the control of the State or that it is not possible to return it to the family members of former President Arbenz Guzmán, the State undertakes to pay the additional sum of ... in the course of 2011.

The family members of former President Arbenz Guzmán reserve the right to choose between the restitution of that part of the Finca el Cajón which, as a result of the study, could be returned to them, or the payment ... by the end of 2011.

....

(i) Photography exhibit at the National History Museum: The State of Guatemala undertakes to organize a temporary photography exhibit on former President Arbenz Guzmán and his family in one of the halls of the National History Museum....

(j) Recovery of the photographs of the Arbenz Guzmán family: The State of Guatemala undertakes to digitally record, in San José, Costa Rica, the photo archive of former President Arbenz Guzmán that is in the possession of his family members, with three complete digital copies and three print copies, from a selection made by mutual agreement, to be delivered to the family members. This commitment will be made in 2011.

(k) Book of Photos: The State undertakes to publish, in 2011, a book with a selection of photographs of former President Arbenz Guzmán....

(l) Re-publication of the book “Mi Esposo el Presidente Árbenz”: The State of Guatemala undertakes to reprint the book “Mi Esposo el Presidente Arbenz,” the author of which is María Cristina Vilanova de Árbenz, the wife of former President Árbenz Guzmán....

(m) Production and publication of a biography of former President Juan Jacobo Árbenz Guzmán: The State of Guatemala undertakes to produce and publish a biography of former President Juan Jacobo Árbenz Guzmán. To this end his family members undertake to provide the data required and to accompany the book’s author in preparing the biography; they also authorize its production and publication....

(n) Issuance of a series of postage stamps: The State of Guatemala undertakes to take the steps to issue a series of postage stamps whose theme and/or motive is commemorating former President Arbenz Guzmán and his period in office. The authorization, design, perforations, margins, number, value, and run is at the discretion of the corresponding authorities, with whom COPREDEH and the family members of former President Arbenz Guzmán will coordinate proposals.

(o) Travel costs ...

833. In the 2013 IACHR Annual Report, the Commission considered most of the commitments adopted in the friendly settlement agreement to be fulfilled.⁹¹ With regard to the commitments pending compliance, based on information provided by the parties in 2013, the IACHR ascertained that two items of the agreement are still pending:

- a. **Book of Photos.** The State indicated that it hired a professional to touch up 120 photographic images of the Arbenz family that will be used to publish the book of photos. The administrative steps required for producing the book are being taken.
- b. **Issuance of a series of postage stamps.** The State indicated that several meetings were held with the National Philatelic Council, which proposes, to be able to carry out this commitment, that a postmark be issued, which is used to mark postage stamps so they cannot be reused. Nonetheless, as this would change the object of the commitment, the State has asked the Arbenz family to indicate whether it is in agreement with this means of carrying out the commitment.

834. On December 10, 2014, the IACHR requested updated information on compliance with the two pending items. On January 9, 2015, the State claimed that the appropriate administrative steps were

⁹¹ See IACHR, 2013 Annual Report, Chapter II, Section D: Status of Compliance with IACHR Recommendations, par. 876-878, Available at: <http://www.oas.org/es/cidh/docs/annual/2013/docs-es/InformeAnnual-Cap2-D.pdf>

being taken with regard to the photo book. With regard to the second item, the State claimed that it is still awaiting the response of the Arbenz family as to whether it agrees with the terms of compliance set forth. As of the present date, the petitioners have not provided updated information.

835. Taking into consideration the aforementioned, the IACHR observes that the State has complied with a substantial part of the agreement, but there still remain some items pending for implementation. In view of the foregoing, it concludes that there is a partial compliance and will continue to supervise the two pending items of the agreement.

Case 12.264, Report No. 1/06, Franz Britton (Guyana)

836. In Report No. 1/06, dated February 28, 2006 the Commission concluded that agents of the State security forces abducted and/or detained Franz Britton and that during the following six years his whereabouts have not been identified and that, as a result, Guyana violated the rights of Franz Britton to life, liberty, personal liberty, judicial protection, arbitrary arrest and due process of law, all recognized, respectively, in Articles I, XVIII, XXV, XXV and XXVI of the American Declaration.

837. The Commission issued the following recommendations to the State:

1. Carry out a serious, impartial and effective investigation by means of the competent organs, to establish the whereabouts of Franz Britton and to identify those responsible for his detention-disappearance, and, by means of appropriate criminal proceedings, to punish those responsible for such grave acts in accordance with the law.
2. Adopt the necessary legislative or other measures to prevent the recurrence of such events and provide, in all cases, the required due process and effective means of establishing the whereabouts and fate of anyone held in State custody.
3. Adopt measures to make full reparation for the proven violations, including taking steps to locate the remains of Franz Britton and to inform the family of their whereabouts; making the arrangements necessary to facilitate the wishes of his family as to an appropriate final resting place; and providing reparations for the relatives of Franz Britton including moral and material damages in compensation for the suffering occasioned by Mr. Britton's disappearance and not knowing his fate.

838. On December 4, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

839. The State submitted its last communication on November 8, 2013, indicating that it has no additional information to share with the Commission to complement its earlier submissions dated October 17, 2011 and November 2, 2011.

840. Based on these considerations, the Commission reiterates that compliance with the recommendations remains pending. As a result, the Commission shall continue to monitor its compliance.

Case 12.504, Report 81/07 Daniel and Kornel Vaux (Guyana)

841. In Report 81/07 of October 15, 2007 the IACHR concluded that the State of Guyana is responsible for the infliction of violence by police officers on brothers Daniel and Kornel Vaux while in their custody; and for failing to accord a fair trial to the Vaux brothers, particularly in the treatment of the confession evidence by the courts of that country, which prevented them from fully contesting the voluntariness of the confession evidence tendered by the prosecution. Accordingly, the IACHR concluded that the State of Guyana violated the rights of the Vaux brothers under Articles XVIII, XXV and XXVI of the American Declaration of the Rights and Duties of Man; and that execution of the Vaux brothers based upon

the criminal proceedings for which they are presently convicted and sentenced would be contrary to Article I of the American Declaration.

842. On the basis of its recommendations, the IACHR recommended to the State that it:

1. Grant an effective remedy, which includes compensation for the maltreatment inflicted on the Vaux brothers; a re-trial of the charges against the Vaux brothers in accordance with the fair trial protections under the American Declaration, or failing that, an appropriate remission or commutation of sentence.
2. Adopt such legislative or other measures as may be necessary to ensure that criminal defendants are afforded access to evidence under the control of the State that they might reasonably require necessary to challenge the voluntariness of confession evidence.
3. Undertake an investigation to identify the direct perpetrators of the beatings inflicted on Daniel Vaux and Kornel Vaux while in custody to extract confessions and to apply the proper punishment under law;
4. Adopt such legislative or other measures as may be necessary to ensure that any confession of guilt by an accused is valid only if it is given in an environment free from coercion of any kind, in accordance with Article XXV of the American Declaration.

843. The State sent its last communication on November 8, 2013, indicating that it had no additional information to share with the Commission to complement its earlier submissions dated October 17, 2011 and November 2, 2011.

844. The petitioner informed on March 24, 2014 that his brothers Daniel and Kornel Vaux had been transferred to Georgetown Prison and that the review of the license of parole was pending for January 2016.

845. On December 4, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

846. Based on these considerations, the Commission reiterates that compliance with the aforementioned recommendations remains pending. As a result, the Commission shall continue to monitor its compliance.

Case 11.335, Report No. 78/02, Guy Malary (Haiti)

847. In Report No. 78/02 of December 27, 2002, the IACHR concluded that: a) the Haitian State violated the right to life enshrined in Article 4 of the American Convention to the detriment of Mr. Guy Malary; b) the Haitian State violated the right to a fair trial and the right to judicial protection enshrined in Articles 8(1) and 25 of the American Convention to the detriment of the next-of-kin of Mr. Guy Malary; and c) that these violations of human rights involves that the Haitian State breached the general obligation to respect and guarantee rights under Article 1(1) of the above-cited international instrument, to the detriment of Mr. Guy Malary and his next-of-kin.

848. The IACHR issued the following recommendations to the State:

1. Carry out a full, prompt, impartial, and effective investigation within the Haitian ordinary criminal jurisdiction in order to establish the responsibility of the authors of the violation of the right to life of Mr. Guy Malary and punish all those responsible.

2. Provide full reparation to the next-of-kin of the victim, *inter alia*, the payment of just compensation.
3. Adopt the measures necessary to carry out programs targeting the competent judicial authorities responsible for judicial investigations and auxiliary proceedings, in order for them to conduct criminal proceedings in the accordance with international instruments on human rights.

849. On December 4, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

850. Based on these considerations, the Commission reiterates that compliance with the Commission's recommendations remains pending. As a result, the Commission shall continue to monitor its compliance.

Petition 12.547, Report No. 62/13, Rigoberto Cacho Reyes (Honduras)

851. On November 30, 2001, the Inter-American Commission on Human Rights received a complaint lodged against the State of Honduras for the alleged violation of the following rights with respect to Mr. Rigoberto Cacho Reyes, a Honduran of Garifuna descent: domestic legal effects (Art. 2), right to juridical personality (Art. 3), humane treatment (Art. 5), personal liberty (Art. 7), right to a fair trial (Art. 8), freedom from ex post facto laws (Art. 9), right to compensation (Art. 10), right to privacy (Art. 11), rights of the family (Art. 17), rights of the child (Art. 19), right to property (Art. 21), right to equal protection (Art. 24), and right to judicial protection (Art. 25), all in conjunction with Article 1.1 (obligation to respect rights) of the American Convention on Human Rights (hereinafter "the Convention," "the American Convention," or "the ACHR"). The petition was lodged as a result of Mr. Cacho Reyes being denied his freedom for 8 years, 8 months, and 18 days, without any corroboration of the charges brought against him for illicit drug trafficking. Mr. Cacho Reyes was acquitted of all the charges by means of a first-instance judgment dated March 27, 1998, which was later upheld by the First Appeals Court of Tegucigalpa. In addition, according to information presented by the petitioner, Mr. Cacho Reyes filed a suit for damages against the State, which the Supreme Court of Justice of Honduras declined to admit.

852. On February 11, 2009, the parties signed a friendly settlement agreement, in which they reached the following agreements:

TWO: AGREEMENT BETWEEN THE PARTIES

In the course of the friendly settlement proceedings conducted between THE REPRESENTATIVE OF THE PETITIONER AND THE STATE OF HONDURAS, with the invaluable participation of the IACHR, the parties have succeeded in reaching a satisfactory agreement, based on the State's recognition of its responsibility for the human rights violations committed against Rigoberto Cacho Reyes, Case 12.547, as described in the admissibility report cited above. To cover the monetary portion thereof, the State of Honduras undertakes to make payment through the Secretariat of State for Finance, which shall begin the relevant formalities as soon as this document, duly signed, is presented to it and which shall conclude them as promptly as possible.

THREE: OBLIGATION OF MAKING REPARATIONS

As a consequence of this recognition, the State of Honduras and the Mr. Rigoberto Cacho Reyes's representative recognize and accept, as the amount to be paid as compensation, in equity, the single amount of ONE HUNDRED AND FIFTY THOUSAND UNITED STATES DOLLARS (\$150,000.00) or the equivalent thereof in Honduran currency, covering any and all material and moral harm inflicted on the victim and his family, and also including the

respective national and international costs and expenses; thus, with the payment of that amount, the State of Honduras shall be completely free of those obligations. The parties further agree that should any family member assert a right to compensation, such compensation shall be recognized and paid by Mr. Rigoberto Cacho Reyes.

853. The ratification report of the Friendly Settlement Agreement attested that payment of the compensation for damages was made to the victim with the delivery of a check in the amount of TWO MILLION, EIGHT HUNDRED AND FIFTY-FOUR THOUSAND, ONE HUNDRED AND TEN LEMPIRAS (L 2,854,110.00), equal to ONE HUNDRED AND FIFTY THOUSAND UNITED STATES DOLLARS (\$150,000.00). By means of a letter dated June 29, 2011, the petitioner informed the Commission that this payment had been made in full.

854. On December 12, 2014, the Commission asked the parties for up-to-date information on the state of compliance with the agreement. On January 7, 2015, the State sent the IACHR information indicating that the friendly settlement agreement had been implemented with the payment of the aforesaid compensation.

855. The Commission reiterates its appreciation of the efforts made by the State to meet its acquired commitments and establishes that this friendly settlement agreement has been fully implemented.

Cases 11.826, 11.843, 11.846 and 11.847, Report No. 49/01, Leroy Lamey, Kevin Mykoo, Milton Montique and Dalton Daley (Jamaica)

856. In Report No. 49/01 dated April 4, 2001 the Commission concluded that the State was responsible for: a) violating the rights of the victims in Case Nos. 11.826 (Leroy Lamey), 11.843 (Kevin Mykoo), 11.846 (Milton Montique) and 11.847 (Dalton Daley) under Articles 4(1), 5(1), 5(2) and 8(1), in conjunction with violations of Article 1(1) of the American Convention, by sentencing these victims to a mandatory death penalty; b) violating the rights of the victims in Case Nos. 11.826 (Leroy Lamey), 11.843 (Kevin Mykoo), 11.846 (Milton Montique) and 11.847 (Dalton Daley) under Article 4(6) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by failing to provide these victims with an effective right to apply for amnesty, pardon or commutation of sentence; c) violating the rights of the victims in Case Nos. 11.843 (Kevin Mykoo), 11.846 (Milton Montique) and 11.847 (Dalton Daley) under Article 7(5) and 7(6) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by failing to promptly bring the victims before a judge following their arrests, and by failing to ensure their recourse without delay to a competent court to determine the lawfulness of their detention; d) violating the rights of the victims in Case Nos. 11.846 (Milton Montique) and 11.847 (Dalton Daley) under Articles 7(5) and 8(1) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by reason of the delays in trying the victims; e) violating the rights of the victims in Case Nos. 11.826 (Leroy Lamey), 11.843 (Kevin Mykoo), 11.846 (Milton Montique) and 11.847 (Dalton Daley) under Article 5(1) and 5(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by reason of the victims' conditions of detention; f) violating the rights of the victims in Case Nos. 11.846 (Milton Montique) and 11.847 (Dalton Daley) under Articles 8(2)(d) and 8(2)(e) in conjunction with violations of Article 1(1) of the Convention, by denying the victims access to legal counsel for prolonged periods following their arrests; and g) violating the rights of the victims in Case Nos. 11.826 (Leroy Lamey), 11.843 (Kevin Mykoo), 11.846 (Milton Montique) and 11.847 (Dalton Daley) under Articles 8 and 25 of the Convention, in conjunction with violations of Article 1(1) of the Convention, by failing to make legal aid available to these victims to pursue Constitutional Motions.

857. The IACHR issued the following recommendations to the State:

1. Grant the victims an effective remedy which included commutation of their death sentences and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in violation of the rights and freedoms guaranteed under the

Convention, including Articles 4, 5 and 8, in particular that no person is sentenced to death pursuant to a mandatory sentencing law.

3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4.6 of the Convention to apply for amnesty, pardon or commutation of sentence is given effect in Jamaica.

4. Adopt such legislative or other measures as may be necessary to ensure that the victims' rights to humane treatment under Articles 5.1 and 5.2 of the Convention, particularly in relation to their conditions of detention, are given effect in Jamaica.

5. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8.1 of the Convention and the right to judicial protection under Article 25 of the Convention are given effect in Jamaica in relation to recourse to Constitutional Motions.

858. On December 3, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

859. The State presented information relevant to compliance of the recommendations contained in the Merits Report in this case on December 19, 2012 and January 7, 2013. In its responses, the State merely reiterated its earlier communications regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

860. Therefore, the Commission reiterates that the State complied partially with the aforementioned recommendations. The IACHR will continue supervising until full compliance is reached.

Case 12.069, Report No. 50/01, Damion Thomas (Jamaica)

861. In Report No. 50/01 dated April 4, 2001 the Commission concluded that the State was responsible for failing to respect the physical, mental and moral integrity of Damion Thomas and, in all of the circumstances, subjecting Damion Thomas to cruel or inhuman punishment or treatment, contrary to Articles 5(1) and 5(2) of the Convention, all in conjunction with violations of the State's obligations under Article 1(1) of the Convention.

862. The IACHR issued the following recommendations to the State:

1. Grant the victim an effective remedy, which included compensation.
2. Conduct thorough and impartial investigations into the facts of the pertinent incidents denounced by the Petitioners in order to determine and attribute responsibility to those accountable for the violations concerned and undertake appropriate remedial measures.
3. Review its practices and procedures to ensure that officials involved in the incarceration and supervision of persons imprisoned in Jamaica are provided with appropriate training concerning the standards of humane treatment of such persons, including restrictions on the use of force against such persons.
4. Review its practices and procedures to ensure that complaints made by prisoners concerning alleged mistreatment by prison officials and other conditions of their detention are properly investigated and resolved.

863. On December 3, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

864. The State presented information relevant to compliance of the recommendations contained in the Merits Report in this case on December 19, 2012 and January 7, 2013. In its responses, the State merely reiterated its earlier communications regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

865. Therefore, the Commission reiterates that there has been partial compliance with the recommendations. As a result, the Commission shall continue to monitor the items that are pending.

Case 12.183, Report No. 127/01, Joseph Thomas (Jamaica)

866. In Report No. 127/01, dated December 3, 2001, the Commission concluded that the State was responsible for: a) violating Mr. Thomas' rights under Articles 4(1), 5(1), 5(2) and 8(1) of the Convention, in conjunction with violations of Articles 1(1) and 2 of the Convention, by sentencing him to a mandatory death penalty; b) violating Mr. Thomas' rights under Article 4(6) of the Convention, in conjunction with violations of Articles 1(1) and 2 of the Convention, by failing to provide Mr. Thomas with an effective right to apply for amnesty, pardon or commutation of sentence; c) violating Mr. Thomas' rights under Articles 5(1) and 5(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by reason of his conditions of detention; and d) violating Mr. Thomas' rights under Articles 8(1) and 8(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by reason of the manner in which the judge instructed the jury during Mr. Thomas' trial.

867. The IACHR issued the following recommendations to the State:

1. Grant the victim an effective remedy, which included a re-trial in accordance with the due process protections prescribed under Article 8 of the Convention or, where a re-trial in compliance with these protections is not possible, his release, and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in contravention of the rights and freedoms guaranteed under the Convention, including and in particular Articles 4, 5 and 8.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the Convention to apply for amnesty, pardon or commutation of sentence is given effect in Jamaica.
4. Adopt such legislative or other measures as may be necessary to ensure that the conditions of detention in which the victim is held comply with the standards of humane treatment mandated by Article 5 of the Convention.

868. The State presented information relevant to compliance of the recommendations contained in the Merits Report in this case on December 19, 2012 and January 7, 2013. In its responses, the State merely reiterated its earlier communications regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

869. On December 3, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The petitioners reported in December 9, 2014 that after attempting to visit Mr. Thomas at the prison, they were informed that he had been released on parole; they were confirming that information with the Commissioner of Corrections. The State has not presented information on compliance with the recommendations set forth above this year.

870. Therefore, the Commission reiterates that the State complied partially with the aforementioned recommendations. As a result, the Commission shall continue to monitor the items that are pending.

Case 12.275, Report No. 58/02, Denton Aitken (Jamaica)

871. In Report No. 58/02 dated October 21, 2002, the Commission concluded that the State was responsible for: a) violating Articles 4(1), 5(1), 5(2) and 8(1) of the Convention in respect of Mr. Aitken, in conjunction with violations of Articles 1(1) and 2 of the Convention, by sentencing him to a mandatory death penalty; b) violating Article 4(6) of the Convention in respect of Mr. Aitken, in conjunction with violations of Articles 1(1) and 2 of the Convention, by failing to provide him with an effective right to apply for amnesty, pardon or commutation of sentence; c) violating Articles 5(1) and 5(2) of the Convention in respect of Mr. Aitken, in conjunction with violations of Article 1(1) of the Convention, by reason of his conditions of detention; and d) violating Articles 8(1) and 25 of the Convention in respect of Mr. Aitken, in conjunction with violations of Article 1(1) of the Convention, by reason of the denial to Mr. Aitken of recourse to a Constitutional Motion for the determination of his rights under domestic law and the Convention in connection with the criminal proceedings against him.

872. The IACHR issued the following recommendations to the State:

1. Grant Mr. Aitken an effective remedy, which includes commutation of sentence and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in contravention of the rights and freedoms guaranteed under the Convention, including and in particular Articles 4, 5 and 8.
3. Adopt such legislative or other measures as may be necessary to ensure that the right under Article 4(6) of the Convention to apply for amnesty, pardon or commutation of sentence is given effect in Jamaica.
4. Adopt such legislative or other measures as may be necessary to ensure that the conditions of detention in which Mr. Aitken is held comply with the standards of humane treatment mandated by Article 5 of the Convention.
5. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the Convention and the right to judicial protection under Article 25 of the Convention are given effect in Jamaica in relation to recourse to Constitutional Motions in accordance with the Commission's analysis in this report.

873. On December 3, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

874. The State presented information relevant to compliance of the recommendations contained in the Merits Report in this case on December 19, 2012 and January 7, 2013. In its responses, the State merely reiterated its earlier communications regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

875. Therefore, the Commission reiterates that the State complied partially with the aforementioned recommendations. As a result, the Commission shall continue to monitor the items that are pending.

Case 12.347, Report No. 76/02, Dave Sewell (Jamaica)

876. In Report No. 76/02 dated December 27, 2003, the Commission concluded that the State was responsible for: a) violating Articles 4(1), 5(1), 5(2) and 8(1) of the Convention in respect of Mr. Sewell, in conjunction with violations of Articles 1(1) and 2 of the Convention, by sentencing him to a mandatory death penalty; b) violating Articles 5(1) and 5(2) of the Convention in respect of Mr. Sewell, in conjunction with violations of Article 1(1) of the Convention, by reason of his treatment and conditions in detention; c) violating Articles 7(5) and 8(1) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by reason of the delay in trying Mr. Sewell; and d) violating Articles 8(1) and 25 of the Convention in respect of Mr. Sewell, in conjunction with violations of Article 1(1) of the Convention, by reason of the denial to Mr. Sewell of recourse to a Constitutional Motion for the determination of his rights under domestic law and the Convention in connection with the criminal proceedings against him.

877. The IACHR issued the following recommendations to the State:

1. Grant Mr. Sewell an effective remedy which includes commutation of sentence in relation to the mandatory death sentence imposed upon Mr. Sewell, and compensation in respect of the remaining violations of Mr. Sewell's rights under the American Convention as concluded above.
2. Adopt such legislative or other measures as may be necessary to ensure that the death penalty is not imposed in contravention of the rights and freedoms guaranteed under the Convention, including and in particular Articles 4, 5 and 8.
3. Adopt such legislative or other measures as may be necessary to ensure that the conditions of detention in which Mr. Sewell is held comply with the standards of humane treatment mandated by Article 5 of the Convention.
4. Adopt such legislative or other measures as may be necessary to ensure that the right to a fair hearing under Article 8(1) of the Convention and the right to judicial protection under Article 25 of the Convention are given effect in Jamaica in relation to recourse to Constitutional Motions in accordance with the Commission's analysis in this report.

878. On December 3, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

879. The State presented information relevant to compliance of the recommendations contained in the Merits Report in this case on December 19, 2012 and January 7, 2013. In its responses, the State merely reiterated its earlier communications regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

880. Therefore, the Commission reiterates that the State complied partially with the aforementioned recommendations. As a result, the Commission shall continue to monitor the items that are pending.

Case 12.417, Report No. 41/04, Whitley Myrie (Jamaica)

881. In Report No. 41/04 of October 12, 2004, the IACHR concluded the State was responsible for: a) violating Mr. Myrie's rights under Articles 5(1) and 5(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, because of his conditions of detention; b) violating Mr. Myrie's rights under Articles 8(1) and 8(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, due to the trial judge's failure to ensure that the jury was not present during the voir dire on Mr. Myrie's statement, and the trial judge's failure to postpone the trial when Mr. Myrie's counsel was not present and thereby denying Mr. Myrie full due process during his trial; c) violating Mr. Myrie's rights under Articles 8(1)

and 8(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, by failing to provide him with the assistance of competent and effective counsel during his trial; and d) violating Mr. Myrie's rights under Articles 25 and 8 of the Convention, in conjunction with violations of Article 1(1) of the Convention, by failing to provide Mr. Myrie with effective access to a Constitutional Motion for the protection of his fundamental rights.

882. The IACHR issued the following recommendations to the State:

1. Grant Mr. Myrie an effective remedy, which includes a re-trial in accordance with the due process protections prescribed under Article 8 of the Convention or, where a re-trial in compliance with these protections is not possible, his release, and compensation.

2. Adopt such legislative or other measures as may be necessary to ensure that Mr. Myrie's conditions of detention comply with international standards of humane treatment under Article 5 of the American Convention and other pertinent instruments, as articulated in the present report.

3. Adopt such legislative or other measures as may be necessary to ensure that the right to judicial protection under Article 25 of the Convention and the right to a fair hearing under Article 8(1) of the Convention are given effect in Jamaica in relation to recourse to Constitutional Motions.

883. On December 3, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

884. The State presented information relevant to compliance of the recommendations contained in the Merits Report in this case on December 19, 2012 and January 7, 2013. In its responses, the State merely reiterated its earlier communications regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

885. Therefore, the Commission reiterates that compliance with the recommendations of Report 41/04 remains pending. As a result, the Commission shall continue to monitor its compliance.

Case 12.418, Report No. 92/05, Michael Gayle (Jamaica)

886. In Report No. 92/05, issued on October 24, 2005, the Commission concluded that the State was responsible for: a) violating Mr. Gayle's right to life under Article 4 of the Convention, in conjunction with violations of Article 1(1) of the Convention, because of his unlawful killing at the hands of members of the Jamaican security forces; b) violating Mr. Gayle's right not to be subjected to torture and other inhumane treatment under Articles 5(1) and 5(2) of the Convention, in conjunction with violations of Article 1(1) of the Convention, because of the assault perpetrated upon him by State agents and its effects, which led to his death; c) violating Mr. Gayle's right to personal liberty under Article 7 of the Convention, in conjunction with violations of Article 1(1) of the Convention, because of his unlawful detention and arrest on false charges; and d) violating Mr. Gayle's rights to a fair trial and to judicial protection under Articles 8 and 25 of the Convention, in conjunction with violations of Article 1(1) of the Convention, by failing to undertake a prompt, effective, impartial and independent investigation into human rights violations committed against Mr. Gayle and to prosecute and punish those responsible.

887. The IACHR issued the following recommendations to the State:

1. Grant an effective remedy, which includes the payment of compensation for moral damages suffered by Michael Gayle's mother and next-of-kin, Jenny Cameron, and a public apology by the State to the family of Michael Gayle.

2. Adopt such legislative or other measures as may be necessary to undertake a thorough and impartial investigation into the human rights violations committed against Mr. Gayle, for the purpose of identifying, prosecuting and punishing all the persons who may be responsible for those violations.

3. Adopt such legislative or other measures as may be necessary to prevent future violations of the nature committed against Mr. Gayle, including training for members of Jamaican security forces in international standards for the use of force and the prohibition of torture and other cruel, inhuman or degrading treatment or punishment, summary executions and arbitrary detention, and undertaking appropriate reforms to the procedures for investigating and prosecuting deprivations of life committed by members of Jamaica's security forces to ensure that they are thorough, prompt and impartial, in accordance with the findings in the present report. In this respect, the Commission specifically recommends that the State review and strengthen the Public Police Complaints Authority in order to ensure that it is capable of effectively and independently investigating human rights abuses committed by members of the Jamaican security forces.

888. On December 3, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

889. The State presented information relevant to compliance of the recommendations contained in the Merits Report in this case on December 19, 2012 and January 7, 2013. In its responses, the State merely reiterated its earlier communications regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

890. Therefore, the Commission reiterates that the State has complied partially with the aforementioned recommendations. As a result, the Commission shall continue to monitor the items that are pending.

Case 12.447, Report No. 61/06, Derrick Tracey (Jamaica)

891. In Report No. 61/06, adopted on July 20, 2006, the Commission concluded that the State was responsible for: a) violations of Mr. Tracey's right to counsel and his right to obtain the appearance of persons who may throw light on the facts contrary to Article 8(2)(d), (e) and (f) of the Convention, in conjunction with Articles 1(1) and 2 of the Convention, in connection with the use of his statement against him at trial; b) violating Mr. Tracey's right to a fair trial under Article 8(2)(c) of the Convention, in conjunction with a violation of Article 1(1) of the Convention, due to the inadequate time and means provided to Mr. Tracey and his attorney to prepare his defense; and c) violations of Mr. Tracey's right to a fair trial and his right to judicial protection under Article 8(2)(e) and (h) and 25 of the Convention, in conjunction with a violation of Articles 1(1) and 2 of the Convention, due to the State's failure to provide Mr. Tracey with legal counsel to appeal his judgment to a higher court.

892. The IACHR issued the following recommendations to the State of Jamaica:

1. Grant an effective remedy, which includes a re-trial of the charges against Mr. Tracey in accordance with the fair trial protections under the American Convention.

2. Adopt such legislative or other measures as may be necessary to ensure that indigent criminal defendants are afforded their right to legal counsel in accordance with Article 8.2.e of the American Convention, in circumstances in which legal representation is necessary to ensure the right to a fair trial and the right to appeal a judgment to a higher court.

3. Adopt such legislative or other measures as may be necessary to ensure that any confession of guilt by an accused is valid only if it is given in an environment free from coercion of any kind, in accordance with Article 8.3 of the Convention.

893. On December 3, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

894. The State presented information relevant to compliance of the recommendations contained in the Merits Report in this case on December 19, 2012 and January 7, 2013. In its responses, the State merely reiterated its earlier communications regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

895. Therefore, the Commission reiterates that the State has complied with the second and third recommendations. As a result, the Commission shall continue to monitor compliance with the first recommendation.

Case 11.565, Report No. 53/01, González Pérez Sisters (Mexico)

896. In Report No. 53/01, of April 4, 2001, the Commission concluded that the Mexican State had violated, to the detriment of Ms. Delia Pérez de González and her daughters Ana, Beatriz, and Celia González Pérez, the following rights enshrined in the American Convention: the right to personal liberty (Article 7); the right to humane treatment and protection of honor and dignity (Articles 5 and 11); judicial guarantees and judicial protection (Articles 8 and 25); with respect to Celia González Pérez, the rights of the child (Article 19); all those in conjunction with the general obligation to respect and ensure the rights, provided for in Article 1(1) of the Convention. In addition, it concluded that the State was responsible for violating Article 8 of the Inter-American Convention to Prevent and Punish Torture.

897. According to the complaint, on June 4, 1994, a group of soldiers detained the González Pérez sisters and their mother Delia Pérez de González, in the state of Chiapas, to question them, and deprived them of their liberty for two hours. The petitioners allege that during that time the three sisters were separated from their mother, beaten, and raped repeatedly by the soldiers; that on June 30, 1994, the complaint was filed with the Federal Public Ministry (Office of the Attorney General, or "PGR" - Procuraduría General de la República) based on a gynecological medical exam, which was corroborated before that institution by the statements by Ana and Beatriz, the two older sisters; that the case was removed to the Office of the Attorney General for Military Justice ("PGJM": Procuraduría General de Justicia Militar) in September 1994; and that it finally decided to archive the case given their failure to come forward to make statements once again and to undergo expert gynecological exams. The petitioners argue that the State breached its obligation to investigate the facts alleged, punish the persons responsible, and make reparation for the violations.

898. The Commission made the following recommendations to the State:

1. Conduct a full, impartial and effective investigation in the ordinary criminal jurisdiction of Mexico to determine the responsibility of all those involved in violating the human rights of Ana, Beatriz and Celia González Pérez and Delia Pérez de González.

2. Provide adequate compensation to Ana, Beatriz and Celia González Pérez and to Delia Pérez de González for the human rights violations established herein.

899. On October 9, 2013, the Commission requested the parties to provide updated information on the status of compliance with the recommendations.

900. As for the recommendation to investigate, prosecute and punish in the ordinary criminal jurisdiction those responsible for the crimes charged in the petition, the State noted that is working to see that the investigations that resulted from the recommendations published by the IACHR in its Report 53/01

are carried out, implemented, and conducted efficiently. It also said that subsequently it will send more information on progress in the respective investigations. For their part, the petitioners indicated that even though the transfer of this case to the civil jurisdiction is an essential condition for adequate implementation of the recommendations, the state delegation in Chiapas of the federal Office of the Attorney General (PGR) (which should be in charge of the investigation) has no record of having received a preliminary inquiry referred to it due to the lack of jurisdiction of the Office of the Attorney General for Military Justice (PGJM) over the matter.

901. Regarding the recommendation to provide adequate reparation to the victims of Case 11.565, it can be established as fact that in 2011 the State reported that, through the Government of Chiapas, on April 4, 2011, it awarded the victims and their mother, in a private ceremony, the sum of \$2,000,000 Mexican pesos (two million pesos), or the equivalent thereof of US\$172,000, as humanitarian support. It clarified that the support granted to the victims did not constitute recognition of responsibility for the incidents that prompted the recommendations of the IACHR and it could not be viewed as reparation for damages. In 2012, the State reiterated that the government of the State of Chiapas had awarded a sum of money to the victims as humanitarian aid.

902. In response, the petitioners indicated that the recommendation was not implemented since even though the State affirms that this economic assistance was in relation to what is indicated in Report 53/01, the agreement signed indicated that the delivery of that sum was in the way of humanitarian assistance, without it representing implementation of the recommendations made by the IACHR.

903. On December 5, 2014, the IACHR requested updated information on compliance from both parties. On January 5, 2015, the petitioners submitted the said information, while the State did so on January 14, 2015.

904. In their submission, the petitioners reiterated that the investigation had not moved forward, because the PGR has insisted on following the Istanbul Protocol. The petitioners and the victims object to the conducting of such an examination more than twenty years after the events took place, and have requested that the physician's certificate, which was issued in a timely fashion, be admitted as irrefutable proof of sexual violence. The petitioners further argue that insisting on following the aforementioned protocol would have an effect of profound re-victimization. Lastly, they assert that the State has still not prosecuted those responsible for the human rights violations endured by the González Pérez sisters.

905. With regard to the obligation to provide adequate compensation to the victims, the petitioners stressed that, as of the present date, the Mexican State has not implemented any measures of reparation to fully satisfy the duty to redress the González Pérez sisters, in view of the fact that, as noted above, the humanitarian relief provided by the government does not constitute in and of itself satisfaction of the measure of reparation ordered by the Commission. Lastly, they asserted that they would be willing to enter into an agreement on compliance with the recommendations of the merits report with the Mexican State and that they were engaged in examining a counterproposal that was presented to them.

906. In response, regarding the first recommendation, the State claimed that it was conducting appropriate investigations in the criminal jurisdiction and that it is committed to continue to do so in keeping "with the highest standards on torture and discrimination against women."

907. As to the second recommendation, the State claimed to have received on October 29, 2014, a proposal for reparation from the petitioners, to which the State responded with a counterproposal on December 5, 2014, containing the following section titles: duty to investigate and punish, access to the investigation and participation of the victims, that the IACHR's merits report assertions should be taken into consideration in the domestic criminal investigation, Public Ceremony of Recognition of Responsibility, measures of rehabilitation (medical and psychological treatment) and appropriate monetary compensation, in addition to other proposals put forward by the State, which are under review by the petitioners.

908. Based on the foregoing, the IACHR commends the parties for their willingness to reach a compliance agreement spelling out each other's duties and responsibilities. In the meantime, and until further notice is received regarding progress in the negotiations, the IACHR notes that the recommendation issued in the merits report of 2001 pertaining to the investigation, prosecution and punishment of those responsible for the crimes charged in the petition has not been fulfilled. The IACHR, however, does appreciate the humanitarian relief granted by the government of Chiapas. Notwithstanding, said relief does not constitute recognition of responsibility for the incidents nor reparation for damages, as the State itself has asserted.

909. As a result, the recommendations issued in this case by the Commission are pending compliance and the Commission will thus continue to monitor compliance therewith.

Case 12.130, Report No. 2/06, Miguel Orlando Muñoz Guzmán (Mexico)

910. In Report No. 2/06 dated February 28, 2006, the Commission concluded that the Mexican State was responsible for breaching the right to a fair trial and judicial protection as provided for in Articles 8 and 25 of the American Convention, in connection with Article 1.1 of the same instrument, to the detriment of Miguel Orlando Muñoz Guzman. It also determined that the case file did not contain any evidence that would make it possible to attribute international responsibility to the State for the alleged forced disappearance of Miguel Orlando Guzman. Consequently, it did not find the State responsible for the alleged violation of the rights to life, humane treatment and personal liberty; nor of the right to humane treatment of his next-of-kin. However, it recommended that the State investigate under the ordinary court jurisdiction the whereabouts of Miguel Orlando Muñoz Guzman and, should it be established that there was forced disappearance, punish those responsible.

911. According to the complaint, Mr. Miguel Orlando Muñoz Guzmán, a lieutenant in the Mexican Army, disappeared on May 8, 1993, at the age of 25 years. He was last seen on that date by his comrades of the 26th Battalion of Ciudad Juárez, state of Chihuahua, Mexico, when he was preparing to go on leave. Lt. Muñoz Guzmán's family indicates that he was an officer devoted to his career, and therefore they call into question the credibility of the Army's official version, according to which he deserted and then traveled to the United States. They explain that to date no serious investigation has been carried out in Mexico to determine his whereabouts or to punish the persons responsible for his forced disappearance. They argue that the irregularities that have surrounded this case have been deliberate, with the intent of covering up the persons responsible. They also mention the fact that the family began to receive anonymous threats, which they attribute to members of the military, from the moment they went to report the facts to the authorities.

912. The IACHR made the following recommendations to the State:

1. Conduct a complete, impartial, and effective investigation in the Mexican general jurisdiction to determine the whereabouts of Miguel Orlando Muñoz Guzmán; and, if it were determined that he was a victim of forced disappearance, to sanction all those responsible for such crime.
2. Provide adequate compensation to the relatives of the family of Miguel Orlando Muñoz Guzmán for the human rights violations established herein.

913. By means of a communication dated November 7, 2013, the IACHR requested both parties to report on the measures taken to comply with these recommendations.

914. The State indicated that in October 2013 a meeting was held between the Office of the Attorney General of the State of Chihuahua and the petitioners in which the actions necessary to carry out the recommendations were defined, and seven agreements were reached regarding the joint review of the design of the investigation. In addition, the State reported that it requested Mr. Miguel Orlando Muñoz Guzmán's genetic profile from his family members in order to strengthen the current lines of the investigation. The petitioners stated that they value the aforementioned agreements, and that they expect them to be fully

complied with. However, they reiterated that while this happens, the Mexican State has not complied with the recommendation to investigate, prosecute, and punish. On the other hand, the petitioners reported that since the Merits Report No. 2/06 was issued, the State has not addressed the recommendation related to the reparations for Mr. Muñoz Guzman's relatives.

915. On December 5, 2014, the IACHR made another request for information on compliance. In a communication of January 5, 2015, the petitioners requested an extension to reply to the said request. The State has not replied as of the present date.

916. Based on the above, the Commission concludes that there has not been compliance with the recommendations summarized above. As a result, the Commission will continue to supervise the pending items.

Case 11.822, Report on Friendly Settlement Agreement No. 24/09, Reyes Penagos Martínez *et al.* (Mexico)

917. On March 20, 2009, in Friendly Settlement Report No. 24/09, the Commission approved a friendly settlement agreement for the case of Reyes Penagos Martínez, Enrique Flores González and Julieta Flores Castillo. The complaint the petitioners filed was based on the victims' alleged unlawful detention, the acts of torture to which they were reportedly subjected and the alleged extrajudicial execution of Mr. Reyes Penagos Martínez. Summarizing, the petitioners reported that the victims were detained on December 16, 1995, when a protest sit-in organized on the ejido of Nueva Palestina was forcibly broken up; in the days following their arrest, the victims were tortured. In the case of Mrs. Flores Castillo, the petitioners added that she had also been raped. In the early morning hours of December 18, Mr. Reyes Penagos Martínez was taken to an unknown location. Some hours later, his lifeless body was found near Jaltenango. The petitioners asserted that Enrique Flores González and Julieta Flores Castillo were released two months later. The petitioners stated that a preliminary inquiry was launched by the Office of the Attorney General of the State of Chiapas to look into Mr. Reyes Penagos Martínez' detention and subsequent death. However, the petitioners were of the view that the investigation was riddled with problems and not properly carried out.

918. On March 1, 1999, at IACHR headquarters, the parties signed the agreement to initiate a friendly settlement process and on November 3, 2006, in the city of Tuxtla Gutiérrez, State of Chiapas, they signed an agreement on reparations for damage to be paid to the victims and their relatives. The parties agreed that:

"THIRD. Measures of Satisfaction and Guarantees of Non-Repetition. (...)

a) Public Recognition of the International Responsibility of the Mexican State

The State undertakes to make a public pronouncement in which it recognizes ITS RESPONSIBILITY IN the facts described in the first section, considering that the death of Reyes Penagos Martínez and the detention and torture of Julieta Flores Castillo and Enrique Flores González, committed by various public servants of the state of Chiapas, are imputable to it.

The State also undertakes to apologize publicly to the victims and their family members for the facts reported to the IACHR, which were the result of a violation of human rights.

This pronouncement may be made at the moment the payment is made to make reparation for the material and non-material injury agreed upon in the preceding paragraphs.

Likewise, the State undertakes to publish the public pronouncement in two local newspapers.

b) Investigation and punishment of the persons responsible

In addition, the State undertakes to continue the investigations until attaining the sanction of the persons responsible for those crimes, through a serious and impartial investigation according to the international human rights standards, for the purpose of avoiding their re-victimization due to lack of access to justice.

[...]

SIXTH. Material injury. [...]

In this regard, the following sums have been agreed upon:

Beneficiary	For	Amount
1. Penagos Roblero family*	Actual damages	\$ 52,548.00 MN
	Lost profit	\$ 105,354.00 MN
	SUBTOTAL	\$ 157,902.00 MN
2. Julieta Flores Castillo	Actual damages	\$ 52,548.00 MN
	Lost profit	\$ 12,640.00 MN
	SUBTOTAL	\$ 65,187.00 MN
3. Enrique Flores González	Actual damages	\$ 52,548.00 MN
	Lost profit	\$ 12,640.00 MN
	SUBTOTAL	\$ 65,187.00 MN
	TOTAL 1	\$ 288,278.00 MN

SEVENTH. Non-material injury. [...] The sums agreed upon are as follows:

Beneficiary	For	Amount
1. Penagos Roblero family	Non-material injury	\$ 342,098.00 MN
2. Julieta Flores Castillo	Non-material injury	\$ 228,951.00 MN
3. Enrique Flores González	Non-material injury	\$ 228,951.00 MN
	TOTAL 2	\$ 800,000.00 MN

[...]

NINTH. Considering the changes in the living conditions of the victims and their family members, the Office of the Attorney General of Chiapas undertakes to take whatever efforts necessary, before the competent authorities, so that scholarships be granted to the three youngest children of Mr. Reyes Penagos. While the Office of the Attorney General cannot guarantee that the result of those efforts will be positive, it nonetheless expresses its commitment to diligently pursue such requests, and to seek a favorable outcome for the children of Mr. Reyes Penagos.

TENTH. Along the same lines, the State undertakes to make efforts for the beneficiaries to obtain medical insurance.

919. In its Report No. 24/09, the Commission examined the measures taken by the Mexican State and acknowledged compliance with the obligations undertaken in regard to: i) recognition of the state's responsibility; ii) publication of the act of public recognition of state responsibility; iii) payment of pecuniary damages, and iv) access to medical insurance for Enrique Flores and Julieta Flores. In that report the Commission decided as follows:

"2. To urge the State to take the measures necessary to carry out the commitments pending, in particular the obligation to investigate, prosecute and punish the persons responsible for

the unlawful detention, torture and extrajudicial execution of Mr. Reyes Penagos Martínez and the unlawful detention and torture of Mr. Enrique Flores and Ms. Julieta Flores.”

920. On October 4, 2013, the IACHR asked the parties for updated information on the status of compliance with pending commitments.

921. Regarding the obligation to investigate, prosecute, and punish, the State reiterated that it has been following up on its implementation. It reported that the Office of the Prosecutor Specialized in Human Rights of the Office of the Attorney General of the State of Chiapas was the institution entrusted with seeing to it that the investigations be conducted in a diligent manner. As regards the crime of rape committed against one of the victims, it reported that the Office of the Public Prosecutor (Ministerio Público) filed a criminal action on September 13, 2012, against seven persons. It highlighted that the victim has been able to gain access to the files and to the proceeding and ratified its commitment to guarantee her right to assistance. As regards the investigation into the crimes committed against Reyes Penagos and Enrique Flores, he indicated that the administrative and criminal investigations into the public servants involved were exhausted and the corresponding sanctions applied.

922. The petitioners indicated that the State has failed to take steps to effectively investigate the extrajudicial execution of Mr. Reyes Penagos and the illegal detention and torture of Mr. Enrique Flores and Ms. Julieta Flores. They noted that the State has only made reference to certain steps in the investigations of the crime committed against Ms. Julieta Flores but no reference has been made to the human rights violations to the detriment of other victims.

923. On December 12, 2014, the IACHR requested information on compliance once again from the parties. Thus far, no response has been received from either of them.

924. Based on the above, the IACHR concludes that there has been partial compliance with the friendly settlement agreement. As a result, the Commission will continue to monitor the pending item.

Case 12.228, Report No. 117/09, Alfonso Martín del Campo Dodd (Mexico)

925. In its Report No. 63/02 of October 22, 2002, the IACHR concluded that the Mexican State was responsible for violation of articles 5, 7, 8(1), 8(2), 8(3) and 25 of the American Convention, and articles 6, 8 and 10 of the Inter-American Convention to Prevent and Punish Torture, all in violation of its duty to respect and ensure the Convention-protected rights, undertaken in Article 1(1) of the American Convention, to the detriment of Mr. Alfonso Martín del Campo Dodd. The Mexican State incurred responsibility for these violations by virtue of the fact that Mexico City’s judicial police had arbitrarily detained the victim and then subjected him to torture and other forms of cruel, inhuman and degrading treatment, all in order to force him to confess to the double homicide of his sister and brother-in-law; the State also failed to observe the guarantees of due process in the trial prosecuted against Alfonso Martín del Campo Dodd, particularly in the case of his right to be presumed innocent, inasmuch as the various magistrates ignored his complaints of torture and gave credence to a confession made under torture.

926. The Commission made the following recommendations to the State:

1. Take the necessary measures to throw out the confession obtained by means of torture in facilities of the PGJDF on 30 May 1992 and all legal action deriving therefrom; review the entire judicial proceeding against the victim in this case; and order the immediate release of Alfonso Martín del Campo Dodd while such measures are in process.
2. Carry out a complete, impartial, and effective investigation to determine the culpability of all those who violated the human rights of Alfonso Martín del Campo Dodd.
3. Provide appropriate compensation to Alfonso Martín del Campo Dodd for the violations of [...] human rights established herein.

927. In view of the State's failure to comply with the recommendations and in application of Article 50 of the American Convention and Article 44 of its Rules of Procedure, the Commission decided to refer the matter to the Inter-American Court. The application was filed on January 30, 2003.

928. On September 3, 2004, the Inter-American Court issued its judgment on the Preliminary Objections in this case. There, it decided to admit the preliminary objection *ratione temporis* brought by the State and ordered the case closed.

929. Since that time the Commission undertook an analysis of the possible follow-up of the recommendations contained in its Report No. 63/02. After a careful examination of both sides' arguments, the Commission concluded that, under Article 51(2) of the Convention, the State was still bound by the obligation to comply with the Commission's recommendations.

930. The Commission reasoned that according to the principles of efficacy, utility and good faith that govern the obligations of states in human rights matters, should the Inter-American Commission's application not meet the formal requirements for submission to the Court, the Commission nonetheless retains its competence to exercise its authorities under Article 51 of the American Convention.⁹² It also considered that "in the absence of a judgment on merit that considers "[i]f [the Court finds that] there has been a violation of a right or freedom protected by this Convention," pursuant to Article 63 of the American Convention, the State's treaty obligation to comply in good faith with issued recommendations, based on the responsibility established in Report No. 62/02, remains."⁹³

931. Therefore, on March 30, 2009, the IACHR adopted its Merits Report No. 33/09 (Article 51 Report), wherein it examined compliance with the recommendations made to Mexico and concluded that they had not been effectively implemented. Given this fact, it confirmed the conclusions it reached in Report 63/02 and reiterated its recommendations.

932. Finally, on November 12, 2009, the IACHR approved Merits Report No. 117/09 (Article 51 Report – Publication). There, the Commission again reiterated the conclusions adopted on the situation denounced by Mr. Alfonso Martín del Campo Dodd and its recommendations to the State.

933. In a communication dated October 7, 2013, the IACHR requested updated information from the parties concerning the status of compliance with the recommendations made in the present case.

934. By means of several communications, though more specifically in their response of November 7, 2013, the petitioners contended that more than eleven years have elapsed since the IACHR issued its recommendations and over the course of that period of time, the State has not complied with any of the recommendations. The petitioners claimed that that Mr. Campo Dodd continued to be deprived of his freedom. They reported that in August 2010 Mr. Martín del Campo Dodd submitted a petition for recognition of innocence to the Seventh Criminal Chamber of the Superior Court of Justice of the Federal District. In that petition, he referred to the international processing of the case and on November 25, 2011, that Chamber declared his petition unfounded. They added that on November 16, 2011, an amparo proceeding was brought against said decision, which is still under consideration as of the present time. They noted that on August 17, 2012, nine months after the amparo claim was filed, the Sixth Court ruled in their favor on April 30, 2013. As the terms of the ruling were regarded as being highly vague and failing to make the effects thereof clear, both parties filed a motion for review.

⁹² IACHR, Report No. 117/09, Case 12.228, Merits (Publication), Alfonso Martín Del Campo Dodd, Mexico, November 12, 2009, paragraph 110.

⁹³ IACHR, Report No. 117/09, Case 12.228, Merits (Publication), Alfonso Martín Del Campo Dodd, Mexico, November 12, 2009, paragraph 112.

935. In a communication of September 12, 2014, sent by the petitioners, they asserted that the legal representative of Mr. Martín del Campo filed a motion for the Supreme Court to exercise its power to settle the motion to review, normally the province of the Circuit Court (atracción). Accordingly, on November 6, 2013, the First Chamber of the SCJN, unanimously decided to take the case and the writing of the draft ruling was assigned by turn to a justice. On July 2, 2014, the discussion was conducted on said draft ruling, which argued that, based on Article 36 of the Human Rights Program Law of the Federal District, the reports of the IACHR and the decisions of the Working Group on Arbitrary Detention are binding on officials of the Federal District and, therefore, it is appropriate to order the immediate release of Mr. Martín del Campo. Because the members of the Court were unable to reach an agreement, the matter was certified out to another chamber and a vote was conducted in late 2014.

936. In a communication of October 29, 2014, the Mexican State wrote that it had a difference of opinion with the IACHR as to the interpretation of its power to publish merits reports, when the Inter-American Court has previously determined that it does not have jurisdiction to hear a case. In the view of the Mexican State, if a case is referred to the Court, regardless of whether or not the Court rules on the merits, the IACHR may no longer publish the merits report, inasmuch as it would undermine legal certainty of the State. Thus, in its communication, the Mexican State interprets the procedural powers of the IACHR in accordance with the Vienna Convention and ends by proposing for it and the IACHR jointly request an advisory opinion. Based on all of the foregoing reasoning, the State concludes it will not provide any further observations on this case to the IACHR.

937. On December 5, 2014, the IACHR requested information on compliance with the recommendations. On January 5, 2015, the petitioners claimed that even though the State had reiterated that it did not recognize the jurisdiction of the IACHR to publish the merits report, the representative of the State accepted that options are available in the domestic arena, which could provide for the release of the victim. Accordingly, they recapped the steps that have been taken in the domestic proceedings aimed at finding the victim innocent.

938. Based on the above, the IACHR concludes that the recommendations summarized above are still pending compliance. As a result, it will continue to monitor compliance therewith.

Case 12.642, Report on Friendly Settlement Agreement No. 90/10, José Iván Correa Arévalo (Mexico)

939. On July 15, 2010, in Report No. 90/10, the Commission approved a friendly settlement agreement in the case of José Iván Correa Arévalo. The petition alleged that José Iván Correa Arévalo, a young 17-year-old student died on May 28, 1991 as the result of a gunshot wound to his head. The petition argued that the death of the young José Iván – which was linked to his role as an independent student leader – had not been diligently investigated by the Mexican authorities and that those responsible for his death were not convicted. In summary, the petitioners alleged that the investigation conducted by the Office of the Attorney General of the State of Chiapas had been prosecuted without due diligence and that, despite the passage of many years, Mexican justice had not succeeded in determining the motives for the murder of the alleged victim nor had it punished those responsible.

940. In its report, the IACHR noted that the parties signed a Working Meeting Agreement, whereby 7 items were agreed to, in a working meeting held on October 24, 2008 during the 133rd regular session of the IACHR. On March 21, 2009, during the working meeting held at the 134th regular session of the IACHR, the parties entered into a working meeting agreement, in which they recognized “compliance with the instant friendly settlement agreeing to continue to monitor items 1 and 4 of the Working Meeting Agreement of October 24, 2008 [.]”. Said items are the following:

1. That through the Ministry of Justice of the State of Chiapas, the Mexican State undertakes to continue to conduct a diligent and thorough investigation and open new lines of investigation to promptly uncover the historic truth about the homicide of Jose Iván Correa Arévalo. Throughout the investigations, working meetings will

be conducted between the agents in charge and those assisting in order to fully review the case file.

2. That through the Ministry of Justice of the State of Chiapas, the Mexican State undertakes to enter Mr. Juan Ignacio Correa López into the Social Interest Housing Program, as provided under the terms of the Working Meeting Minutes signed in the State of Chiapas on October 8, 2008.

941. On October 4, 2013, the IACHR asked the parties for updated information on the status of implementation of the commitments pending. The State did not provide any information. The petitioners insisted that the State had failed to investigate the facts. In particular, they indicated that even though there is sufficient information to determine that the case was a homicide, no investigative actions have been taken to determine the direct perpetrators or the authorities who aided and abetted the crime.

942. On December 12, 2014, the IACHR made another request for information on compliance with the recommendations. On January 12, 2015, the petitioners reiterated that the case has remained in impunity inasmuch as the Mexican State, thus far, has not kept its commitment to continue to conduct a diligent and thorough investigation.

943. In view of the foregoing, the IACHR concludes that there has been partial compliance with the friendly settlement agreement. As a result, the Commission will continue to monitor the pending items.

Case 12.551, Report No. 51/13, Paloma Angélica Escobar Ledezma *Et. Al.* (Mexico)

944. The case refers to the lack of a timely, immediate, serious, and impartial investigation into the disappearance and subsequent death of the girl Paloma Angélica Escobar Ledezma, of age 16, whose body was found nearly one month after she disappeared, by a family of passersby at kilometer 4.5 on the highway from Chihuahua to Aldama.

945. In its Report No. 113/12, the IACHR concluded that the Mexican State is responsible—to the detriment of Paloma Angélica Escobar—for violations of the right to a fair trial and judicial protection, the rights of the child, the right to equal protection under the law, enshrined, respectively, in Articles 8(1), 19, 24, and 25 of the American Convention, all in conjunction with the obligations imposed on the State by Articles 1(1) and 2 thereof. The IACHR further concluded that the State violated the rights of Paloma Angélica Escobar under Article 7 of the Convention of Belém do Pará. Lastly, regarding Norma Ledezma Ortega, Dolores Alberto Escobar Hinojos, and Fabián Alberto Escobar Ledezma, the Commission concluded that the Mexican State violated the right to humane treatment enshrined in Article 5(1) of the American Convention, in conjunction with the obligation Article 1(1) of that treaty imposes on the State, as well as the right to a fair trial and judicial protection enshrined in Articles 8(1) and 25 of the American Convention with respect to the obligation imposed on the State by Articles 1(1) and 2 thereof.

946. On August 3 and 4, 2011, the parties reached two agreements regarding compliance with the recommendations of Merits Report No. 87/10. In its Report No. 51/13, the IACHR observed that the State of Mexico had made substantial progress in implementing the recommendations contained in Report No. 87/10 and valued the efforts made by both parties to implement its recommendations. In that report, the Commission reiterated all of the recommendations to the Mexican State and determined that 10 points of the compliance agreement reached by the parties had been implemented.⁹⁴

947. On December 5, 2014, the IACHR asked the parties for information on compliance with the recommendations. On February 2, 2015, the State provided the information requested. The petitioners likewise submitted information on February 16, 2015. Below is a detailed account of the current status of

⁹⁴ IACHR, Report No. 51/13, Case 12.551 Paloma Angélica Escobar Ledezma *Et. Al.*, Merits, Mexico.

each of the commitments taken on to comply with the Commission's recommendations, followed by a summary of the information provided by the parties and the respective analysis made by the IACHR on compliance therewith:

Actions established in the compliance agreement on the recommendations issued in the Merits Report No. 87/10	Status of Compliance
Recommendation No. 1: Complete the investigation in a timely, immediate, serious, and impartial manner for the purpose of clarifying the murder of Paloma Angélica Escobar and identifying, prosecuting, and, as appropriate, punishing the persons responsible.	
Conduct a meaningful, impartial, and thorough investigation with due diligence into the disappearance and subsequent murder of Paloma Angélica Escobar Ledezma, to which end, the State should adopt all necessary judicial and administrative measures to complete the investigation; locate, prosecute, and, where appropriate, punish the architects and perpetrators of the crimes; and present a report on the results.	In process.
Provide Norma Ledezma with a monthly written report on the lines of investigation, procedures, and activities pursued in the case until it is clarified and, as appropriate, the persons responsible, punished.	Implemented.
Review and, as appropriate, exhaust the lines of investigation proposed by Norma Ledezma Ortega.	In process.
Ensure in full the third-party rights of Mrs. Norma Ledezma Ortega.	Implemented.
Recommendation No. 2: Make full reparation to the next-of-kin of Paloma Angélica Escobar for the violations of human rights established herein.	
Draw up a separate document, which shall be signed by the representatives of the State and Mr. Escobar Hinojos, recognizing to Mr. Escobar Hinojos, a sum in non-pecuniary damages of [...]	Implemented.
The Mexican State, through the Federal Government, will make a cash payment to the victims, Norma Ledezma and Fabián Alberto Escobar Ledezma, of a total of [...].	Implemented.
The Government of the State of Chihuahua will grant Fabián Alberto Escobar Ledezma economic assistance to pay for his university and postgraduate studies [...].	Implemented.
Norma Ledezma Ortega will receive from the State Government, [...] a dwelling from the State [...] at a location to be agreed upon by the State Government and the victim. The dwelling will be delivered within not more than three months counted from the date of the signing of this Agreement.	In process.
Provide the petitioners with medical and psychological care for as long as they may need.	Implemented.
The public ceremony of acknowledgment of responsibility held by common consent.	Implemented.
The Government of the State of Chihuahua promises that the Center for Justice for Women of the City of Chihuahua, [...] in memory of Paloma Angelica Escobar Ledezma, will carry her name.	Implemented.
To build a memorial that will include a water fountain and pigeons, as well as a commemorative plaque [...].	Implemented.
[...] inauguration of the memorial [...]at the same time as the public ceremony of acknowledgment of responsibility [...].	Implemented.
Recommendation No. 3: Implement, as a measure of non-repetition, a coordinated and comprehensive state policy, backed with adequate public resources, to ensure that specific cases of violence against women are adequately prevented, investigated, punished, and remedied in the city of Chihuahua.	
To complete the creation of the Special Prosecution Unit. [...] Furthermore, it shall appoint the head of the Prosecution Unit and allocate sufficient material and financial resources, within its financial and budgetary capacities, for the Unit to operate in all four of the State's zones.	Implemented.

<p>To design a personnel training program on assistance to victims to ensure that they receive the necessary instruction on the psychosocial impact of human rights violations and violence against women. To that end, within the time limits set forth in this agreement, an awareness and training workshop will be held for professional staff of the State Health Care System and the Special Prosecution Unit for Assistance to Crime Victims and Injured Parties attached to the Office of the State Prosecutor General, which will be led by experts on the subject.</p>	<p>In process.</p>
<p>The Secretariat of the Interior will carry out a 12-month nationwide campaign consisting of publicizing government mechanisms available to both authorities and private citizens for collecting data, records, and facts about disappeared persons cases, in order to continue the creation of the various databases by the state authorities, which will be administered by the Office of the Attorney General of the Republic using a standard software package called CODIS.</p>	<p>The IACHR does not have enough information to determine the advances.</p>
<p>The State Government undertakes to continue to follow the procedures set forth in the Law Governing the Genetic Database for the State of Chihuahua. This undertaking includes the Federal Government, through the Office of the Attorney General of the Republic, screening genetic samples in an attempt to find matches between family members and victims.</p>	<p>The IACHR does not have enough information to determine the advances.</p>
<p>Within the State of Chihuahua, the State authorities pledge that as part of the consultations for the preparation of investigation protocols for disappeared women and female homicides, the consultation of the organization Justicia para Nuestras Hijas will be ensured and the effort made to heed their observations, and that instruction on the proper implementation of those protocols will be imparted by personnel suitably trained to that end.</p>	<p>In process.</p>
<p>Recommendation 4: Adopt reforms in state education programs, starting at the pre-school and early stage, in order to promote respect for women as equals and observance of their right not to be subjected to violence or discrimination.</p>	
<p>The State Government and the Federal Government shall encourage the inclusion of gender and human rights as a course subject in the curricula of primary, secondary, and preparatory schools, as well as public universities. To that end, insofar as the Federal Government is concerned, through the Committee on Government Policy on Human Rights, it shall invite civil society organizations to participate in the consultations that the Subcommittee on Education will coordinate, with a view to developing a concrete plan for including gender and human rights as a subject in the above curricula, which shall be submitted at the next meeting of the Committee on Government Policy on Human Rights.</p>	<p>The IACHR does not have enough information to determine the advances.</p>
<p>Recommendation 5: Investigate the irregularities in the investigation of the case that have been committed by state agents and punish the persons responsible.</p>	
<p>As regards measures designed to impose criminal or administrative penalties on officials who were involved in the investigation, verify that all the investigations that were opened into those crimes have been carried out, and notify Norma Ledezma Ortega of the results obtained and the persons responsible.</p>	<p>In process.</p>
<p>The Government of the State of Chihuahua commits to setting up a review board with Norma Ledezma Ortega, in coordination with the Special Prosecution Unit for Oversight, Review, and Evaluation, to conduct a detailed examination of the ministerial actions taken and, should it suggest suspected responsibility on the part of other officials, to institute the appropriate administrative and/or criminal proceedings in accordance with the applicable laws.</p>	<p>In process.</p>
<p>Recommendation 6: Strengthen the institutional capacity to fight impunity in response to cases of violence against women in the state of Chihuahua through effective criminal investigations with a gender perspective that have consistent judicial follow-up, thereby guaranteeing adequate punishment and reparation.</p>	
<p>Present the Protocol for Investigation of Female Homicides with a gender perspective and to include Paloma's name in it. The State will furnish the petitioners and Norma Ledezma with the relevant draft within three months in order to receive her comments and those of her representatives.</p>	<p>Implemented.</p>
<p>Draft and disseminate a Charter on the Rights of Crime Victims in line with the restructuring of the Female Homicide and Missing Persons Investigation Unit and, at the appropriate time, the Special Prosecution Unit. The State Government undertakes to present the draft to Justicia para Nuestras Hijas and, as appropriate, other organizations with an interest in the subject. It also pledges the widespread distribution of the Charter, for which purpose it will print 3,000 copies.</p>	<p>Implemented.</p>

Recommendation 7: Implement public awareness measures and campaigns on the duty to observe and ensure children’s human rights.	
Regarding the implementation of public awareness measures and campaigns on the duty to observe and ensure children’s human rights, the State Government commits to heeding the opinions on the content of those campaigns of Justicia de Nuestras Hijas and other organizations specializing in the subject.	The IACHR does not have enough information to determine the advances.
Recommendation 8: Develop training programs for state officials that take into account the international standards established in the Istanbul Protocol, so that those officials have the technical and scientific foundations necessary for evaluating the murders of women.	
So as to have in place an effective training program, the Government of the State of Chihuahua shall impart said training to specialized personnel with the appropriate profile in criminal investigations with the aim of certifying and strengthening the capacity of personnel in charge of investigating disappearances of women and girls, feminicides, and trafficking in persons, taking into account the particular context of the State, a gender perspective, and effective implementation of the investigation protocols agreed upon among the parties. In particular, the instruction courses shall ensure the provision of training to all the personnel of the Special Prosecution Unit in question; the trainers and topics may be suggested by Norma Ledezma and/or her representatives.	In process.
Recommendation 9: Continue adopting public policies and institutional programs aimed at restructuring stereotypes concerning the role of women in the state of Chihuahua and promoting the eradication of discriminatory sociocultural patterns that impede their full access to justice, including training programs for public officials in all state sectors, including the education sector, the different branches of justice administration and the police, and comprehensive prevention policies.	
Media Sensitization Strategy “For a Mexico Free of Violence against Women”: The National Commission for the Prevention and Eradication of Violence against Women (CONAVIM) will be instructed to launch a sensitization strategy targeting the media for a Mexico free of violence against women. The engagement will be sought of civil society organizations, academic institutions, the media, and journalists.	In process.
The State Government promises to publish and distribute to the State’s public libraries, nongovernmental organizations, and community centers a book entitled Justicia para Nuestras Hijas [Justice for Our Daughters] with a prologue written by Norma Ledezma and agreed upon with the State Government. The book will contain a compilation of laws on women’s human rights [...].	In process.
The State Government recognizes the contribution of the civil association Justicia para Nuestras Hijas, [...] therefore, it undertakes to arrange an agreement with the State-owned in-bond sector so that the organization can present and implement its program.	Implemented.

948. Regarding recommendation 1, the State provided information about the lines of enquiry being pursued with respect to the case and indicated, in general terms, the actions that have been undertaken according to the timeline of the investigation, having collected 345 witness statements, 203 police reports, and 95 expert opinions. The State indicated that it has continued to implement the working meetings with Ms. Ledezma Ortega.

949. For their part, the petitioners indicated that the problems with the investigation are intimately related to the deficiencies that took place during its initial stage, and additionally to a lack of resources, time, and materials from the Chihuahua Police and a lack of coordination among agents of the Public Ministry and the Investigative Police who have failed to communicate the information internally. The petitioners further noted that meetings with the Office of the Prosecutor have become repetitive inasmuch as the agreements on how to proceed have not been implemented. The petitioners criticize the fact that the investigators are unfamiliar with the content of the Commission’s Merits Report and that the Office of the Special Prosecutor for Assistance to Women Victims of Gender-based Crimes took Ms. Ledezma’s statement on the same points on a number of occasions, which they believe to be “unproductive, denigrating, and a re-victimization.”

950. The petitioners reported that 8 of the 12 monthly written reports the State was to provide to Ms. Ledezma in 2014 were delivered, and that besides the fact that this, in and of itself, constitutes a lack of compliance, those reports did not provide an account of progress made in the investigation because there has been none. Lastly, they indicated that no formal meetings have been held in the past two years to review the investigation and reiterated that timely actions have not been taken with respect to the lines of investigation due to a lack of personnel put in charge of the investigations.

951. The IACHR takes note of the information provided by the parties and, on this issue, considers that progress still needs to be made in the investigations in order to ensure compliance with recommendation 1. In light of the foregoing, the IACHR believes that recommendation 1 is in the process of being implemented. The Commission urges the State to continue providing written reports on the investigation to Ms. Ledezma.

952. With respect to recommendation 2, the parties both reported that the State has made the last payment that was pending to Fabián Escobar Ledezma. Regarding the dwelling to be turned over to Ms. Ledezma, the State reported that it has not been possible to comply with this point inasmuch as the petitioner has given “personal reasons to postpone delivery thereof,” and reiterated its full willingness to formalize delivery. On this issue, the petitioners indicated that while the dwelling had indeed been assigned in 2013, the victim had refused to receive it because it failed to meet minimum safety standards in that it lacked a door and was quite deteriorated by the rain. According to the petitioners, the dwelling in question had been assigned to a different family, without another being assigned to Ms. Ledezma. The petitioners also criticized the fact that the dwelling being offered is located in an area that has been the subject of complaints made by its residents because of high levels of lead present in the environment.

953. The IACHR takes note of the information provided by the parties and values the efforts the State has made to fully implement recommendation 2 as far as reparations are concerned. Specifically, the Commission takes a positive view of the fact that the State has fulfilled one of the two points pending for compliance, this is, the payment of Fabián Escobar Ledezma’s studies. The Commission further observes that the commitment taken on by the State to deliver a dwelling to Ms. Ledezma included having the government and the victim agree on the location thereof, and hence the IACHR urges the State to continue to make efforts firstly, to reach a consensus with the victim regarding the site of the dwelling she would live in, and secondly, to ensure that it meets minimum safety and health conditions when it is officially turned over to her. The Commission shall continue to monitor this point, which is the only one that remains pending for full implementation of recommendation 2.

954. Regarding recommendation 3, the State indicated that on July 21, 2014, the Constitutional Governor of the State of Chihuahua put to the consideration of Ms. Ledezma the protocols for handling crimes that fall to the Office of the Special Prosecutor for Assistance to Women Victims of Gender-based Crimes under the Office of the Attorney General of the State of Chihuahua, and is currently awaiting a response from the petitioners. The State did not report on the remaining points of the agreement for compliance with this recommendation.

955. In the case of this recommendation, the petitioners indicated that they lack information on the human and material resources that the Office of the Prosecutor has at its disposal. They also stated that they are not aware of the existence of a training program or any details about the focus thereof, nor do they have information about how the CODIS system is operating or about its dissemination campaign. The petitioners reported that the State has taken a number of actions to disseminate the disappearance mechanisms, but only online, which they consider to be inadequate given the fact that a portion of the population lacks access to the Internet; they further pointed out, along these same lines, that the campaign would have to bear in mind its target audience when it is being conducted. Lastly, the petitioners indicated that follow-up meetings were held in 2014 on the protocols, but that no protocols exist for investigating the disappearance of women. They indicated that there are two protocols currently in place: The Alba and Amber Alerts. Nevertheless, the former does not create clear strategies for investigation, and the latter applies only

to the search for minors. The petitioners did not confirm whether or not they completed their review of the protocols proposed by the State and presented their input for the final version.

956. The IACHR takes note of the information furnished by the parties and in such regard reiterates that the commitment to create the Office of the [Special] Prosecutor was declared implemented in the Merits Report 51/13.⁹⁵ The Commission further observes that it lacks sufficient information from the State on the development of the training program and on the CODIS dissemination campaign and urges the State to provide detailed information to both the IACHR and the petitioners regarding compliance with these points. Lastly, as regards the protocols, the Commission notes that when the Merits Report was issued, *Justicia para Nuestras Hijas* [Justice for Our Daughters] was in the final phase of reviewing the protocols and it is unclear whether its inputs were provided to the State for its consideration. In this respect the IACHR calls on the parties to engage in a dialogue about the points pending in such a way as to jointly fulfill this commitment in the near future.

957. The State did not present any information on activities designed to comply with recommendation 4. For their part, the petitioners indicated that the topics of gender and human rights have not yet been incorporated into primary, secondary, preparatory, and higher education curricula. The IACHR therefore considers that it lacks sufficient information for evaluating compliance with this commitment and urges the State to report on the incorporation of a gender component into school curricula as soon as possible.

958. As to recommendation 5, the State reported that an administrative investigation was launched under file number 211/2012 against nine government officials and provided details on the current status of each of those cases, eight of which are still awaiting a final judgment, and one of which reportedly ended in an administrative sanction of 30 days suspension without pay for one of the officials. The State also reported on eight administrative cases that were part of the same proceedings and were ultimately deemed groundless because those involved are not public servants with the Office of the Attorney General of the State. In this case, the State indicated that three of the individuals in question resigned and five passed away. The State added that as part of investigation 211/2012, an order was given to issue instructions to the Special Prosecutor for Investigating and Prosecuting Crime in the Central Zone and certified copies of the records of the investigation were forwarded so that a criminal investigation could be launched immediately against 12 public servants; hence, investigation file 7809-16273-2013 was opened in the Office of the Special Prosecutor for Investigating and Prosecuting Crime in the Central Zone, and is currently in the integration phase. Lastly, the State indicated that it remains in touch with Ms. Ledezma Ortega with whom it is jointly reviewing the integration of Preliminary Inquiry 77/202 and the administrative cases.

959. On this matter, the petitioners indicated that the investigations conducted have been neither complete nor effective since they have been limited to looking into the planting of evidence, while ignoring other irregularities, which is why Ms. Ledezma asked the authorities to examine all anomalies committed by any government official who was either directly or indirectly involved in the investigation into the case of Paloma Escobar Ledezma. The petitioners noted that the review board met for the first and only time in January 2012 and, since then, the head of the Office of the Special Prosecutor for Oversight has changed twice, after which Ms. Ledezma has reportedly not been apprised of the proceedings or of any actions taken.

960. The IACHR takes note of the information provided by the parties and highly values the efforts made by the State to punish the officials investigated administratively. In view thereof, the Commission will await up-to-date information on the final decisions establishing the remaining administrative sanctions, as well as on criminal case 7809-16273-2013, such that it may verify compliance with this recommendation. The IACHR is likewise awaiting documentation—minutes or other records—that will allow it to verify the way the review board is currently working with Ms. Ledezma.

⁹⁵ IACHR, Report No. 51/13, Case 12.551 Paloma Angélica Escobar Ledezma *Et. Al.*, Merits, Mexico. Page 91.

961. With respect to recommendation 6, the State indicated that the Charter on the Rights of Crime Victims was drafted and both distributed to various local authorities and posted in the different prosecutors offices and in other public institutions. The State included photographic evidence of the dissemination of the Charter in its report. The petitioners acknowledged that the Charter had been drafted, but indicate that it has not been disseminated. They further note that the Charter would need to be amended to include a reference to the 2013 General Law on Victims.

962. On this point, the IACHR takes note of the information provided by the parties and values the efforts made by both the State and the petitioners in drafting the Charter on the Rights of Crime Victims. With respect to this issue, the Commission considers that the State has fulfilled the commitment it made to draft and disseminate the Charter, as evidenced by the photographic records it submitted, and further believes that a second edition to update the Charter to include reference to the new General Law on Victims falls outside the scope of the agreement. The IACHR thus considers this point to have been fully implemented. As a result, in view of the fact that the other commitment taken on by the State with respect to this recommendation had been met previously, recommendation 6 of Report 51/13 is hereby declared to have been implemented in full.

963. Regarding recommendation 7, the petitioners indicated that Justicia para Nuestras Hijas has not been consulted with respect to any campaign to raise awareness on children's human rights, nor does it know if [such campaigns] have been carried out. The State did not provide information on this point. The IACHR therefore lacks sufficient information to evaluate compliance with this measure and urges the parties to work together to develop such a campaign as soon as possible.

964. With respect to recommendation 8, the State reported that a Cooperation Agreement was reached on October 17, 2014, with the Secretariat for Government, within the Fideicomiso para el Cumplimiento de Obligaciones en Materia de Derechos Humanos [Trust for Meeting Human Rights-related Obligations]; the purpose of the agreement is to transfer federal funds for the development of programs related to this point. The petitioners reiterated that they have no information on compliance with this commitment. The IACHR takes note of the aforementioned cooperation agreement and awaits detailed information from the State on fulfillment of the commitment to train state officials that it took on under the agreement reached in this case.

965. As to recommendation 9, the State indicated that it continues to await a draft of the prologue to the book Justicia para Nuestras Hijas [Justice for Our Daughters] from Ms. Ledezma. The Dirección General de Normatividad [General Office on Existing Legislation] has not yet received that information, and therefore has been unable to print and distribute the book. The State made no reference to the awareness-raising campaign targeting the media. The petitioners indicated that Ms. Ledezma has written the prologue for the book and that an agreement has been reached to launch the book in connection with the anniversary of the Justicia para Nuestras Hijas Association. Lastly, they indicated that no awareness-raising strategy has been developed. As a result, the IACHR believes that as far as publication of the book is concerned, the commitment is in the process of being met. As to the awareness-raising campaign targeting the media, the Commission calls on the State to provide information on this commitment such that it may evaluate the status of compliance.

966. In light of the foregoing, the IACHR concludes that the State has partially implemented the recommendations contained in Merits Report No. 51/13.

Case 11.381, Report No. 100/01, Milton García Fajardo (Nicaragua)

967. In Report No. 100/01 of October 11 2001, the Commission concluded that the Nicaraguan State: (a) violated, to the detriment of Milton García Fajardo, Cristóbal Ruiz Lazo, Ramón Roa Parajón, Leonel Arguello Luna, César Chavarría Vargas, Francisco Obregón García, Aníbal Reyes Pérez, Mario Sánchez Paz, Frank Cortés, Arnoldo José Cardoza, Leonardo Solís, René Varela, and Orlando Vilchez Florez, the right to humane treatment, contained in Article 5 of the American Convention on Human Rights; and (b) violated, to the detriment of Milton García Fajardo and the 141 workers who are included in this complaint, the rights to

judicial guarantees and judicial protection, and economic, social, and cultural rights, protected by Articles 8, 25, and 26 of that international instrument, in relation to the general obligation to respect and ensure the rights, provided for in Article 1(1) of the same Convention.

968. According to the complaint, on May 26, 1993, the customs workers went on strike after having sought unsuccessfully to negotiate, through the Ministry of Labor, a set of petitions that demanded, among other things, the nominal reclassification of the particular and common positions at the General Bureau of Customs, labor stability, and 20 percent indexing of salaries in keeping with the devaluation. The Ministry of Labor resolved, on May 27, 1993, to declare the strike illegal, arguing that Article 227 of the Labor Code did not permit the exercise of that right for public service workers or workers whose activity is in the collective interest. The petitioners also alleged that the Police made disproportionate use of force during the strike held by the workers on June 9 and 10, 1993.

969. The Commission made the following recommendations to the State:

1. To conduct a complete, impartial, and effective investigation to establish the criminal responsibility of the persons who inflicted the injuries caused to the detriment of Milton García Fajardo, Cristóbal Ruiz Lazo, Ramón Roa Parajón, Leonel Arguello Luna, César Chavarría Vargas, Francisco Obregón García, Aníbal Reyes Pérez, Mario Sánchez Paz, Frank Cortés, Arnoldo José Cardoza, Leonardo Solís, René Varela and Orlando Vilchez Florez, and to punish those responsible in accordance with Nicaraguan law.

2. To adopt the measures necessary to enable the 142 customs workers who lodged this petition to receive adequate and timely compensation for the violations of their human rights established herein.

970. On April 4, 2001, the Commission approved Report No. 56/01 (Article 51 Report), in which it reiterated for the Nicaraguan State the conclusions and recommendations contained in its report 80/00; on October 11, 2001, it adopted its Merits Report No. 100/01 (Article 51 Report – Publication), in which it ordered publication of the above-mentioned reports and reiterated yet again the conclusions and recommendations contained in Report 80/00.

971. Subsequent to these events, the State repeatedly told the Commission that the first recommendation could not be carried out, since criminal prosecution was timed barred under Nicaragua's statute of limitations.

972. On the other hand, the Commission observes that in order to comply with the second recommendation, on June 7, 2007 the State and 113 victims signed an "Agreements and Commitments" (which another 20 workers later signed). In that agreement, Nicaragua pledged to pay the sum of 125 thousand cordobas to each of the 144 victims in this case, within a period of 5 years; to recognize contributions not drawn and contributed to the INSS for the 14 years not worked; and to make every effort possible to gradually rehire, somewhere in the public sector, those petitioners who were former Customs employees. On the other hand, the Commission understands that no agreement was reached with 6 of the petitioners.

973. On October 4, 2013, the Commission asked the parties to submit updated information on the status of compliance with the recommendations. The State did not provide information.

974. On November 7, 2013 co-petitioners CEJIL and CENIDH reported that they had no observations. Mr. Alfredo Barberena Campos, the victim in the case, and his representative, said that the State had not carried out the commitments signed on June 7, 2007. In addition, on September 23, 2013, the IACHR received a communication from 25 members of a commission of former customs workers directed to the CENIDH in which they affirm that the State continues to fail to carry out the recommendations set forth in Report 100/01 despite many efforts made by the corresponding institutions.

975. On November 25, 2014, the IACHR made another request for information on compliance. On December 18, 2014, the petitioners sent a communication to the IACHR reporting that the recommendations issued by it in the instant case are still pending compliance by the State. They also reported that requests have been made in the domestic arena to hold a meeting on compliance with the recommendations and that the State has not replied.

976. The IACHR takes note of the agreement signed between the State and most of the victims in 2007 and again urges the State to submit the parameters that were used as the basis for the compensation figures in that agreement. Regarding the investigation to determine the criminal responsibility of all the perpetrators of the offenses against the victims, the IACHR again reminds the State of its obligation to investigate and sanction those who prove to be responsible for human rights violations.

977. Based on the above, the IACHR concludes that the State has partially complied with its recommendations. As a result, it will continue to monitor the pending items.

Case 11506, Report No. 77/02, Waldemar Gerónimo Pinheiro and José Víctor Dos Santos (Paraguay)

978. In Report No. 77/02 of December 27, 2002, the Commission concluded that the Paraguayan State: (a) had violated, with respect to Waldemar Gerónimo Pinheiro and José Víctor Dos Santos, the rights to personal liberty and judicial guarantees, enshrined in Articles 7 and 8 of the American Convention, with respect to the facts subsequent to August 24, 1989; and (b) had violated, with respect to Waldemar Gerónimo Pinheiro and José Víctor Dos Santos, the rights of protection from arbitrary arrest and to due process established by Articles XXV and XXVI of the American Declaration on the Rights and Duties of Man for the events that occurred prior to August 24, 1989.

979. The IACHR made the following recommendations to the State:

1. Make full reparation to Mr. Waldemar Gerónimo Pinheiro, which includes appropriate compensation.
2. Make full reparation to Mr. José Víctor Dos Santos, which includes appropriate compensation.
3. Such reparation should be commensurate with the harm done, which implies that compensation should be greater for Mr. José Víctor Dos Santos, given that he spent eight years in prison, with no legal justification for his detention.
4. Order an investigation to determine who was responsible for the violations ascertained by the Commission and punish them.
5. Take the necessary steps to prevent such violations from recurring.

980. In 2010, the Commission requested updated information from the parties. In a note dated November 22, 2010, the State requested a two-month extension to answer the request for information concerning compliance with the recommendations, in part because it did not know where the petitioners were. By the completion of this Annual Report, the parties had not presented any information regarding compliance with the Commission's recommendations.

981. On December 5, 2012, the IACHR requested the parties to provide updated information on the status of compliance with the recommendations set forth in the report on the merits; the State did not send the information requested. On February 13, 2015, the IACHR repeated its request to the State to provide updated information, particularly on the steps taken to locate the victims. As of the writing of this report, the information solicited had not been received.

982. Because of this, the Commission concludes that compliance with the recommendations continues to be pending. As a result, the Commission shall continue to monitor its compliance.

Case 11607, Report No. 85/09, Víctor Hugo Maciel (Paraguay)

983. In Report No. 85/09 of August 6, 2009, the Commission concluded that the Paraguayan State had violated the right to personal liberty, the right to humane treatment, the right to life, children's right to special measures of protection, the right to judicial protection and the right to judicial guarantees, recognized, respectively in articles 7, 5, 4, 19, 25 and 8 of the American Convention. Summarizing, they alleged that Víctor Hugo Maciel, a child 15 years of age, was recruited on August 6, 1995, to perform Compulsory Military Service (SMO) in the Paraguayan Army, even though his parents expressly objected; he died on October 2, 1995, as a result of excessive physical exertion, known in Paraguay as "flaying", a punishment for a mistake made during the so-called "closed drill." The petitioners stated that Maciel, a minor, was suffering from Chagas disease in its chronic stage, the most evident symptoms of which are heart irregularities. The petitioners alleged that a summary inquiry was launched in the military courts, and the case was dismissed on December 4, 1995. Another inquiry was under way in the regular court system, because of the media attention that the case had received and the interest shown by members of the Senate Human Rights Commission. Even so, that inquiry did not move forward.

984. On March 8, 2005, the Inter-American Commission on Human Rights adopted Report No. 34/05, pursuant to Article 50 of the American Convention. The Paraguayan State was notified on April 20, 2005, and given two months to comply with the recommendations. In a communication dated June 17, 2005, the State requested that the time period established in Article 51(1) of the American Convention be suspended and formally requested the possibility of seeking a compliance agreement with the petitioners based on its acknowledgment of its international responsibility for the facts that gave rise to this case, which was accepted by the petitioners. On March 22, 2006, the petitioners and the State signed a friendly settlement agreement.

985. In Report No. 85/09, the Commission concluded that despite the substantial progress made to comply with the March 22, 2006 Compliance Agreement, the State had only partially complied with the recommendation made by the IACHR in Report No. 34/05 concerning the State's obligation to investigate the facts denounced. The Commission therefore recommended to the Paraguayan State the following:

1. That it complete a full, fair and effective investigation of the facts of this case for the purpose of trying and punishing the material and intellectual authors of the human rights violations committed to the detriment of Víctor Hugo Maciel Alcaraz.

986. In a note dated December 29, 2010, the State reported that the case titled "Complaint entered by the Attorney General of the State in connection with the Death of Conscript Victor Hugo Maciel Alcaraz. Case No. 397/95" was with Examining and Sentencing Court No. 3, awaiting the testimony of four witnesses, as well other evidence.

987. For their part, in a communication dated December 21, 2010, the petitioners asserted that the State had not taken any steps to conduct a useful investigation to determine the identity of those responsible for the events that resulted in Víctor Hugo Maciel's death. It had thus failed to comply with the Commission's recommendation. The petitioners pointed out that four years had passed since the summary proceeding was reopened, yet the procedures and proceedings had been inadequate, barely functional and without any strategic direction encompassing every aspect of the case. This information was reiterated by the petitioners in their reports dated November 21, 2011, January 4, 2013, November 15, 2013, and December 18, 2014.

988. In its communication of February 29, 2012, the State referred to certain steps taken to move the investigation forward. In this sense, the State reported that it had requested the National Armed Forces to provide information on medical inspection protocols for the admission and rejection of applicants or recruits; it had also sent the official witness notification documents to be served; it requested the court to

mandate the judge to remit the record of the testimony of a witnesses; and, requested that a note be added to the file. The State indicated in its communication that it was gathering evidence so that it could pursue investigations, but that it had not yet been able to file any charges.

989. On December 4, 2014, the IACHR requested the parties to provide updated information on the status of compliance with Report No. 34/25. As of the writing of this report, no information had been received from the State.

990. The Commission observes the lack of compliance with the recommendation regarding the investigation, prosecution, and punishment of human rights violations committed to the detriment of Víctor Hugo Maciel. Therefore, the IACHR concludes that the friendly settlement agreement that the parties signed on March 22, 2006, has been only partially honored.

Case 12.358, Report No. 24/13, Octavio Rubén González Acosta (Paraguay)

991. On March 20, 2013, the IACHR approved Friendly Settlement Report No. 24/13 in Case 12.358, Octavio Rubén González Acosta versus the State of Paraguay. The case referred to the alleged arbitrary detention, torture, and forced disappearance of Octavio Rubén González Acosta by agents of the Investigations Department of the Capital Police. Pursuant to the terms of that agreement, the State committed to do the following:

1. Recognize its international responsibility for the acts of arbitrary detention, torture, and forced disappearance perpetrated by State agents in violation of the rights of the victim himself, Octavio Rubén González Acosta, and of his next of kin, namely, his wife, Mrs. Adela Elvira Herrera de González, and their children Guillermo and Mariano González.
2. Publicly acknowledge its responsibility for the forced disappearance of Octavio Rubén González Acosta and make a public apology to his next of kin.
3. Advance in the criminal courts the investigation into the facts that led to the violations in this case, and identify, prosecute and, if found guilty, punish the perpetrators.
4. Provide appropriate treatment, through the national health services and at no cost, as needed by the next of kin identified in item 1 of this agreement, once they have given their consent to that effect, as of the signing of the Friendly Settlement Agreement, and for the time required, including the supply free of charge of medicines available at the Ministry of Public Health and Social Welfare, in accordance with administrative regulations pertaining to cases of human rights violations.
5. Desist from pursuing the objection based on the limitation period presented in the case of "Adela Elvira Herrera González et al vs. the State of Paraguay, regarding compensation for damages for extra-contractual liability," which was heard by the Lower Court for Civil and Commercial Matters of the 10th Circuit of Asunción, and accept the alleged facts, leaving determination of the amount of compensation to the discretion of the court.
6. Acknowledge the historical legitimacy of the Paraguayan Communist Party prior to the coup d'état of February 2 and 3, 1989, honoring the memory of the direct victim and the citizens who were members of that Party.
7. Publish in the Official Gazette and on the official websites of the Ministry of Foreign Affairs and the Office of President of the Republic the terms of this Friendly Settlement Agreement.

992. In accordance with Report No. 24/13, the State complied with the first and second clauses through public recognition of responsibility on March 20, 2012, in the presence of national officials, the victim's next of kin, and special guests. That report also referred to compliance of the State with the sixth clause on the acknowledgement of the historic legitimacy of the Paraguayan Communist Party, which occurred during the aforesaid public function for recognition of responsibility. Finally, the report accounts for the publication of the appropriate information in the Official Gazette and on the website of the Ministry of Foreign Affairs, as stipulated in item 7 of the agreement. On the basis of the foregoing, the IACHR finds that the State is in compliance with items 1, 2, 6, and 7 of the friendly settlement agreement.

993. In accordance with the information provided by the petitioners, on September 13, 2013, the Lower Court for Civil and Commercial Matters of the Tenth Circuit handed down its decision in the proceeding for compensation for damages due to tort liability, case No. 4332/2010, partially upholding the petition presented by the victims and ordering the State of Paraguay to pay compensation.

994. On December 4, 2014, the IACHR requested updated information from the parties regarding compliance with the pending items of the friendly settlement agreement. On December 12, 2014, the petitioners reported that despite having prevailed with their petition, the funds to cover the amount of compensation were not included in the general expenditure budget for 2015. They stated that they hoped that the Paraguayan government would supplement the budget to include the payments established in their favor in the judgment. The State did not submit updated information prior to completion of this report.

995. The IACHR appreciates the progress made in compliance with the friendly settlement agreement, and urges the State to take all the necessary action to ensure effective payment of the compensation in favor of the victims, and to continue carrying out other measures to ensure full compliance with this agreement. Consequently, the IACHR concludes that the agreement signed by the parties on August 5, 2011 has been partially honored.

Petition 1097-06, Report No. 25/13, Miriam Beatriz Riquelme Ramírez (Paraguay)

996. On March 20, 2013, the IACHR approved Friendly Settlement Report No. 25/13 in Petition 1097-06. The petition alleged the international responsibility of the State of Paraguay for the arbitrary detention of Mrs. Miriam Beatriz Riquelme Ramírez while she was breast-feeding her daughter who was less than four months old at the time, in violation of Paraguayan laws on the subject. In accordance with this agreement, the State committed to do the following:

1. Acknowledge international responsibility for the arbitrary deprivation of liberty of Miriam Beatriz Riquelme Ramírez in a prison at the time that she was breastfeeding her daughter.
2. Publicly acknowledge its responsibility according to the terms of the preceding article, and make a public apology to her next of kin, with specific consideration for protection of the identity of the child CME.
3. Provide free of charge, through the national health services, appropriate treatment as required by the child [...] and Mr. Remberto Giménez, the grandfather of the child, who has her custody.
4. Assume the commitment of guaranteeing the education of the child CME at no cost, with the assistance of professionals for rehabilitation and maintenance of the ties with her mother.
5. Take steps with the competent court to provide for the transfer of Mrs. Miriam Beatriz Riquelme Ramírez from the prison in the city of Villarrica to the "Casa del Buen Pastor" Correctional Center for Women, to ensure that she maintain ties with her daughter.
6. Publish the terms of this Friendly Settlement Agreement in the Official Gazette and on the official websites of the Ministry of Foreign Affairs and the Office of President of the Republic

997. In Report No. 25/13, the IACHR noted the progress made by the State of Paraguay in carrying out the agreed measures. More specifically, the State had provided medical care and education services to the beneficiaries, and had arranged for the effective transfer of Mrs. Riquelme to the Misiones Regional Prison at her request.

998. On December 4, 2014, the IACHR requested that the parties provide updated information on the pending items of the friendly settlement agreement. However, as of the writing of this report, no response had been received from either of the parties. On February 25, 2015, the State informed that all the

items of the agreement were fulfilled, which would have been confirmed by Ms. Miriam Beatriz Riquelme, through note dated February 26, 2013 that was attached to the submission of the State.

999. The Commission observes that the information aforementioned was confirmed by the petitioner and Ms. Riquelme through notes dated February 26 and 27 2013, which copies were provide by the State in its response. The petitioner affirmed that the agreement is fulfilled with respect to the reparation measures related to Ms. Riquelme and the Child CME who at the time receives without cost the educational and health services, and access without problems the detention center. In the same sense, it informed that the grandfather also receives the health services.

1000. The Commission values the efforts of the parties to comply with the terms of the friendly agreement and it concludes that the said agreement is fully implemented.

Case 11.031, Report No. 111/00, Pedro Pablo López González *et al.* (Peru)

1001. In Report No. 111/00 of December 4, 2000, the IACHR concluded that the Peruvian State: (a) through members of the National Police and the Navy of Peru detained Messrs. Pedro Pablo López González, Denis Atilio Castillo Chávez, Gilmer Ramiro León Velásquez, Jesús Manfredo Noriega Ríos, Roberto and Carlos Alberto Barrientos Velásquez, and Carlos Martín and Jorge Luis Tarazona More on May 2, 1992, in the human settlements of “La Huaca,” “Javier Heraud,” and “San Carlos,” located in the district and province of Santa, department of Ancash, and that subsequently it proceeded to disappear them; (b) that accordingly it was responsible for the forced disappearance of the victims identified above, thereby violating the right to liberty (Article 7), the right to humane treatment (Article 5), the right to life (Article 4), the right to juridical personality (Article 3), and the right to an effective judicial remedy (Article 25) enshrined in the American Convention on Human Rights; and (c) that it had breached the general obligation to respect and ensure these rights enshrined in the Convention, in the terms of Article 1(1) of that Convention.

1002. The Commission made the following recommendations to the Peruvian State:

1. That it carry out an exhaustive, impartial, and effective investigation to determine the circumstances of the forced disappearance of Pedro Pablo López González, Denis Atilio Castillo Chávez, Gilmer Ramiro León Velásquez, Jesús Manfredo Noriega Ríos, Roberto and Carlos Alberto Barrientos Velásquez and Carlos Martín and Jorge Luis Tarazona More, and that it punish the persons responsible, in keeping with Peruvian legislation.
2. That it void any domestic measure, legislative or otherwise, that tends to impede the investigation, prosecution, and punishment of the persons responsible for the detention and forced disappearance of Pedro Pablo López González, Denis Atilio Castillo Chávez, Gilmer Ramiro León Velásquez, Jesús Manfredo Noriega Ríos, Roberto and Carlos Alberto Barrientos Velásquez and Carlos Martín and Jorge Luis Tarazona More. Accordingly, the State should nullify Laws 26.479 and 26.492.
3. That it adopt the measures required for the family members of Pedro Pablo López González, Denis Atilio Castillo Chávez, Gilmer Ramiro León Velásquez, Jesús Manfredo Noriega Ríos, Roberto and Carlos Alberto Barrientos Velásquez and Carlos Martín and Jorge Luis Tarazona More to receive adequate and timely reparation for the violations established.

1003. In a communication received on December 10, 2010, the petitioners reported that on October 1, 2010, the First Special Criminal Chamber convicted former members of law enforcement and high-ranking government officials under the government of then President Alberto Fujimori, who were convicted of the aggravated homicide of Pedro Pablo López Gonzales, Jesús Manfredo Noriega Ríos, Carlos Martín Tarazona More, Jorge Luis Tarazona More, Roberto Barrientos Velásquez, Carlos Alberto Barrientos Velásquez, Gilmar León Velásquez, Denis Atilio Castillo Chávez and Federico Coquis Vásquez. The petitioners added that the judges in that Criminal Chamber ordered the condemned persons and the State, as a third party that bore civil liability, to pay reparations and pay for medical-psychological treatment and other forms

of compensation for the pecuniary and non-pecuniary damages sustained by the victims' next of kin. The petitioners indicated that the defense counsel filed an appeal to have the verdict vacated; the Supreme Court's decision on that appeal is still pending.

1004. The petitioners asserted that the Peruvian State had not taken the measures necessary to determine the whereabouts and hand over the remains of the nine disappeared farm workers in the district of El Santa. As for the second recommendation in Report No. 111/00, the petitioners asserted that while Peru's Judicial Branch has repealed Laws Nos. 26479 and 26492, the Executive Branch has pressed for legislative measures which, if they took effect, would obstruct the investigation into serious human rights violations committed during the internal armed conflict.

1005. Throughout 2012, the petitioners remitted communications indicating that on July 20, 2012, the Permanent Criminal Chamber of the Supreme Court of Justice had handed down judgment on appeal in the proceedings conducted to investigate on a series of crimes, including the forced disappearance of the El Santa farm workers. The petitioners pointed out the Permanent Criminal Chamber had concluded that the disappearance of the El Santa farm workers did not constitute a "crime against humanity" (*lesa humanidad*) because, although at that time there had indeed been a systematic and widespread practice of executions and disappearances, it had not been directed against the civilian population but rather at "military leaders of the Peruvian Communist Party – Sendero Luminoso and terrorists." In August 2012, the Inter-American Court of Human Rights held a hearing on this matter in its follow-up to the judgment in the Barrios Altos case and issued a resolution in September of the same year. According to information received by the IACHR, on September 27, 2012, the Permanent Criminal Chamber of the Supreme Court of Justice annulled the verdict handed down on July 20, 2012. With that decision, a new Chamber is to be formed to hear on first appeal the criminal proceeding aimed at establishing the liability of the perpetrators and high-level government officials for the El Santa and other cases.

1006. On November 3, 2012, a working meeting on this case was held during the 146th regular session of the IACHR. At that meeting, the State indicated that it was meeting its international obligation to investigate and punish those responsible for the disappearance of the farm workers of El Santa, as a result of which the judgment handed down by the Permanent Criminal Chamber of the Supreme Court on July 20, 2012 had been voided ex officio by the same judicial body. For their part, the petitioners stressed that the July 20, 2012 decision illustrated a constant practice of the Permanent Criminal Chamber of issuing decisions in cases of grave human rights violations that contravened inter-American standards. The petitioners further argued that although the annulment of that decision had corrected a situation of impunity, the Supreme Court had yet to hand down a final verdict regarding the forced disappearance of the victims, even though more than 20 years had elapsed.

1007. On November 16, 2012, the IACHR asked the parties to report on progress with implementing the aforementioned recommendations. The petitioners and the Peruvian State remitted communications in which they reiterated the arguments they put forward during the working meeting of November 3, 2012. In addition, the petitioners reported that, on March 6, 2012, one of the accused, Julio Rolando Salazar Monroe, had obtained a judgment, in the course of a *habeas corpus* proceeding, in which the Constitutional Court had ordered his removal from the criminal proceedings relating to the El Santa, Barrios Altos, and Pedro Yauri Bustamente cases. According to the petitioners, if that judgment were to be carried out, it would be tantamount to a denial of the Peruvian State's obligation to punish the aforementioned crimes appropriately. As regards financial reparation, the petitioners repeated the observations remitted in previous years, which are summarized in the section dealing with Report No. 101/01.

1008. On December 26, 2013, the State informed the IACHR, in general terms that steps had been taken to locate and exhume the victims' remains and hand them over to their next-of-kin. However, the State had not provided specific information concerning the whereabouts of the victims named in the petition. The State indicated that 2662 individual remains had reportedly been located; 1528 individuals had been identified, and 1381 remains had been handed over to the next-of-kin as of July 2013. The State also reported that the Commission on Justice and Human Rights was still examining the bills to amend the Penal Code's article on forced disappearance and that the Congress of the Republic, through the Commission on Justice and

Human Rights, had scheduled the discussion to combine the three bills to adapt Article 320 of the Penal Code, which regulates forced disappearance.

1009. On November 26, 2014, the IACHR requested updated information from the parties concerning the status of compliance with the recommendations made in Report No. 111/00. The parties did not provide updated information by the IACHR's established deadline.

1010. Nonetheless and given that recommendation 3 of Report Nos. 111/00 and 101/01 is included in subparagraphs c) and d) of the joint press release signed by the IACHR and the Peruvian State on February 22, 2001, the IACHR will refer to compliance with this recommendation in the subsequent section regarding Report No. 101/01 covering both cases at the same time. The IACHR concludes that the State has not fully complied with the other recommendations and urges the State to continue to take measures toward full compliance with the recommendations.

Case 10.247 et al., Report No. 101/01, Luis Miguel Pasache Vidal *et al.* (Peru)

1011. In Report No. 101/01 of October 11, 2001, the IACHR concluded that the Peruvian State was responsible for: (a) violation of the right to life and to judicial guarantees and judicial protection enshrined in Articles 4, 8, and 25 of the American Convention; (b) the violation of the right to personal liberty established in Article 7 of the American Convention; (c) the violation of the right to humane treatment enshrined in Article 5 of the American Convention, and of its duty to prevent and punish torture established in Articles 1, 6, and 8 of the Inter-American Convention to Prevent and Punish Torture; (d) the violation of the right to recognition of juridical personality enshrined in Article 3 of the Convention; and (e) the violation of the rights of the child established at Article 19 of the American Convention. All of these violations were found to the detriment of the persons indicated in the report.

1012. The Commission made the following recommendations to the Peruvian State:

1. Void any judicial decision, internal measure, legislative or otherwise, that tends to impede the investigation, prosecution, and punishment of the persons responsible for the summary executions and forced disappearance of the victims indicated at paragraph 252. In this regard, the State should also repeal Laws No. 26,479 and 26,492.
2. Carry out a complete, impartial, and effective investigation to determine the circumstances of the extrajudicial executions and forced disappearances of the victims and to punish the persons responsible pursuant to Peruvian legislation.
3. Adopt the measures necessary for the victim's families to receive adequate and timely compensation for the violations established herein.
4. Accede to the Inter-American Convention on Forced Disappearance of Persons.

1013. Concerning case 10,247, APRODEH asserted that in May 2008 criminal proceedings were undertaken against Jesús Miguel Ríos Sáenz, Walter Elias Lauri Morales or Walter Elias Ruiz Miyasato and Máximo Augusto Agustín Mantilla Campos, for the kidnapping and aggravated homicide of Luis Miguel Pasache Vidal. According to what was reported, the examining phase has ended and the decision of the Superior Prosecutor is pending. As for case 11,501, APRODEH reported that on June 2, 2010, the National Criminal Chamber delivered a verdict of acquittal in favor of Santiago Enrique Martín Rivas and reserved judgment with respect to Eudes Najarro Gamboa until he is found. These individuals were tried for the aggravated homicide of Adrián Medina Puma. According to what was reported, the Public Prosecutor's Office filed an appeal to challenge the June 2, 2010 verdict of the National Criminal Chamber.

1014. In case 11,680, APRODEH reported that on January 31, 2008, defendant José Alberto Delgado Bejarano was acquitted of the aggravated homicide of Moisés Carbajal Quispe, and that the verdict was upheld by the Transitory Criminal Chamber of the Supreme Court. As for case 11,132, it reported that the

forced disappearance of Edith Galván Montero was still being investigated by the Fourth Supra-provincial Criminal Prosecutor's Office.

1015. The IACHR has not received updated information on compliance with the second recommendation made in report 10/01 with respect to the following cases covered therein – 10.472, 10.805, 10.913, 10.947, 10.944, 11.035, 11.057, 11.065, 11.088, 11.161, 11.292, 10.564, 10.744, 11.040, 11.126, 11.179, 10.431, 10.523, 11.064 and 11.200.

1016. Regarding the first recommendation of report 101/01, APRODEH expressed that even though the Judicial Branch of Peru has declared that Laws No. 26479 and 26492 have no effect, the Executive Branch has promoted legislative measures that would hinder the investigation of serious violations of human rights perpetrated during the internal armed conflict.

1017. Regarding the third recommendation, the Commission notes that the cases referred to in Report Nos. 111/00 and 101/01 are included in sections c) and d) of the joint press release that the Commission and the Peruvian State signed on February 22, 2001, in which Peru undertook a formal commitment to find comprehensive solutions to the recommendations issued by the Commission on the more than 100 final merits reports adopted pursuant to articles 50 and 51 of the American Convention on Human Rights.⁹⁶

1018. The petitioners observed during 2010 that despite the obligations undertaken in that joint press release and the provisions of Law No. 28592 “Law on the Comprehensive Reparations Plan,” thus far no reparations had been paid. They observed that while Supreme Decree No. 005-2002-JUS of April 2003 regulated some forms of non-monetary reparations in the area of housing, education and health, the Peruvian State had not even identified the plot of land that could be given to the next of kin of the victims in cases 10.805, 10.913, 11.035, 11.605, 11.680, 10.564, 11.162, 11.179 and 10.523.

1019. The petitioners indicated that back in 2003, the Ministry of Justice granted a plot of land in the Huachipa sector, in the district of Lurigancho, province and department of Lima, to be turned over to 200 victims or their next of kin, in some of the cases mentioned in the February 22, 2001 joint press release. They include cases 10.247, 10.472, 10.878, 10.994, 11.051, 11.088, 11.161, 11.292, 10.744, 11.040, 11.126, 11.132, 10.431, 11.064 and 11.200, all of which are included under Report 101/01. They emphasized, however, that the Peruvian State had not taken steps to legalize occupation and property title to the lots on the land in question. They went on to point out that because of this, some beneficiaries had set up crude dwelling places that had no access to basic sanitation services; they lived under the constant threat of looting and third-party property takeovers.

1020. According to the petitioners, the Ministry of Justice has made final handover of the property conditional upon a risk evaluation, because an Army weapons factory adjacent to the property has resumed operations. However, they observed that in Memorandum No. 709-2010-MML/SGDC, the Office of the Deputy Manager of Civil Defense of the Lima Metropolitan Municipality reported that the Huachipa property is approved for housing construction, and there should be no impediment to giving the 200 beneficiaries title to the lots.

1021. Finally, with regard to the fourth recommendation in Report 101/01, the Inter-American Convention on Forced Disappearance of Persons was ratified on February 8, 2002, and entered into force in Peru on February 13 of that same year.

1022. During 2011, the State submitted information regarding the measures adopted in the areas of housing, education, and health. Regarding the housing reparations, the State indicated that Supreme Decree No. 014-2006-JUS authorized the Ministry of Justice to take the actions needed to effect the transfer free of charge of 50% of the land called Sublot No. 01, located on Central Avenue, town of Huachipa, district of

⁹⁶ See <http://www.cidh.oas.org/Comunicados/English/2001/Peru.htm>.

Lurigancho, province and department of Lima. The State indicated that at the meeting held during the 141st Regular Session of the IACHR, commitments were made to: 1) approve without further delay the Supreme Decree transferring ownership of the plots of land in Huachipa to the 200 victims benefiting from this measure; 2) report to the Commission within a period of two months on the measures that the State takes to identify possible lands for housing reparations with respect to the other 307 victims who have not been served. It also reported that on April 5, 2011, the Ministry of Justice submitted information regarding the transfer of ownership of Lot 1-B as well as the need to resolve some unexpected developments.

1023. Regarding the reparations in terms of education, the State reported that Supreme Decree No. 038-2002-ED of November 13, 2002 ordered exempting the victims or relatives included in Supreme Decree No. 005-2002-JUS from the entry examination for public Higher Education Institutes in Technology, Teaching, and the Arts at the national level, provided they have certificates indicating completion of Secondary Education. In addition, the State indicated that during the working meeting held during the 141st Regular Session of the IACHR a commitment was made to introduce the educational points agreed to in Supreme Decree No. 005-2002-JUS, regarding the reparations program, and that they are designed: 1) to extend the status of beneficiary in education to the children of the victims who have died or disappeared, and the children resulting from rape, who did not necessarily interrupt their studies as a result of the violence; and 2) to establish as components of the program: vacancy set-asides, decentralized scholarship program, special ongoing training program, and refresher plan for promoting inclusion in the workforce and development of business skills. In this respect, the State reported that it will provide public universities and higher technology and teaching institutes with the database of the Single Registry of Victims and the list of cases included in the Joint Communiqué of February 22, 2001.

1024. Regarding reparations in the area of health, the State reported that Administrative Resolution No. 082-2003/SIS incorporated the victims of human rights violations and their relatives as recognized by the IACHR in the Comprehensive Health Insurance System (SIS). It indicated that to date the Ministry of Health reports a total of 191 beneficiaries enrolled in the SIS and 68 beneficiaries enrolled with some other type of insurance. It stated that the Memorandum of Understanding of March 29, 2011, signed during the 141st regular session of the IACHR, agreed that the State, through the Ministry of Health, will issue a letter within no more than two months certifying lifetime affiliation with the SIS for each of the beneficiaries, to ensure that the beneficiaries do not encounter any obstacles when proving their affiliation with the SIS.

1025. In a communication dated November 22, 2011, the petitioners reported that although they acknowledge some progress made regarding the commitments assumed by the State in the Memorandum of Understanding signed during the 141st Regular Session of the IACHR, they are deeply concerned that so far the State has not implemented the previously announced measures regarding reparations in terms of housing, as well as some aspects concerning economic reparations in the area of health and education.

1026. In a communication on December 20, 2012, the State reported that the victims' relatives were covered by the Comprehensive Health Insurance System (SIS) and had universal access to health care services in the centers corresponding to their address. As regards reparation in the form of housing, it stated that " progress is being made with implementing the reparation [corresponding] to two hundred (200) beneficiaries, of the total number of victims covered by Supreme Decree N° 005-2002-JUS, or their legal heirs, as the case may be, pursuant to Article 3 of Supreme Decree N° 014-2006-JUS. As for financial reparation, Peru said that the intention was to pay 10,000 new soles for each victim mentioned in the press release of February 22, 2001, adding that "all the relevant steps are being taken to comply with that decision."

1027. The petitioners did not present up-to-date information in the time allowed by the IACHR. Nevertheless, given that recommendation 3 of Reports No. 111/00, No. 101/01, and 112/00 are included in paragraphs c) and d) of the joint press release issued by the IACHR and the Peruvian State on February 22, 2001, the IACHR will take information thereon submitted by the petitioners in 2012 in account. That information from the petitioners dealt with the following: justice, housing, education, and health care.

1028. Regarding actions taken by the State to investigate and punish the alleged perpetrators, the petitioners voiced their concern regarding Plenary Agreement (*Acuerdo Plenario*) No. 9/2009 of the Supreme Court of the Republic of Peru, which requires that the alleged perpetrators of forced disappearances must be government officials at the time that crime is formally defined in Peruvian legislation in 1991.

1029. Regarding reparation in the form of health care, the petitioners reported that in this period new problems had arisen because of interventions by the Household Targeting System (Sistema de Focalización de Hogares -SISFOH), which is the entity reporting to the Ministry of Social Inclusion that certifies or does not certify the poverty or extreme poverty status of persons applying for membership of the cost-free SIS, and which had rejected the affiliation of some of the victims' next of kin. The petitioners indicated that the State should include the category of "person affected by political violence" so as to avoid these kinds of problems.

1030. With respect to reparation in the form of educational facilities, the petitioners reported that one of the beneficiaries' requests was the right to transfer the education benefit to a relative, a demand supported by the Ombudsman's Office (*Defensoría del Pueblo*) but not yet met by the State. With regard to reparation in the form of housing, the petitioners reported that, while the State had taken some steps that would benefit 200 of the 507 victims included in paragraphs "c" and "d" of the joint press release, no definition had yet been reached regarding measures that would effectively benefit the remaining victims. They pointed out that, in June 2012, the Metropolitan Municipality of Lima had issued a risk assessment report lowering very high-risk status to average-risk status. They reported that the victims and their relatives were feeling overwhelmed and very disappointed by the excessive delay in the State's compliance with its commitment to transfer ownership of the plots of land, which many of them were occupying despite the lack of basic services and security in that area.

1031. As for financial reparation, the petitioners reported that there had been problems for some victims and their relatives in getting listed in the Register of Victims (Registro Único de Víctimas - RUV), which was a prerequisite for benefiting under the financial reparation program. They pointed out that, apart from the disqualifications established in Article 4 of the Reparations Law, only those accrediting permanent disability as a result of torture would benefit from financial reparation, but not those persons who had been forcibly disappeared and later turned up alive.

1032. With regard to housing-related reparation, the petitioners reported that as of the present date the State has not approved the Supreme Decree authorizing the transfer of ownership of the land located in Huachipa. They also claimed that the State has not reported to them on efforts made to locate similar parcels of land for the victims and/or next-of-kin, which are not included in the parcel of land of Huachipa. Regarding reparation in the form of health care, the petitioners noted that the State has not informed them as to whether it had taken certain steps to address the difficulties related to the process of applying for membership of the cost-free SIS, or the shortcomings in care for the beneficiaries of this measure, which were noted in previous years. With regard to measures of financial reparation, the petitioners contended that even though the State has been paying compensation under Full Reparation Plan Law No. 28593, some victims and/or next-of-kin thereof are unable to be included under the scope of that law and, therefore, the State must take specific measures of financial reparation, outside of the purview of the aforementioned law. Lastly, with respect to reparation in the area of education, the petitioners claimed that even though they had submitted to the State a roster of names and contact information of the beneficiaries of this reparation, the State has not apprised them as of the present date about what steps it has taken in this regard, nor have they received any reply to the request they made involving the ability to transfer this benefit to another family member.

1033. On December 27, 2013, the Peruvian State reported that the bills to criminalize forced disappearance in accordance with international human rights law, international humanitarian law and international criminal law are still under study. It also detailed the procedural aspects of the respective processes.

1034. On November 26, 2014, the IACHR requested updated information from the parties. However, neither the State nor the petitioners supplied updated information within the deadline set by the IACHR.

1035. The Commission appreciates the measures adopted by the State to comply with the recommendations made in Report Nos. 111/00 and N° 101/01. At the same time, it notes that there are measures that are pending compliance. Based on the above, the Commission concludes that there has been partial compliance with the recommendations, so that it will continue to monitor the pending items.

Case 11.099, Report No. 112/00, Yone Cruz Ocalio (Peru)

1036. In Report No. 112/00 of December 4, 2000, the IACHR concluded that the Peruvian State: (a) through members of the National Police detained Mr. Yone Cruz Ocalio on February 24, 1991, at the agricultural station of Tulumayo, Aucayacu, province of Leoncio Prado, department of Huánuco, Peru, from where they were taken to the Military Base of Tulumayo, and subsequently proceeded to disappear him; (b) that as a consequence it was responsible for the forced disappearance of Mr. Yone Cruz Ocalio; (c) that it therefore violated the right to liberty (Article 7), the right to humane treatment (Article 5), the right to life (Article 4), the right to juridical personality (Article 3), and the right to an effective judicial remedy (Article 25) enshrined in the American Convention on Human Rights; and (d) that it breached its general obligation to respect and ensure these rights enshrined in the Convention, in the terms of Article 1(1) of that instrument.

1037. The Commission made the following recommendations to the State:

1. That it carry out an exhaustive, impartial, and effective investigation to determine the circumstances of the forced disappearance of Mr. Yone Cruz Ocalio, and that it punish the persons responsible, in keeping with Peruvian legislation.
2. That it void any domestic measure, legislative or otherwise, that tends to impede the investigation, prosecution, and punishment of the persons responsible for the detention and forced disappearance of Mr. Yone Cruz Ocalio. Accordingly, the State should nullify Laws 26.479 and 26.492.
3. That it adopt the measures required for the family members of Mr. Yone Cruz Ocalio to receive adequate and timely reparation for the violations established herein.

1038. The State, by communication of December 5, 2008, reported, regarding the investigation into the facts, that by resolution of October 25, 2002, the Specialized Prosecutor on Forced Disappearances, Extrajudicial Executions, and Exhumation of Clandestine Mass Graves ruled to remove to the Mixed Provincial Prosecutor's Office of Aucayacu the matters in the records that include, as persons injured, Yone Cruz Ocalio, among others. It indicated that by Resolution of the Mixed Provincial Prosecutor's Office of Leoncio Prado-Aucayacu of August 9, 2004, the Prosecutor considered that it was pertinent to gather more information regarding the alleged commission of the crime of kidnapping of Mr. Cruz Ocalio and decided to order various investigative measures.

1039. Concerning the second recommendation, the Peruvian State has repeatedly observed that its institutions have a practice, based on the judgment of the Inter-American Court of Human Rights in the *Barrios Altos Case*, which is that amnesties cannot be invoked as grounds for contesting investigations undertaken to identify and punish those responsible for human rights violations.

1040. On November 16, 2002, the IACHR asked the parties to report on progress made with implementing the aforementioned recommendations. The petitioners did not reply in the time allowed. On December 20, 2012, the State presented a report describing the steps it has been taking to make reparation. That report reiterates the information submitted in the other cases covered by the joint press release of February 22, 2001, which is summarized in the Commission's follow-up to Cases 10.247 et al [sic], Report No. 101/01, Luis Miguel Pasache Vidal et al. (Peru).

1041. On February 2, 2014, the State reported that the Criminal Code in force establishes the crime of forced disappearance; it acknowledges, however, that the legal provision must be adjusted to conform to the obligations arising from treaties and international law. It goes on to report that the Congress of the Republic is discussing proposed legislative reforms on the subject of forced disappearance and that three legislative bills -1406/2012 CR, 1615/2012 CR and 1687/2012 CR- have been introduced to that end, the first intended to amend Article 320 of the Penal Code, the second to propose a Law on Crimes in Violation of International Human Rights Law and International Humanitarian Law and the third to add a chapter to the Penal Code.

1042. On November 24, 2014, the IACHR asked the parties to provide updated information. However, neither the State nor the petitioners supplied updated information within the time frame established by the IACHR.

1043. The Commission therefore concludes that the State has only partially complied with the recommendations contained in the report and will continue to monitor for compliance with the pending items.

Case 12.191, Report No. 71/03, María Mamérita Mestanza (Peru)

1044. This case concerns the forced sterilization of Maria Mamérita Mestanza in a surgical procedure that ultimately caused her death, and the subsequent failure to investigate and punish those responsible for what occurred. On October 10, 2003, by Report No. 71/03, the Commission approved a friendly settlement agreement in the case of María Mamérita Mestanza.

1045. According to the friendly settlement agreement, the State:

1. Recognized its international responsibility for the violation of Articles 1.1, 4, 5, and 24 of the American Convention on Human Rights, as well as Article 7 of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women in the harm done to victim María Mamérita Mestanza Chávez.
2. Promised to undertake a thorough investigation of the facts and apply legal punishments to any person determined to have participated in them, as either planner, perpetrator, accessory, or in other capacity, even if they be civilian or military officials or employees of the government. Report any ethical violations to the appropriate professional association so that it can apply sanctions to the medical personnel involved in these acts, as provided in its statutes.
3. Awarded one-time compensation to each of the beneficiaries of ten thousand U.S. dollars (\$10,000.00) for reparation of moral injury, which totals eighty thousand U.S. dollars (\$80,000.00); and pledge to compensate other damages as established in the agreement.
4. Awarded a one-time payment to the beneficiaries of seven thousand U.S. dollars (\$7,000.00) for psychological rehabilitation treatment they require as a result of the death of María Mamérita Mestanza Chávez, and to give the husband and children of María Mamérita Mestanza Chávez permanent health insurance with the Ministry of Health or other competent entity.
5. Pledged to give the victim's children free primary and secondary education in public schools. The victim's children will receive tuition-free university education for a single degree at state schools, provided they qualify for admission.

6. Awarded an additional payment of twenty thousand U.S. dollars (\$20,000.00) to Mr. Jacinto Salazar Suárez to buy land or a house in the name of the children he had with Ms. María Mamérita Mestanza.

7. Pledged to change laws and public policies on reproductive health and family planning, eliminating any discriminatory approach and respecting women's autonomy. The Peruvian State also promises to adopt and implement recommendations made by the Ombudsman concerning public policies on reproductive health and family planning, among which are those listed in the agreement.

1046. The IACHR observes that the Peruvian State has complied with some points of this friendly settlement agreement and will describe the progress made on the various points thereof. With respect to the compensations, the State reported that it paid US\$ 10,000 in moral damages to each of the eight beneficiaries – the husband of Ms. Mamérita Mestanza and their seven children; the sum of US\$ 2,000 as actual damages for each beneficiary, and that a trust fund had been set up for this purpose of the child beneficiaries. In their brief of December 29, 2006, the petitioners acknowledged that the State had paid the compensation awarded to the beneficiaries under point 3 of the agreement. However, to this date, one of the victim's children has reportedly been unable to access the trust fund because he is still a minor. Accordingly, point three is deemed to have been partially fulfilled; as the minor's access to the reparations trust fund is still pending.

1047. The State also indicated that US\$ 20,000 was handed over to Ms. Mamérita Mestanza's husband to purchase a plot of land or house in his children's name. It is indicated that the purchase of a piece of land was shown. The petitioners considered that the State had complied with point 6 of the agreement, concerning an amount to purchase a piece of property; the IACHR, therefore, considers that the State has complied with this point of the settlement agreement.

1048. The petitioners considered that on December 29, 2006, the State had partially complied with point 4 of the agreement, specifically the clause concerning payment of a sum of money for psychological rehabilitation treatment. They subsequently indicated that the State had made payment of the sum of US\$ 7,000 for the psychological rehabilitation treatment, which was administered and monitored by DEMUS until it was concluded in March 2008, when the National Council on Human Rights was given a final report on its results. However, they later observed that while the State had in fact arranged for permanent health insurance by way of the Ministry of Health on April 12, 2004, in recent years the beneficiaries had encountered various difficulties to access that benefit. The Commission therefore considers that the State has partially complied with this point, specifically the clause concerning payment of amounts for psychological rehabilitation treatment. However, it must still take all the steps necessary to enable the beneficiaries to have access to the health services they require.

1049. As for point 5, concerning education for the victim's children, in written communications and working meetings held in the presence of the IACHR, the petitioners have indicated that the State has not assured access to education for the beneficiaries named in the agreement, as there are no schools for their grade level in the area in which they live. During the most recent working meeting, held in March at the IACHR's 153rd session, the petitioners suggested the possibility that the State pay their transportation, living and housing expenses in an area that has the appropriate educational institutions or, failing that, that the State underwrite the daily transportation costs that the beneficiaries would incur to avail themselves of the educational services that the State has agreed to provide.

1050. The State argues that the petitioners are exceeding the boundaries of the agreement by seeking benefits in addition to the educational service *per se*. The IACHR takes note of the two positions and, at the same time, observes that the commitment undertaken by the State in the settlement agreement is to provide educational services to the victim's children. The Commission considers that in order to ensure full access to that service, the State must take all the measures necessary to remove the obstacles preventing the victim's children from completing their education. Accordingly, the IACHR urges the State to provide the appropriate means to enable the beneficiaries to attend schools. Consequently, the Commission deems that

the State has not complied with this point of the agreement and calls upon the parties to jointly identify the appropriate means to enable the beneficiaries to have access to the educational services that the State undertook to provide.

1051. Concerning the investigation promised under point 2 of the settlement agreement, the State reported that the Permanent Commission on disciplinary measures of the Regional Bureau of Cajamarca, on January 9, 2001, had established that two physicians were disqualified and that on January 18, 2001, one physician-obstetrician, two obstetricians, and one nurse were acquitted.

1052. On November 4, 2009, in the framework of the Commission's 137th Regular Session, a working meeting was held, during which the petitioners reported that, on May 26, 2009, the District Attorney's Office decided to dismiss the investigation in the domestic jurisdiction on the basis of the statute of limitations for the crime of culpable homicide and the absence of a criminal category for the crime of coercion.

1053. After the working meeting, the Chair of the Commission and Rapporteur for the Rights of Women sent the State a communication requesting information from the Attorney General's Office about the unit of this institution in charge of the case of Ms. Mestanza; the measures adopted for allocating the human and financial resources needed to guarantee due investigation of the facts; as well as the measures available to fulfill the commitment to punish those responsible by means of the corresponding criminal, civil, administrative and disciplinary measures. It also requested the State to report on the real possibility of continuing the criminal investigation after the preliminary resolution to apply the statute of limitations for the crimes and on the status of the proceedings for the complaint filed, which is currently being processed against the resolution to dismiss the case on the basis of the statute of limitations and which is supported by the petitioners.

1054. On October 26, 2011, the IACHR held a working meeting within the framework of its 143rd Session. At that time, the Peruvian State reported that on October 21, 2011 the Office of the Public Prosecutor ordered the reopening of the investigation regarding the forced sterilization of María Mamérita Mestanza and thousands of other women during the second half of the 1990s. Upon the conclusion of the 143rd Session, the IACHR welcomed the decision of the Prosecutor's Office and indicated that it represents an initial and important step in "the State's commitment to carry out a thorough investigation of the facts and apply legal sanctions against those who were responsible, including public officials."

1055. The State reported that on December 20, 2012, the First Supraprovincial Criminal Prosecuting Attorneys' Office in Lima (*Primera Fiscalía Penal Supraprovincial de Lima*) had issued a resolution on November 5, 2012 ordering the reopening of the preliminary investigation into the alleged perpetrators of crimes against life, personal integrity, and health in the form of felonious homicide (*homicidio culposo*) and the exposure to danger under aggravating circumstances of dependent persons, crimes against the public administration in the form of embezzlement, and others, to the detriment of Mrs. María Mamérita Mestanza Chávez, 2,084 other people, and the Peruvian State. The State pointed out that the previous Prosecuting Attorneys' Office had ordered several procedures to be carried out, such as gathering the identity cards in the National Identification and Civil Status Registry Office (RENIEC) of those persons listed in the investigation as alleged victims, but that were not included at the time in the archiving resolution (*resolución de archivo*) nor in the prosecuting attorney's order. The State also said that preliminary statements by both those under investigation and the victims were being rescheduled.

1056. In a communication on December 17, 2012, the petitioners expressed concern to the IACHR regarding the preliminary investigation recently started by the First Supraprovincial Prosecuting Attorneys' Office in Lima, because that Office was handling other human rights violation cases, had only minimal staff, and no personnel specializing in the subject (women's human rights, the gender perspective, and interculturalism).

1057. The IACHR requested update information to both parties on November 24, 2014. The State did not provide the information within the timeframe established.

1058. In a brief dated December 26, 2014, the petitioners complained that on January 22, 2014, a resolution was issued declaring that there were no grounds to bring a criminal complaint against a number of authorities who had allegedly conducted the National Reproductive Health and Family Planning Program. The resolution also reportedly declared that the criminal complaint brought against various physicians involved in the facts specifically related to the case of Maria Mestanza, was without merit and at the same time brought a complaint against two health officials, a “*serumista*” [a person serving in the Health Ministry’s “Rural Medical Service” (Servicio Rural Medico) in order to meet the requirements necessary to become a professional], and two medical examiners alleged to be responsible for the death of María Mestanza. The petitioners filed a complaint on January 28, 2014, alleging that the acts committed against María Mestanza constituted a crime against humanity and that the political authorities at the time bear command responsibility. In their complaint, the petitioners also detailed a number of procedural irregularities.

1059. The petitioners claimed violation of the principle of the natural judge in the processing of their complaint, since the State, through the Second Supra-Provincial Criminal Prosecutor’s Office and the Public Prosecutor’s Office, had made decisions to refer the case to the Third National Superior Criminal Court Prosecutor’s Office. Regarding this issue, the parties met in Lima, Peru on November 14, 2014, where commitments were made to return the case to its natural prosecutor’s office; however, the petitioners reiterate that the State has not yet reported what measures are being taken to accomplish this objective.

1060. As for the commitment to adopt measures to prevent a recurrence of similar events, the petitioners have maintained that the appropriate measure to be taken in order to comply with this point of the agreement is the modification of the Peruvian criminal law, to specifically criminalize forced sterilization. Here, the petitioners have argued that the Peruvian State needs to adapt its Criminal Code to the Statute of the International Criminal Court so that events such as those that claimed María Mamérita Mestanza and thousands of other Peruvians as victims could be classified as crimes against humanity. In their brief of December 26, 2014, the petitioners repeated that the State has not yet complied with this point of the agreement.

1061. In 2014, the parties held three working meetings with the IACHR present: on March 26, October 29 and November 14, 2014. At those meetings the petitioners repeated what they had said in writing, reporting that the State had only partially complied with the clauses pertaining to measures of satisfaction for the victim and her next-of-kin and that in their judgment, the State still had to comply with points 3 (investigation clause), 8 (health clause), 9 (education clause) and 10 (changes in laws and public policies on sexual or reproductive health).

1062. The Commission appreciates the steps taken by the State to comply with the commitments undertaken in the Friendly Settlement Agreement. At the same time, it notes that with respect to some measures compliance is still pending. Therefore, the Commission concludes that there has been partial compliance with the friendly settlement. Accordingly, the Commission will continue to monitor the pending points.

Case 12.078, Report No. 31/04, Ricardo Semoza Di Carlo (Peru)

1063. This case concerns the failure to enforce a ruling ordering the victim’s reinstatement in the Peruvian National Police. On March 11, 2004, by Report No. 31/04, the Commission approved a friendly settlement agreement in the case of Ricardo Semoza Di Carlo.

1064. According to the friendly settlement agreement, the State:

1. Acknowledged its responsibility for violation of Articles 1(1) and 25 of the American Convention on Human Rights, to the detriment of Ricardo Semoza di Carlo.

2. Granted the following benefits to the petitioner as compensation: a) recognition of the time that he was arbitrarily separated from the institution; b) immediate reinstatement in the Superior School of the National Police of Peru (ESUPOL); c) regularization of pension rights, as of the date of his reinstatement, taking into account the new calculation of his time in service; d) refund of the officers' retirement insurance (FOSEROF, AMOF etc.); and e) a public ceremony will be held.

3. Pledged to undertake an exhaustive investigation of the facts and will prosecute any person found to have participated in the deeds of this case, for which an Ad Hoc Commission will be established by the Office of International Affairs and the Legal Advisory Services of the Ministry of the Interior.

1065. By communication received on December 13, 2007, the petitioner reported that even though the State recognized the time of service during which he was separated from active duty as "real, effective, and uninterrupted," a series of benefits that derive from that recognition have yet to be implemented. Specifically, Mr. Semoza Di Carlo indicated on that occasion that repayment for fuel has not been made; with the regularization of his pension payments; with the regularization of his contributions to the Officers Retirement Insurance Fund; with the holding of the ceremony of reparation; and with the investigation and punishment of the persons responsible for failure to carry out the judicial orders handed down to protect his rights that had been violated. Finally, the petitioner mentioned that the failure to carry out the agreement in those respects indicated have caused moral injury to him personally and to his family, as well as actual damages and lost profit.

1066. According to 2005 report No. 011 on the refund of the officers' retirement insurance (FOSEROF), the Payments Department had calculated the amounts owed to the petitioner and had summoned him to inform him of the amount he was due; however, he did not make an appearance to be so informed. The State supplied certain documents containing FOSEROF-related figures and rulings, including Supreme Decree No. 009-85 ordering payment of 475,460,915 soles on October 25, 1990.

1067. The State, by means of note 7-5-M/828 received on December 14, 2009, pointed out that, as a result of Directorate Resolution No. 735-2006-DIRREHUM-PNP of January 20, 2006, Major Semoza's real and effective time of service in the Police Force was recognized and, as a result, his renewable retirement pay equivalent to the rank immediately above his own was granted; as of October 2005 the victim was granted a nonpensionable fuel subsidy; and, on February 8, 2006, the Commissioner of Surquillo ordered that the petitioner be notified to schedule the ceremony of public apologies, which according to the State the petitioner refused.

1068. In a note received on December 10, 2010, the State again reported that the Peruvian National Police has already regularized the pension rights and granted Mr. Semoza Di Carlo a renewable pension; he was also reinstated at the National Police School of Advanced Studies. It has been unable to comply with its commitment to stage a public ceremony to make apologies because the petitioner is not interested, despite the invitations sent by the appropriate office of Peru's National Police. As for the other commitments, the State observed that it will send additional information to the Commission as soon as possible.

1069. Over the course of 2011, the State indicated that the General Director of the Ministry of the Interior's Office of Internal [sic] Affairs issued Ministerial Resolution No. 0217-2010-IN, dated March 9, 2010, setting up the Ad Hoc Commission charged with identifying and establishing the responsibilities of the officials who failed to enforce the judicial mandate in favor of Mr. Ricardo Semoza Di Carlo on a timely basis. It noted that in a resolution dated January 15, 2004 the National Police of Peru assigned a vacancy to Major Ricardo Semoza Di Carlo as a participant in a master's and social sciences program for academic year 2004. It added that on February 25, 2005 he was granted a diploma as a Staff Officer after having completed that program satisfactorily. The State supplied the documentation attesting to the petitioner's reinstatement to complete the training program. Based on that information, the State maintained that it has complied with the friendly settlement agreement with respect to immediate reinstatement to the Superior School of the

National Police of Peru. The petitioner has not contested the matter of his reinstatement. The Commission therefore deems that the State has complied with point 2.b of the friendly settlement agreement.

1070. The State also presented information from communications sent to the petitioner on March 15 and 19, 2010, to organize the public apology ceremony for a second time. However, it asserts that it did not receive an affirmative response from the petitioner. Hence, the State has reported that this public apology clause could not be carried out owing to the petitioner's disregard of the various invitations and contacts initiated by the State.

1071. For his part, by a communication dated May 23, 2011, the petitioner indicated that the State had complied with point 2 of the agreement, as it had recognized the petitioner's time of service in the National Police, regularization of his pension rights, the grant of a renewable pension equivalent to the immediately higher rank and reinstatement in the Superior School of the National Police of Peru. In that same communication, the petitioner indicated that he had not received the notifications for the public apology ceremonies.

1072. Regarding the Ad Hoc Commission, in a communication dated August 31, 2011, the State reported that two officials serving on the Commission had to be replaced and that work had gotten underway to compile and organize the information necessary to conduct the investigation. Because of the changes mentioned in the communication, the State reported that the inquiries had to be suspended and would resume once the new members were appointed.

1073. Regarding point 2, by a communication received on November 11, 2013, the petitioner indicated that he has not been reimbursed for fuel subsidies from August 1990 to September 2001 (approx. 75,000.00 soles), or for lost earnings from 1997 to 2003 (approx. 5,000.00 soles). He contended that the State has not complied with FOSEROF normalization (officers' retirement fund) (approx. 12,000.00 soles), had not held the public apology ceremony, and had not punished those responsible for the violation of his rights. The petitioner requested on that occasion that he be accorded the ranks of Commander, Colonel and General, respectively, that he be assigned a chauffeur and a valet, that he be assigned a vehicle befitting his rank, that his years of service be recognized to be real, effective and uninterrupted up to the present date, that his fuel subsidies be paid, that he be reimbursed for lost earnings and the FOSEROF be normalized, that a public apology ceremony be staged, that he be placed in the PNP hierarchy according to his new rank, and that the officials responsible for the violation of his rights be investigated and punished. The State did not present any compliance-related information at that time.

1074. The IACHR requested updated information from the parties on December 8, 2014. By note dated January 8, 2015, the petitioner indicated that he was withdrawing from the friendly settlement agreement signed with the State owing to the latter's noncompliance. He pressed for the demands he made subsequent to the friendly settlement agreement. The State requested an extension on January 9, 2015, which was granted. However, as of the date of completion of this report, the State has not yet submitted information concerning its compliance with the friendly settlement agreement.

1075. The IACHR takes note of the information supplied by the two parties during the period in which the IACHR has monitored compliance with the friendly settlement agreement. The Commission observes in this regard that the two sides have presented conflicting information. Specifically, while the State presented rulings and figures concerning the amounts to be paid, thus far it has not produced payment vouchers or any other document confirming that a payment has been made to the petitioner; nor did it provide any information as to the criteria used for the eventual payment of the lost earnings and pension. The petitioner, for his part, acknowledges that the State has paid him the amount owed, but contends that there are items not included at the time the compensation was paid; he is now seeking an additional sum and additional services which appear to exceed the boundaries of the friendly settlement agreement.

1076. Concerning point 3, since August 2011 the State has failed to provide any information regarding the progress of the investigation into those responsible for the failure to enforce the judicial decision ordering the petitioner's reinstatement. Furthermore, the State has on various occasions claimed

that it notified the petitioner of the public apology ceremony, but without success; for his part, the petitioner has said that he was never notified of those events.

1077. Based on the foregoing, the Commission does not have sufficient information to conclude that the State has fully complied with the recommendations contained in the friendly settlement agreement and will continue to monitor the pending items 1, 2 a, c, d, e and 3. At the same time the Commission invites the parties to enter into a dialogue with a view to identifying the measures needed to achieve full compliance with the agreement. It invites the State to supply updated information on the liquidations and payments made thus far, so that the progress the State has made in this regard can be evaluated.

**Petition 711-01 et al., Report No. 50/06, Miguel Grimaldo Castañeda Sánchez et al. (Peru);
Petition 33-03 et al., Report No. 109/06, Héctor Núñez Julia et al. (Peru); Petition 732-01 et al.,
Report No. 20/07 Eulogio Miguel Melgarejo et al.; Petition 758-01 et al., Report No. 71/07
Hernán Atilio Aguirre Moreno et al.; Petition 494-04 (Peru)**

1078. On March 15, 2006, by Report No. 50/06, the Commission approved the terms of the friendly settlement agreements of December 22, 2005, January 6, 2006, and February 8, 2006 signed by the Peruvian State and a group of unratified judges, who were petitioners in petition No 711-01 and others. On October 21, 2006, by Report No. 109/06, the Commission approved the terms of the friendly settlement agreements of June 26 and July 24, 2006, signed by the Peruvian State and a group of unratified judges, petitioners in petition No. 33-03 and others. On March 9, 2007, by Report No. 20/07, the Commission approved the terms of the friendly settlement agreements of October 13 and November 23, 2006, signed by the Peruvian State and a group of unratified judges who were petitioners in petition No. 732-01 and others. On July 27, 2007, by Report No. 71/07, the Commission approved the terms of the friendly settlement agreement of January 7, 2007, signed by the Peruvian state and a group of unratified judges, petitioners in petition No. 758-01 and others. On March 13, 2008, by Report No. 71/07, the Commission approved the terms of the friendly settlement agreement of April 24, 2007, signed by the Peruvian State and one unratified judge, the petitioner in petition No. 494-04.

1079. According to the text of the friendly settlement agreements included in the above-mentioned reports, the State:

1. Pledged to restore the corresponding title and facilitate the reinstatement of the judicial officials.
2. Pledged to recognize the period of service not worked in calculating duration of service, retirement, and other applicable employment benefits under Peruvian law.
3. Agreed to make compensation.
4. Will conduct a new evaluation and reconfirmation process under the purview of the National Council of the Magistracy for the judicial officials included in the instant agreement.
5. Pledged to hold a Public Reparations Ceremony for the reinstated judicial officials.

1080. By communication of December 18, 2008, the State reported that on December 9, 2008, a ceremony was held as a form of public reparation in the auditorium of the Ministry of Justice in honor of the 79 judges included in Reports Nos. 50/06 and 109/06, for the purpose of carrying out its international obligations acquired in the context of the inter-American system for the protection of human rights. In addition, the State noted that the ceremony included the presence of high-level state officials, such as the President of the Council of Ministers – in representation of the Peruvian President – the Minister of Justice, the President of the National Judicial Council, and the Executive Secretary of the National Council on Human Rights, among others; and with the presence of civil society and the group of 79 judges included in the reports of the IACHR referred to above.

1081. Some of the petitioners included in the reports that are the subject of the present section submitted information in response to the request made by the IACHR by means of a communication referred to in the preceding paragraph and also submitted information at their own initiative regarding this on different occasions in 2009. As a rule, the unratified judges included in the friendly settlement agreements pointed out the failure to totally comply with these agreements and requested the IACHR to repeat their request to the State to comply fully with the agreements that were signed.

1082. On October 27, 2010, the Commission held a working meeting during its 140th regular session, to examine compliance with the commitments undertaken by the Peruvian State in the friendly settlement agreements concerning unconfirmed magistrates. The party who requested the working meeting, Mr. Elmer Siclla Villafuerte, pointed out that while the Constitutional Tribunal had established certain requirements that the National Council of the Magistracy must observe, the mere existence of a confirmation system in Peru whose purpose was to neither discipline nor penalize, was incompatible with international and constitutional standards on the independence of the judicial branch. He also asserted that the confirmation proceeding was incompatible with the guarantees of due process, as the right to double review did not exist. Mr. Elmer Siclla emphasized the fact that the State had not paid the compensation for costs and expenses to all the magistrates who were reinstated and had not held a ceremony to make a public apology to all the victims.

1083. The State, for its part, reported that it had assigned the Ministry of Justice an amount of money to pay a portion of the five thousand dollars in compensatory damages ordered for each magistrate covered under the friendly settlement agreements approved by the Commission. It maintained that the current case law of the Constitutional Court guaranteed magistrates their right to due process and their right to challenge the decision of the National Council of the Magistracy in the event they were not confirmed.

1084. Over the course of 2011 some petitioners reported that a group of judges had been reinstated to positions other than those they held at the time they were separated from the Office of the Attorney General or the Judicial Branch. They indicated that the State has still not held a public apology ceremony for all the judges who signed the friendly settlement agreements and payment is still pending with respect to the US\$5,000 amount of compensation.

1085. The Peruvian State indicated that it has fully complied with the clause in the friendly settlement agreement related to the restoration of titles and reinstatement of the judges. It added that a very small number of judges could not be reinstated because they had reached the judiciary's maximum age of 70 or because of personal reasons that prevented their reinstatement such as the decision to retire or to serve in an elective position. Peru asserted that it has paid the amount of US\$5,000 to a total of 79 judges and that another 97 judges have collected a portion of that amount. It added that the Ministry of Justice already has a Budget Heading transferred by the Special Fund for the Administration of Money Obtained Illicitly to the Detriment of the State (FEDADOI) that is intended for payment of the remaining amount.

1086. On October 26, 2011, a working meeting was held between the Peruvian State and the representative for petition 33-03, Mr. Elmer Siclla Villafuerte. At that time, the solicitor repeated the information provided at earlier meetings. The State, in turn, confirmed the information provided over the course of 2011, adding that the National Council of the Judiciary and the Ministers of Justice and Foreign Relations are coordinating on a date for holding a public ceremony to recognize the State's responsibility, according to the terms indicated in the friendly settlement agreements.

1087. In communications dated December 11 and 17, 2012, the State reported that it had paid reparation in full to a portion of the judges (79) and partially to another group of judges (97), disbursing a total of US\$724,800.00. It said that in the case of Mr. Castañeda Sánchez, , it had paid the US\$5,000 agreed upon in the Friendly Settlement Agreement. For their part, some petitioners reported that the Peruvian State had still not paid the fully compensation of US\$5,000 and that it had not conducted a public apology and recognition ceremony for all the judges.

1088. Throughout 2012, the IACHR received communications in which some judges alleged that they had been subjected to disciplinary proceedings that did not respect their guarantees and that Peru had not paid their pensions or other outstanding fringe benefits. Since such propositions are not included in the friendly settlement agreements signed by the parties, and without prejudice to actions that may have been initiated by the petitioners under domestic law, the IACHR will not follow-up on the aforementioned communications in connection with the above-mentioned Friendly Settlement Reports.

1089. The State submitted information in a communication of November 27, 2013. On this opportunity, the State noted that with regard to the judges covered under Friendly Settlement Report No. 50/06 of March 15, 2006, the judges were reinstated under Resolution No. 156-2006-CNM of April 20, 2006. It also noted that it has recognized their time of service, retirement and other labor benefits; it has paid each one of them the sum of US\$5,000, as established in the friendly settlement agreement, and held the public apology ceremony on December 9, 2008.

1090. With respect to the judges covered under Friendly Settlement Report No 109/06 of October 21, 2006, the State claimed that under Resolution No 019-2007-CNM of January 11, 2007, the judges were reinstated, thus fulfilling the commitment contracted under the friendly settlement agreement. The State further reported that it has recognized their time of service for periods they did not work for the calculation of service, retirement and other labor benefits for this group of judges; and it has paid each one of them a financial reparation in the amount of US\$5,000, as provided for in the friendly settlement agreement.

1091. The State noted, with regard to the judges covered under Friendly Settlement Report No. 20/07 of March 9, 2007, that it has recognized as of the present date, their time of service, retirement and other labor benefits; and it has paid each of them the amount of US\$3,400 as financial reparation, with payment pending of another US\$1,600 each.

1092. With regard to the judges covered under Friendly Settlement Report No 71/07 of July 27, 2007, the State reported that under Resolution No. 319-2007-CNM of October 2, 2007, the judges were reinstated. It also noted that it recognized time of service for periods they did not work in the calculation of time of service, retirement and other labor benefits for this group of judges; and it has paid them financial reparation in the amount of US\$3,400 each as financial reparation, with payment pending of another US\$1,600 each.

1093. Throughout 2013, the IACHR received communications in which judges alleged that the State had failed to comply with the public apology ceremony and had not paid off the total amount of financial reparation.

1094. The IACHR requested updated information from the parties on December 3, 2014. As of the closing of this report, neither of the parties has submitted the information requested.

1095. Based on the information submitted by the parties, the IACHR concludes that the friendly settlement agreements included in the reports listed above have been partially carried out. Accordingly, it will continue to monitor the pending points. . The IACHR urges the State and the petitioners party to the friendly settlement agreements that were signed, to provide a list of beneficiaries and documentation verifying the payments made under points 2 and 3, the public apology ceremonies and lists of the events' invitees and attendees, so that a full assessment can made of what measure remain to be taken.

Petition 494-04, Report No. 20/08, Romeo Edgardo Vargas Romero (Peru)

1096. On March 13, 2008, by means of Report No. 20/08, the Commission approved a friendly settlement agreement in the request of Romeo Edgardo Vargas Romero.

1097. According to the friendly settlement agreement:

1. The National Judicial Council will restore his title within fifteen (15) days following the approval of the instant Friendly Settlement Agreement by the Inter-American Commission on Human Rights.
2. The Judiciary or the Office of the Attorney General, in the cases, respectively, of judges or prosecutors, will order the reinstatement of the judge to his original position within the fifteen days following restoration of his title. Should his original position not be available, at the judge's request, he shall be reinstated in a vacant position of the same level in the same Judicial District, or in another one. In this case, the judge will have the first option to return to his original position at the time a vacancy appears.
3. The Peruvian State undertakes the commitment to recognize as days of service the time spent removed from his position, counted from the date of the decision on non-confirmation, for purposes of calculating time served, retirement, and other work benefits granted by Peruvian law. Should it be necessary, in order to comply with this Friendly Settlement agreement, to relocate judges to another Judicial District, their years of work shall be recognized for all legal effects in their new seats.
4. The Peruvian State agrees to pay petitioners who abide by this Friendly Settlement a total indemnity of US\$5,000.00 (five thousand United States dollars), which includes expenses and costs related to national and international processing of his petition.
5. The representative of the Peruvian State undertakes the commitment to hold a ceremony of public apology in favor of the reinstated judges.

1098. On February 3, 2011, the State attached the copy of resolution No. 133-2008-CNM, whereby the National Judicial Council (*Consejo Nacional de la Magistratura*) reinstated Mr. Romeo Edgardo Vargas' title as public prosecutor. Additionally, this resolution recalled the Attorney General to report on the reincorporation of Mr. Edgardo Vargas in his former position or any other equivalent to the title reinstated. The State did not indicate whether the reincorporation has been fulfilled by the Attorney General.

1099. The State pointed that on January 6, 2011, the Supranational Public Attorney (*Procuraduría Pública Especial Supranacional*) sent a request to the General Office of Administration at the Ministry of Justice in order to issue a check of US\$ 3,400 (three thousand and four hundred dollars) in favor of Mr. Edgardo Vargas. The State attached a copy of the receipt by the aforementioned general office.

1100. The State remitted a communication on December 18, 2012, in which it said it had complied with items 1, 2, 3, and 5 of the friendly settlement agreement, as described above. The State reiterated in a communication received on November 27, 2013, the information provided in prior years.

1101. On December 3, 2014, the IACHR requested updated information from the parties. As of the close of this report, none of the parties has submitted the requested information.

1102. In view of the foregoing, the IACHR concludes that the friendly settlement agreement has been implemented in part. Accordingly, the Commission will continue to monitor the items still pending compliance.

Petition 71-06 et al., Report No. 22/11, Gloria José Yaquetto Paredes et al. (Peru)

1103. On March 23, 2011, in Report No. 22/11, the Commission approved the terms of the Friendly Settlement Agreement of September 24, 2010, signed by the Peruvian State and 21 unratified judges, whose claims were joined in Petition 71-06.

1104. Pursuant to the text of the Friendly Settlement Agreement, the State:

1. Undertook to restore the corresponding title and to order the reinstatement of the judges.
2. Undertook to recognize the unworked service time in calculating duration of service, retirement benefits and other fringe benefits under Peruvian law.
3. Agreed to a total compensation of US\$5,000 (five thousand U.S. dollars and 00/100), which includes expenses and costs of national and international proceedings relating to their petition.
4. Undertook to conduct a new evaluation and ratification procedure overseen by the National Judicial Council with respect to the judges included in the friendly settlement agreements. That procedure will be conducted in accordance with the standards and principles of the Peruvian Constitution (Articles 139 and 154), the American Convention on Human Rights, and the binding jurisprudence guaranteeing due process handed down by the Inter-American Court of Human Rights and the Constitutional Court. Applicable regulatory provisions shall be adjusted as necessary.
5. Undertook to conduct a public exoneration and apology ceremony for the reinstated judges.

1105. On January 15, 2013, the Commission requested updated information from both parties on progress made in complying with the commitments assumed by the State under the friendly settlement agreement. On that occasion, the IACHR did not receive an answer within the established time period.

1106. During the Commission's follow-up of compliance with the previous Friendly Settlement Report in 2012, the State presented information on some of the unconfirmed judges. With respect to commitments 1 and 4 of the agreement, the State notified the IACHR of the following: by resolution N° 029-2011-P-CSJS, dated September 1, 2011, Mr. Manuel Vicente Trujillo Meza was reinstated to the position of member of the Superior Court of the Judicial District of Junín, but he was not able to occupy the post because of the age limit established by law; by resolution N° 029-2011-P-CSJSU-PJ, dated September 1, Mr. José Miguel La Rosa Gómez de la Torre was reinstated to the position of member of the Superior Court of Justice of Lima, but, subsequently, he was not confirmed by the National Judicial Council during the individual evaluation and confirmation procedure conducted that same year; and by resolution N° 122-2011-CNM, dated April 14, 2011, Mr. Carlos Felipe Linares Vera Portocarreño was reinstated as a judge until early 2012 since, based on a new individual evaluation and confirmation procedure, the National Judicial Council decided not to renew its confidence in him. As for commitment 2, the State presented information solely on judges Manuel Vicente Trujillo Meza and José Miguel La Rosa Gómez de la Torre.

1107. Likewise, in 2012 Mr. José Miguel La Rosa Gómez de la Torre informed the IACHR, in connection with commitment 3, that the State had paid the amount of \$3,000, with \$2,000 still to be paid. With regard to commitment 4, Mr. José Miguel La Rosa Gómez said that the new evaluation and confirmation procedure he was subject to had not been conducted in accordance with constitutional standards and principles and the American Convention on Human Rights. Moreover, he said that the State had not complied with commitment 5 of the agreement.

1108. Judge Carlos Felipe Linares Vera Portocarreño, in a communication dated January 30, 2013, informed the IACHR with respect to commitment 1 of the agreement that the State had not reinstated him to his original position, even though it was available. Related to commitment 4, Mr. Linares said that he had been denied access to an impartial judge at the appeals level.

1109. On October 7, 2013, the IACHR asked the parties to provide up-to-date information on progress reached in the process of compliance with the commitments acquired by the State under the friendly

settlement agreement. On this opportunity, the State reported in a communication of November 27, 2013, that under Resolution No. 123-2011-CNM of April 14, 2011, the judges were reinstated, and it requested the Commission to deem this commitment as fulfilled. The State also reported that it has paid the petitioners the amount of US\$3,400 as financial reparation, and that payment of US\$1,400 to each one of them is still pending.

1110. The majority of the petitioners did not submit information before the IACHR-established deadline. Petitioner Edwin Elias Vasquez Puris reported, in a communication of November 6, 2013, that with regard to provision 2, pertaining to recognition of time of service, the State has not complied with enforcing all of the rights to “retirement and other labor benefits,” which he is entitled to under Peruvian law. Regarding the commitment to pay US\$5,000, he claimed that he has only received US\$3,000, and that he did not submit himself to a new process of evaluation and confirmation because the conditions that existed prior have not changed and, therefore, he resigned from his judge position (Vocal Superior). He further reported that the State has not held the public apology ceremony to the present day.

1111. Petitioner Fidel Gregorio Quevedo reported, in a communication of October 14, 2013, that the State had only paid him US\$3,500 as financial reparation and that it had not recognized time of service for the period he had not worked for purposes of pension and, therefore, he had filed a suit in court on this issue. Meanwhile, petitioner Carlos Felipe Linares Vera Portocarreño reported, in a communication of October 9, 2013, that the State has not complied with the commitment regarding reinstatement of his original position, and regarding the new process of confirmation by an impartial judge.

1112. On December 3, 2014, the IACHR requested updated information from the parties. As of the close of this report, the State has not submitted the requested information. For his part, on December 19, 2014 one of the petitioners reported that the State has not complied with any of the terms of the agreement.

1113. In view of the information received, the IACHR concludes that the friendly settlement agreement signed by the parties has been complied with in part, and it will therefore continue monitoring the items still pending.

Case 12.269, Report No. 28/09, Dexter Lendore (Trinidad and Tobago)

1114. In Report No. 28/09 issued on March 20, 2009, the Inter-American Commission concluded that Trinidad and Tobago is responsible for violating Mr. Lendore’s rights under Articles 8(1) and 8(2) of the American Convention, in conjunction with violations of Article 1(1) of that international instrument, due to its failure to provide him with the assistance of competent and effective counsel during his criminal proceedings; and that the State is also responsible for violating Mr. Lendore’s rights under Articles 25 and 8 of the American Convention, in conjunction with violations of Article 1(1) of the American Convention, as well as violations of Articles XVIII and XXVI of the American Declaration, by failing to provide Mr. Lendore with effective access to a Constitutional Motion for the protection of his fundamental rights.

1115. On the basis of these conclusions, the IACHR recommended to Trinidad and Tobago that it:

1. Grant Mr. Lendore an effective remedy, which includes a re-trial in accordance with the due process protections prescribed under Article 8 of the American Convention or, where a re-trial in compliance with these protections is not possible, his release, and compensation.
2. Adopt such legislative or other measures as may be necessary to ensure that Mr. Lendore’s conditions of detention comply with applicable international standards of humane treatment as articulated in the present report, including the removal of Mr. Lendore from death row.

3. Adopt such legislative or other measures as may be necessary to ensure that the right to judicial protection under Articles XVIII and XXVI of the American Declaration is given effect in Trinidad and Tobago in relation to recourse to Constitutional Motions.

1116. On December 4, 2014, the IACHR requested from both parties information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1117. Based on these considerations, the Commission reiterates that compliance with the recommendations remains pending. Accordingly, the IACHR will continue to monitor compliance with its recommendations.

Case 9903, Report No. 51/01, Rafael Ferrer Mazorra *et al.* (United States)

1118. In Report No. 51/01 dated April 4, 2001, the Commission concluded that the State was responsible for violations of Articles I, II, XVII, XVIII and XXV of the Declaration with respect to the petitioner's deprivations of liberty.

1119. The IACHR issued the following recommendations to the State:

1. Convene reviews as soon as is practicable in respect of all of the Petitioners who remained in the State's custody, to ascertain the legality of their detentions in accordance with the applicable norms of the American Declaration, in particular Articles I, II, XVII, XVIII and XXV of the Declaration as informed by the Commission's analysis in the report; and

2. Review its laws, procedures and practices to ensure that all aliens who are detained under the authority and control of the State, including aliens who are considered "excludable" under the State's immigration laws, are afforded full protection of all of the rights established in the American Declaration, including in particular Articles I, II, XVII, XVIII and XXV of the Declaration as informed by the Commission's analysis in its report.

1120. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1121. On the other hand, the State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier submissions regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

1122. Therefore, the Commission reiterates that compliance with the recommendations remains pending. Accordingly, the IACHR will continue to monitor compliance with its recommendations.

Case 12.243, Report No. 52/01, Juan Raul Garza (United States)

1123. In Report No. 52/01 dated April 4, 2001, the Commission concluded that the State was responsible for violations of Articles I, XVIII and XXVI of the American Declaration in condemning Juan Raul Garza to the death penalty. The Commission also hereby ratified its conclusion that the United States will perpetrate a grave and irreparable violation of the fundamental right to life under Article I of the American Declaration, should it proceed with Mr. Garza's execution based upon the criminal proceedings under consideration.

1124. The IACHR issued the following recommendations to the State:

1. Provide Mr. Garza with an effective remedy, which includes commutation of sentence; and

2. Review its laws, procedures and practices to ensure that persons who are accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration, including Articles I, XVIII and XXVI of the Declaration, and in particular by prohibiting the introduction of evidence of unadjudicated crimes during the sentencing phase of capital trials.

1125. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1126. On the other hand, the State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier submissions regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. The State also informed that Mr. Garza was executed on June 19, 2001.

1127. Therefore, the Commission reiterates that compliance with the recommendations remains pending. Accordingly, the IACHR will continue to monitor compliance with its recommendations.

Case 11.753, Report No. 52/02, Ramón Martínez Villarreal, (United States)

1128. In Report No. 52/02 dated October 10, 2002, the IACHR concluded that: a) the State was responsible for violations of Articles XVIII and XXVI of the American Declaration in the trial, conviction and sentencing to death of Ramón Martínez Villarreal; and, b) should the State execute Mr. Martínez Villarreal pursuant to the criminal proceedings at issue in this case, the State would perpetrate a grave and irreparable violation of the fundamental right to life under Article I of the American Declaration.

1129. The IACHR issued the following recommendations to the State:

1. Provide Mr. Martínez Villarreal with an effective remedy, which includes a re-trial in accordance with the due process and fair trial protections prescribed under Articles XVIII and XXVI of the American Declaration or, where a re-trial in compliance with these protections is not possible, Mr. Martínez Villarreal's release.

2. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.

1130. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1131. The State submitted its last report to the Commission on November 22, 2013. In its report, the State referred the Commission to its earlier submissions regarding this merits report informing that Mr. Villarreal suffers from a mental disability and that his death sentence has been vacated. The State also informs that Mr. Villarreal was released on October 4, 2006. Since he has been released, the United States considers that it is in compliance with the Commission's first recommendation in its Report No. 52/02 to release Mr. Villarreal.

1132. With respect to the Commission's second recommendation, the State reiterates that it is a party to the Vienna Convention on Consular Relations (VCCR) and is fully committed to meeting its obligations under that instrument to provide consular notification and access in the cases of detained foreign

nationals. The State has not reported of concrete actions undertaken after the issuance of Report No 52/02 to comply with the second recommendation.

1133. Based on these considerations, the Commission concludes that the State has fully complied with recommendation 1 set forth in Report N° 52/02 and is in partial compliance with recommendation 2. Accordingly, the IACHR will continue to monitor the item still pending compliance.

Case 11.140, Report No. 75/02, Mary and Carrie Dann (United States)

1134. In Report No. 75/02 dated December 27, 2002, the IACHR concluded that the State failed to ensure the Danns' right to property under conditions of equality contrary to Articles II, XVIII and XXIII of the American Declaration in connection with their claims to property rights in the Western Shoshone ancestral lands.

1135. The IACHR issued the following recommendations to the State:

1. Provide Mary and Carrie Dann with an effective remedy, which includes adopting the legislative or other measures necessary to ensure respect for the Danns' right to property in accordance with Articles II, XVIII and XXIII of the American Declaration in connection with their claims to property rights in the Western Shoshone ancestral lands.
2. Review its laws, procedures and practices to ensure that the property rights of indigenous persons are determined in accordance with the rights established in the American Declaration, including Articles II, XVIII and XXIII of the Declaration.

1136. The petitioners reported on November 23, 2013, that the State has made no efforts to comply with the recommendations. They also highlighted that the United States has continued to allow destructive resource extraction activities on the ancestral lands of the Western Shoshone with no attempt to sit down and resolve the long standing and ongoing human rights violations identified in its Merits Report. They requested additional intervention by the Commission to conduct an on-site visit and to recommend a training workshop for public officials on the international human rights of indigenous peoples.

1137. For its part, the State reiterated on November 22, 2013 its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. The State also reiterated that it declines the recommendations of the Commission.

1138. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1139. Therefore, the Commission reiterates that compliance with its recommendations set forth in Report No. 75/02 remains pending. Therefore, it will continue to monitor compliance with its recommendations.

Case 11.193, Report No. 97/03, Shaka Sankofa (United States)

1140. In Report No. 97/03 dated December 29, 2003, the Commission concluded that: a) the State was responsible for violations of Articles XVIII and XXVI of the American Declaration in the trial, conviction and sentencing to death of Shaka Sankofa; b) by executing Mr. Sankofa based upon these criminal proceedings, the State was responsible for a violation of Mr. Sankofa's fundamental right to life under Article I of the American Declaration; and c) the State acted contrary to an international norm of *jus cogens* as encompassed in the right to life under Article I of the American Declaration by executing Mr. Sankofa for a crime that he was found to have committed when he was 17 years of age.

1141. The IACHR issued the following recommendations to the State:

1. Provide the next-of-kin of Shaka Sankofa with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that violations similar to those in Mr. Sankofa's case do not occur in future capital proceedings.
3. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age.

1142. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1143. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

1144. Based on these considerations, the Commission reiterates that compliance with the recommendations in Report No. 97/03 remains partial. Accordingly, the Commission will continue to monitor the items still pending compliance.

Case 11.204, Report No. 98/03, Statehood Solidarity Committee (United States)

1145. In Report No. 98/03 dated December 29, 2003, the Commission concluded that the State was responsible for violations of the petitioners' rights under Articles II and XX of the American Declaration by denying them an effective opportunity to participate in their federal legislature.

1146. The IACHR issued the following recommendation to the State:

Provide the petitioners with an effective remedy, which includes adopting the legislative or other measures necessary to guarantee to the petitioners the effective right to participate, directly or through freely chosen representatives and in general conditions of equality, in their national legislature.

1147. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1148. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. The State also reiterated that it declines the recommendations of the Commission.

1149. Therefore, the Commission reiterates that compliance with its recommendation remains pending. Accordingly, it will continue to monitor compliance with its recommendation.

Case 11.331, Report No. 99/03, Cesar Fierro (United States)

1150. In Report No. 99/03 dated December 29, 2003, the Commission concluded that: a) the State was responsible for violations of Articles XVIII and XXVI of the American Declaration in the trial, conviction and sentencing to death of Cesar Fierro; and, b) should the State execute Mr. Fierro pursuant to the criminal

proceedings at issue in this case, the State would perpetrate a grave and irreparable violation of the fundamental right to life under Article I of the American Declaration.

1151. The IACHR issued the following recommendations to the State:

1. Provide Mr. Fierro with an effective remedy, which includes a re-trial in accordance with the due process and fair trial protections prescribed under Articles XVIII and XXVI of the American Declaration or, where a re-trial in compliance with these protections is not possible, Mr. Fierro's release.
2. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.

1152. The petitioners presented information relevant to compliance with the recommendations contained in the Merits Report on December 11, 2012. The petitioners indicated that Mr. Fierro had not been released or afforded a new trial, or that any executive, legislative, or judicial steps had been taken leading to one of these actions. Mr. Fierro remains in death row in Texas without a date scheduled for his execution, and no new court action has been filed during the past year on his behalf. Regarding the recommendation that the United States review its laws, procedures, and practices to improve compliance with consular access obligations, they report that no such review had been initiated by the federal government, or any of the state governments. When police agencies violate these obligations and foreign nationals are convicted of crimes, the courts provide no redress to secure release or any other remedy. They claim that in these cases, prosecutorial agencies routinely seek to dissuade the courts from providing any remedy. The executive branch, does not, at either the state or federal level, exercise power of clemency as a remedy for such violations. The United States 2005 denunciation of the Vienna Convention's Optional Protocol on Compulsory Settlement of Disputes has not been withdrawn.

1153. The petitioners also informed that a number of foreign nationals who sought judicial relief for the fact that they were not informed about consular access had their cases come to a judicial decision. To the petitioners' knowledge, no court in the United States has offered relief in any of these cases, nor in any civil action seeking damages for a consular access violation. In the criminal cases, courts have denied relief on a variety of grounds.

1154. The State reiterated on State November 22, 2013 its earlier communications regarding this Merits Report, in particular the one forwarded on December 17, 2012, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. With respect to the Commission's second recommendation, the State reiterated that it is a party to the Vienna Convention on Consular Relations (VCCR) and is fully committed to meeting its obligations under that instrument to provide consular notification and access in the cases of detained foreign nationals.

1155. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1156. Therefore, the Commission reiterates that there has been partial compliance with its second recommendation. Accordingly, the Commission will continue to monitor the items still pending compliance.

Case 12.240, Report No. 100/03, Douglas Christopher Thomas (United States)

1157. In Report No. 100/03 dated December 29, 2003, the Commission concluded that the State acted contrary to an international norm of *jus cogens* as reflected in Article I of the American Declaration by

sentencing Douglas Christopher Thomas to the death penalty for crimes that he committed when he was 17 years of age, and executing him pursuant to that sentence.

1158. The IACHR issued the following recommendations to the State:

1. Provide the next-of-kin of Douglas Christopher Thomas with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age.

1159. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

1160. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The State has not presented information on compliance with the recommendations set forth above this year. The petitioner submitted its response on December 16, 2014, reiterating that because there is no next of kin of the victim, there has been no compensation. And regarding the second recommendation, the petitioner reported that the State has not undertaken a review of its laws, procedures and practices regarding the execution of juvenile.

1161. Therefore, the Commission reiterates that compliance with the recommendations in Report No. 100/03 remains partial. Accordingly, the Commission will continue to monitor the items still pending compliance.

Case 12.412, Report No. 101/03, Napoleon Beazley (United States)

1162. In Report No. 101/03 dated December 29, 2003, the Commission concluded that the State acted contrary to an international norm of *jus cogens* as reflected in Article I of the American Declaration by sentencing Napoleon Beazley to the death penalty for crimes that he committed when he was 17 years of age, and executing him pursuant to that sentence.

1163. The IACHR issued the following recommendations to the State:

1. Provide the next-of-kin of Napoleon Beazley with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age.

1164. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

1165. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The petitioners informed the IACHR on December 17, 2014 that the United States has been complying with the second recommendation since 2005 by banning the execution of child offenders like Mr. Beazley. However, the U.S. has made no effort to comply with the first recommendation to provide an effective remedy, including compensation, for the damage caused to Mr. Beazley's family by his death sentence and execution. The State has not presented information on compliance with the recommendations set forth above this year.

1166. Therefore, the Commission reiterates that compliance with the recommendations in Report N° 101/03 remains partial. Accordingly, the IACHR will continue to monitor the item still pending compliance.

Case 12.430, Report No. 1/05 Roberto Moreno Ramos (United States)

1167. In Report No. 1/05 dated January 28, 2005, the IACHR concluded that: a) the State was responsible for violations of Articles II, XVIII and XXVI of the American Declaration in the criminal proceedings against Mr. Moreno Ramos; and, b) should the State execute Mr. Moreno Ramos pursuant to the criminal proceedings at issue in this case, the State would commit a grave and irreparable violation of the fundamental right to life under Article I of the American Declaration.

1168. The IACHR issued the following recommendations to the State:

1. Provide Mr. Moreno Ramos with an effective remedy, which includes a new sentencing hearing in accordance with the equality, due process and fair trial protections prescribed under Articles II, XVIII and XXVI of the American Declaration, including the right to competent legal representation.
2. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.
3. Review its laws, procedures and practices to ensure that defendants in capital proceedings are not denied the right to effective recourse to a competent court or tribunal to challenge the competency of their legal representation on the basis that the issue was not raised at an earlier stage of the process against them.

1169. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier responses regarding this Merits Report, in particular the one forwarded on December 17, 2012, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. With respect to the Commission's second recommendation, the State reiterates that it is a party to the Vienna Convention on Consular Relations (VCCR) and is fully committed to meeting its obligations under that instrument to provide consular notification and access in the cases of detained foreign nationals.

1170. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1171. Therefore, the Commission reiterates that there has been partial compliance with its recommendations. Accordingly, the IACHR will continue to monitor the items still pending compliance.

Case 12.439, Report No. 25/05, Toronto Markkey Patterson (United States)

1172. In Report N° 25/05 dated March 7, 2005, the Commission concluded that the State acted contrary to an international norm of *jus cogens* as reflected in Article I of the American Declaration by sentencing Toronto Markkey Patterson to the death penalty for crimes that he committed when he was 17 years of age, and executing him pursuant to that sentence.

1173. The IACHR issued the following recommendations to the State:

1. Provide the next-of-kin of Toronto Markkey Patterson with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that capital punishment is not imposed upon persons who, at the time his or her crime was committed, were under 18 years of age.

1174. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

1175. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1176. Therefore, the Commission reiterates that compliance in this case remains partial. Accordingly, the IACHR will continue to monitor the items still pending compliance.

Case 12.421, Report No. 91/05, Javier Suarez Medina (United States)

1177. In Report N° 91/05 issued on October 24, 2005, the Commission concluded that the State was responsible for: a) violations of Articles XVIII and XXVI of the American Declaration in the trial, conviction and sentencing to death of Javier Suarez Medina, by permitting the introduction of evidence of an unadjudicated crime during Mr. Suarez Medina's capital sentencing hearing and by failing to inform Mr. Suarez Medina of his right to consular notification and assistance; and b) violations of Article I, XXIV and XXVI of the American Declaration, by scheduling Mr. Suarez Medina's execution on fourteen occasions pursuant to a death sentence that was imposed in contravention of Mr. Suarez Medina's rights to due process and to a fair trial under Articles XVIII and XXVI of the American Declaration, and by executing Mr. Suarez Medina pursuant to that sentence on August 14, 2002 notwithstanding the existence of precautionary measures granted in his favor by this Commission.

1178. The IACHR issued the following recommendations to the State:

1. Provide the next-of-kin of Mr. Suarez Medina with an effective remedy, which includes compensation.
2. Review its laws, procedures and practices to ensure that persons who are accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration, including Articles I, XVIII and XXVI of the Declaration, and in particular by prohibiting the introduction of evidence of unadjudicated crimes during the sentencing phase of capital trials.
3. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.
4. Review its laws, procedures and practices to ensure that requests for precautionary measures granted by the Commission are implemented so as to preserve the Commission's functions and mandate and to prevent irreparable harm to persons.

1179. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier responses regarding this Merits Report, in particular the one forwarded on December 17, 2012, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. The State also informed that Mr. Medina was executed on 2002.

1180. With respect to the Commission's third recommendation, the State reiterates that it is a party to the Vienna Convention on Consular Relations (VCCR) and is fully committed to meeting its obligations under that instrument to provide consular notification and access in the cases of detained foreign nationals.

1181. The petitioners last presented observations relevant to compliance with the recommendations in this case on November 22, 2012. In the aforementioned observations, they indicated that the United States has partially complied with the Commission's recommendations and repeatedly ignored two of the four recommendations detailed in the Commission's final report. Concretely, the United States has failed to ensure that unadjudicated offenses are not introduced as evidence in capital proceedings, and has failed to provide reparations to the family of Mr. Suarez Medina. Also, while the United States has recently strengthened the language in its letters to state authorities regarding the issuance of precautionary measures, it has not adopted sufficient steps to ensure that those measures are implemented. For example, the United States could conduct training workshops on the Inter-American Commission for state and local officials explaining how the Commission functions and emphasizing the importance of complying with the Commission's precautionary measures. The United States could also support petitioners' request for stays of execution in order to allow the Commission to carry out its mandate. At a minimum, the United States could take the position in legal proceedings that the Commission's precautionary measures are entitled to deference and "respectful consideration." In their view, this would lend greater weight to the efforts of petitioners to convince state courts and political decision makers that the Commission's work is of critical importance in evaluating the fairness of capital sentences and states' compliance with fundamental human rights norms. The United States has taken measures to improve compliance with Article 36 of the Vienna Convention on Consular Relations, and has filed *amicus curiae* briefs in support of Mexican nationals seeking review and reconsideration of their convictions and sentences in accordance with the decision of the International Court of Justice in *Avena* and *Other Mexican Nationals*. Nonetheless, the United States has failed to enact legislation implementing the *Avena* judgment, and two Mexican nationals have been executed without having received the judicial review mandated by the ICJ's decision in *Avena*.

1182. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1183. Therefore, the Commission reiterates that there is partial compliance with the aforementioned recommendations. Accordingly, the IACHR will continue to monitor the items still pending compliance.

Case 12.534, Report No. 63/08, Andrea Mortlock (United States)

1184. In Report N° 63/08 issued on July 25, 2008, the Inter-American Commission concluded that the United States is responsible for the violation of Article XXVI of the American Declaration to the prejudice of Andrea Mortlock, a Jamaican national who was under threat of deportation from the United States to her country, the result of which would deny her medication critical to her treatment for AIDS/HIV.

1185. As a consequence of that conclusion, the Inter-American Commission recommended to the United States that it "refrain from removing Ms. Andrea Mortlock from its jurisdiction pursuant to the deportation order at issue in this case".

1186. The petitioners presented their last communication to the Commission on October 24, 2013. In said communication, they report again that they are unaware of any plan by the United States to remove Ms. Mortlock from its jurisdiction in compliance with the deportation order issued in this case. They

underscore however that they remain very concerned for Ms. Mortlock's life should the United States immigration authorities decide not to comply with the IACHR's recommendation and will inform the Commission if there is any change.

1187. On the other hand, the State submitted its last report to the Commission's request on November 22, 2013. In its response, the State merely reiterated its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendation of the IACHR.

1188. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1189. Therefore, the Commission reiterates that, apparently, there has been compliance with its recommendation. However, in light of the position previously adopted by the State with respect to the recommendation in the Merits Report, the Inter-American Commission cannot reach a determination on compliance until it receives conclusive information. Accordingly, the IACHR will continue to monitor compliance with its recommendation.

Case 12.644, Report No. 90/09, José Ernesto Medellín, Rubén Ramírez Cárdenas and Humberto Leal García (United States)

1190. In Report N° 90/09 issued on August 7, 2009, the IACHR concluded that the United States is responsible for the violations of the rights of José Ernesto Medellín, Rubén Ramírez Cárdenas and Humberto Leal García under Articles I, XVIII and XXVI of the American Declaration in respect of the criminal proceedings leading to the imposition of the death penalty against them. With respect to Mr. Medellín, who was executed on August 5, 2008 while he was the beneficiary of precautionary measures, the Inter-American Commission additionally concluded that "the United States failed to act in accordance with its fundamental human rights obligations as a member of the Organization of American States". In Report N° 90/09, the IACHR also concluded that should the State execute Messrs. Medellín, Ramírez Cardenas and Leal García, it would commit an irreparable violation of their right to life as guaranteed in Article I of the American Declaration.

1191. Accordingly, the IACHR issued the following recommendations to the State:

1. Vacate the death sentences imposed on Messrs. Ramírez Cardenas and Leal García and provide the victims with an effective remedy, which includes a new trial in accordance with the equality, due process and fair trial protections, prescribed under Articles I, XVIII and XXVI of the American Declaration, including the right to competent legal representation.
2. Review its laws, procedures and practices to ensure that foreign nationals who are arrested or committed to prison or to custody pending trial or are detained in any other manner in the United States are informed without delay of their right to consular assistance and that, with his or her concurrence, the appropriate consulate is informed without delay of the foreign national's circumstances, in accordance with the due process and fair trial protections enshrined in Articles XVIII and XXVI of the American Declaration.
3. Review its laws, procedures and practices to ensure that persons who are accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration, including Articles I, XVIII and XXVI of the Declaration, and in particular by prohibiting the introduction of evidence of unadjudicated crimes during the sentencing phase of capital trials.
4. Review its laws, procedures and practices to ensure that persons who are accused of capital crimes can apply for amnesty, pardon or commutation of sentence with minimal fairness guarantees, including the right to an impartial hearing.

5. Provide reparations to the family of Mr. Medellín as a consequence of the violations established in this report.

1192. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier responses regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. The State also confirms that Mr. Medellín was executed on August 5, 2008, while Mr. Leal García was executed on July 7, 2011. The State also underscores that it is a party to the Vienna Convention on Consular Relations (VCCR) and is fully committed to meeting its obligations under that instrument to provide consular notification and access in the cases of detained foreign nationals, and reiterates its request that the Commission reviews its submission made on June 23, 2010, which details the on-going efforts by the United States to improve compliance with the consular notification and access provisions of the VCCR.

1193. The petitioners presented their last communication to the Commission on November 22, 2012. The petitioners stress that the United States executed two of the victims in violation of the Commission's Merits Report and recommendations, and its repeated issuance of precautionary measures. While the petitioners recognize and appreciate the efforts of the Executive Branch of the United States government to implement the *Avena* judgment of the International Court of Justice, the fact remains that Congress has thus far failed to enact legislation that would give effect to the ICJ's ruling. Petitioner Rubén Ramírez Cardenas remains alive, but could face execution in 2013. He has not yet received review and reconsideration of his conviction and sentence in accordance with the ICJ's mandate in *Avena*. Moreover, the United States has completely ignored three of the four recommendations detailed in the Commission's final report. Concretely, the United States has failed to vacate the death sentences of all Petitioners, has failed to ensure that unadjudicated offenses are not introduced as evidence in capital proceedings, and has failed to revise its clemency procedures. Although the United States would doubtless point out that individual states control the regulations and procedures relating to executive clemency for state prisoners, the United States has taken no measures to encourage such a review by the States. Finally, the United States has failed to provide reparations to the family of Mr. Medellín.

1194. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1195. Therefore, the Commission reiterates that the State failed to comply with the recommendation issued by the Commission regarding Messrs. Medellín and Leal García and is pending compliance with the recommendations regarding Mr. Ramírez Cárdenas. Consequently, the Commission will continue its supervision of the matters pending compliance.

Case 12.562, Report No. 81/10, Wayne Smith, Hugo Armendariz et al. (United States)

1196. In its Report No. 81/10, approved July 12, 2010, the IACHR concluded that in light of the deportation of Wayne Smith and Hugo Armendariz from the United States, the State is responsible for violating the rights of Messrs. Wayne Smith and Hugo Armendariz enshrined in Articles V, VI, VII, XVIII, and XXVI of the American Declaration. The IACHR pointed out, moreover, that it is well-recognized under international law that a Member State must provide non-citizen residents an opportunity to present a defense against deportation based on humanitarian and other considerations, such as the rights protected under Articles V, VI, and VII of the American Declaration. The administrative or judicial bodies charged with reviewing deportation orders in each Member State must be permitted to give meaningful consideration to a non-citizen resident's defense, examine it, and balance it against the State's sovereign right to enforce reasonable, objective immigration policy, and provide effective relief from deportation if merited. In Case 12.562 the United States did not follow these International norms.

1197. Consequently, the IACHR issued the following recommendations to the State:

1. Permit Wayne Smith and Hugo Armendariz to return to the United States at the expense of the State.
2. Reopen Wayne Smith and Hugo Armendariz's respective immigration proceedings and permit them to present their humanitarian defenses to removal from the United States.
3. Allow a competent, independent immigration judge to apply a balancing test to Wayne Smith and Hugo Armendariz's individual cases that duly considers their humanitarian defenses and can provide meaningful relief.
4. Implement laws to ensure that non-citizen residents' right to family life, as protected under Articles V, VI, and VII of the American Declaration, are duly protected and given due process on a case-by-case basis in U.S. immigration removal proceedings.

1198. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier submissions regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. The State also reiterated its position during the working meeting related to this case on March 26, 2011, still declining to implement the recommendations contained in the Merits Report.

1199. The petitioners presented information relevant to the compliance with the recommendations contained in the Merits Report relevant to this case on November 7, 2013 and December 14, 2012. In their submissions, they highlighted that the State has failed to comply with any of the recommendations contained in the Merits Report, and underscored the importance of the State's good faith adherence to its international obligations in keeping with the *pacta sunt servanda* principle. In regards to recommendations 1, 2, and 3, the petitioners indicate that they submitted requests for humanitarian parole on behalf of Messrs. Smith and Armendariz, which were denied by U.S. immigration authorities without explanation. Mr. Smith passed away in Trinidad on July 15, 2011, without ever been granted permission to return to the United States, thus permanently and irreversibly failing to comply in this respect with Recommendations Nos. 1, 2, and 3. The State has also failed to adopt measures to provide any significant redress to Mr. Smith's family. At present, Mr. Armendariz still remains in Mexico, far from his siblings and his elderly parents, who all remain in the United States. The State has not allowed him to re-enter the United States free of charge, has not reopened his respective immigration proceedings, and has not allowed a competent, independent immigration judge to apply a balancing test to his case with due consideration of humanitarian factors, all of this in spite of repeated requests.

1200. In regards to recommendation 4, the petitioners indicate that compliance is pending, given that the United States has not undertaken reforms to relevant legislation, or notable changes in the implementation thereof. They inform that United States law still provides that those convicted of an aggravated felony – a broad term including even minor crimes – are subject to mandatory deportation without judicial discretion to consider humanitarian or other legitimate defenses to deportation, considered on a case-by-case basis, and without regard to the best interests of the children who are affected. Petitioners observe that current proposals for comprehensive legislative reform provide the State a historic opportunity to adopt the legislative measures necessary to comply with the recommendations, and to finally bring its immigration legislation in line with its international obligations by implementing recommendation 4 contained in Report No. 81/10, as well as similar recommendations issued in other cases involving the United States immigration system.

1201. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The State has not presented information on compliance with the recommendations set forth above this year. The petitioners informed the IACHR on December 31st, 2014 that the State has not adopted measures to comply with recommendations 1, 2 and 3, and they reiterated that the United States has not taken any measure to provide

Mr. Smith's family with redress after his death in July 2011. Regarding Mr. Amendariz, the petitioners reiterated that he remains in Mexico and has not been allowed to re-enter the United States to reunite with his family. The petitioners mentioned in this sense, that his immigration proceedings have not been reopened. Regarding recommendation 4, the petitioners informed that despite the administrative measures announced by President Obama on November 20th, 2014, these fall short of full compliance of the recommendations of the Commission and requested the Commission to urge the Executive Branch to adopt certain measures to ensure compliance of the State with this recommendation.

1202. Based on these considerations, the Commission reiterates that the State has failed to comply with the recommendations issued. The Commission urges the United States to fully and promptly comply with its recommendations with respect to Mr. Armendariz, as well as to provide full redress to Mr. Smith's family members. The Commission will continue its supervision with the recommendations in this case.

Case 12.626, Report No. 80/11, Jessica Lenahan (González) *et al.* (United States)

1203. In its Report No. 80/11, approved July 21, 2011, the IACHR concluded that the State failed to act with due diligence to protect Jessica Lenahan and Leslie, Katheryn and Rebecca Gonzales from domestic violence, which violated the State's obligation not to discriminate and to provide for equal protection before the law under Article II of the American Declaration. The State also failed to undertake reasonable measures to protect the life of Leslie, Katheryn and Rebecca Gonzales in violation of their right to life under Article I of the American Declaration, in conjunction with their right to special protection as girl-children under Article VII of the American Declaration. Finally, the Commission finds that the State violated the right to judicial protection of Jessica Lenahan and her next-of kin, under Article XVIII of the American Declaration.

1204. Consequently, the IACHR issued the following recommendations to the State:

1. Undertake a serious, impartial and exhaustive investigation with the objective of ascertaining the cause, time and place of the deaths of Leslie, Katheryn and Rebecca Gonzales, and to duly inform their next-of-kin of the course of the investigation;
2. Conduct a serious, impartial and exhaustive investigation into systemic failures that took place related to the enforcement of Jessica Lenahan's protection order as a guarantee of their non-repetition, including performing an inquiry to determine the responsibilities of public officials for violating state and/or federal laws, and holding those responsible accountable;
3. Offer full reparations to Jessica Lenahan and her next-of-kin considering their perspective and specific needs;
4. Adopt multifaceted legislation at the federal and state levels, or to reform existing legislation, making mandatory the enforcement of protection orders and other precautionary measures to protect women from imminent acts of violence, and to create effective implementation mechanisms. These measures should be accompanied by adequate resources destined to foster their implementation; regulations to ensure their enforcement; training programs for the law enforcement and justice system officials who will participate in their execution; and the design of model protocols and directives that can be followed by police departments throughout the country;
5. Adopt multifaceted legislation at the federal and state levels, or reform existing legislation, including protection measures for children in the context of domestic violence. Such measures should be accompanied by adequate resources destined to foster their implementation; regulations to ensure their enforcement; training programs for the law enforcement and justice system officials who will participate in their execution; and the design of model protocols and directives that can be followed by police departments throughout the country;

6. Continue adopting public policies and institutional programs aimed at restructuring the stereotypes of domestic violence victims, and to promote the eradication of discriminatory socio-cultural patterns that impede women and children's full protection from domestic violence acts, including programs to train public officials in all branches of the administration of justice and police, and comprehensive prevention programs; and

7. Design protocols at the federal and state levels specifying the proper components of the investigation by law enforcement officials of a report of missing children in the context of a report of a restraining order violation.

1205. The petitioners presented information on November 12, 2013, highlighting that more than two years since the Merits report was issued, few concrete steps had been taken by the State to implement the recommendations issued by the Commission. They also reiterated their concern over the State's failure to maintain adequate communication with the petitioners, or to provide them regular and meaningful responses to their requests and suggestions regarding compliance. They underscore as immediate priorities in compliance, the granting of full reparations to Jessica Lenahan and the adequate and effective investigation of the deaths of her daughters in Colorado, the investigation and sanction of the police failures in this case, and the need for the Department of Justice to adopt guidance related to gender bias in policing and to organize a roundtable on discussion on human rights and domestic violence.

1206. On October 30, 2013, the petitioners participated in a working meeting with the State related to this case during the 149^o Sessions of the IACHR, in which Jessica Lenahan was present. In this meeting, the petitioners stressed the need for concrete benchmarks from the United States to facilitate implementation of the Lenahan decision through policy and education initiatives at the national level, and the importance of the State responding in writing to the correspondence submitted to them by the petitioners. The State representatives present were not able to provide any new information or make any commitments, and indicated they were unable to adequately prepare due to the government shutdown that had taken place in the weeks prior to the working meeting.

1207. In regards to recommendation 2, the petitioners report in their communications that the Office on Violence against Women has reached out to the Castle Rock Police Department to offer support and technical assistance for policy changes and training. Their understanding is that such training did take place during the Spring of 2013 for law enforcement in the judicial district which covers Castle Rock, and they would like to be informed of the next steps. The petitioners also had conversations with local officials in Colorado about the possibility of a forensic investigation into the death of Jessica Lenahan's daughters and would like to receive updates in this regard. As to recommendation 3, they request that the State explain in detail why it believes reparations are not available to be paid at the federal, state, and local levels.

1208. As to recommendation 6, the petitioners also inform that on June 20, 2013, the Office of Community Oriented Policing Services, the Office of Victims and Crime, and the Office on Violence against Women of the Department of Justice (DOJ) issued a joint statement on gender discrimination in policing. The statement announced that prevention of sex-based discrimination by law enforcement is a top priority of the Civil Rights Division of the DOJ because of the negative role gender bias plays in the law enforcement response to crimes against women. Therefore, they believe a number of next steps are essential to turn this statement into a tool for meaningful change, including DOJ informing advocates and others about its jurisdiction to investigate complaints and about its protocols for conducting investigations regarding gender-biased policing; and that DOJ should finalize updates to its publically available information to reflect that adequate investigations of domestic and sexual violence and under-enforcement of laws addressing these issues fall within DOJ's jurisdiction.

1209. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier November 1, 2012 submission regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR. The

State also referred to its participation in several working meetings with the IACHR Country Rapporteur and the petitioners to discuss compliance with the Commission's recommendations.

1210. The Commission held a hearing related to the merits report adopted by the Commission in the case of *Jessica Lenahan* and the status of compliance with recommendations on October 27, 2014. The hearing took place in the framework of the Commission's 153 Period of Sessions and had the participation of the State and the petitioners in this case. After its conclusion, the Commission stated the following in a press release adopted on December 29, 2014: "The parties presented information regarding compliance with the recommendations contained in the Commission's merits decision of July 21, 2011. The petitioners, including Jessica Lenahan, shared information concerning pending challenges—including the ongoing failure, in the 15 years since the events that led to this case, to investigate the deaths of Leslie, Katherine, and Rebecca Gonzales and to grant reparations, implement policy reforms that address the root causes of violence against women, and engage meaningfully with the petitioners. The UN Special Rapporteur on violence against women, Rashida Manjoo, also participated in the hearing as part of the delegation of petitioners. In her statement, she stressed that violence against women is a pervasive human rights violation rooted in multiple, intersecting forms of discrimination, and must be addressed holistically. The State highlighted efforts to address violence against women at the federal level, including the adoption of the Violence against Women Act. It also reiterated the limitations in the U.S. federal system in relation to providing reparations and investigating the deaths of Jessica Lenahan's daughters. The State also suggested that a hearing be organized concerning the case of Jessica Lenahan during the March 2015 session. The Commission expressed its concern over the pending recommendations that have not been implemented by the State, particularly its failure to investigate the deaths of Leslie, Katherine, and Rebecca Gonzales. The IACHR reminded the State of Ms. Lenahan's right to a clarification of what happened to her three daughters and who is responsible for their deaths."

1211. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1212. Based on these considerations, the Commission concludes that the State has partially complied with the aforementioned recommendations. The Commission encourages the parties to continue dialoguing on ways to implement the recommendations contained in Merits Report No. 80/11. Accordingly, the Commission will continue to monitor compliance with the remaining recommendations.

Case 12.776, Report No. 81/11, Jeffrey Timothy Landrigan (United States)

1213. In Report No. 81/11, the Commission concluded that the United States was responsible for violating Articles II, XVIII, and XXVI of the American Declaration with respect to Jeffrey Timothy Landrigan, and that his execution on October 26, 2010, constituted a serious and irreparable violation of the basic right to life enshrined in Article I of the American Declaration.

1214. Consequently, the IACHR issued the following recommendations to the State:

1. Provide reparations to the family of Mr. Landrigan as a consequence of the violations established in this report; and
2. Review its laws, procedures, and practices to ensure that people accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration, including Articles I, II, XVIII, and XXVI.

1215. The State submitted its last report to the Commission on November 22, 2013. In its report, the State merely reiterated its earlier December 7, 2012 submission regarding this Merits Report, without mentioning any efforts undertaken this year in order to comply with the recommendations of the IACHR.

1216. The petitioners submitted information on October 29, 2013, noting that the United States had failed to provide reparation to the family of Mr. Landrigan. They also claimed that the execution of Timothy Landrigan was carried out using a drug which was illegally imported, as determined by subsequent federal agency action and federal court decisions. They asserted that in nine out of the past thirteen executions by the State of Arizona, beginning with the execution of Timothy Landrigan on October 23, 2013, the executioners subjected prisoners to a surgically painful and invasive procedure in order to set the lethal intravenous (IV) lines. Therefore, the petitioners request that the Commission makes note of the United States failure to comply with the majority of its recommendations detailed in Report 81/11, and that the Commission directs the United States to provide reparations to his family for his unlawful execution.

1217. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

1218. Based on these considerations, the Commission reiterates that the State has failed to comply with the aforementioned recommendations. Accordingly, the Commission will continue its supervision of the recommendations.

Cases 11.575, 12.333 y 12.341, Report No. 52/13, Clarence Allen Jackey y otros; Miguel Ángel Flores, James Wilson Chambers (United States)

1219. The Report No. 52/13 concerns cases 11.575, 12.333 and 12.341, related to the violation of articles I, XVIII, XXV and XXVI of the American Declaration of the Rights and Duties of Man to the detriment of Clarence Allen Lackey, David Leisure, Anthony Green, James Brown, Larry Eugene Moon, Edward Hartman, Robert Karl Hicks, Troy Albert Kunkle, Stephen Anthony Mobley, Jaime Elizalde Jr., Ángel Maturino Resendiz, Heliberto Chi Aceituno, David Powell, and Ronnie Gardner (Case 11.575); Miguel Ángel Flores (Case 12.333); and James Wilson Chambers (Case 12.341) by the United States. The 16 alleged victims were sentenced to death in six states of the United States (North Carolina, South Carolina, Georgia, Missouri, Texas and Utah) and thereafter executed while beneficiaries of precautionary measures ordered by the Inter-American Commission on Human Rights. The Commission recommended in the Report 52/13 the following measures:

- a. Provide reparations to the families of Clarence Allen Lackey, David Leisure, Anthony Green, James Brown, Larry Eugene Moon, Edward Hartman, Robert Karl Hicks, Troy Albert Kunkle, Stephen Anthony Mobley, Jaime Elizalde Jr., Ángel Maturino Resendiz, Heliberto Chi Aceituno, David Powell, Ronnie Gardner, Miguel Ángel Flores and James Wilson Chambers as a consequence of the violations established in this report;
- b. Ensure that every foreign national deprived of his or her liberty is informed, without delay and prior to his or her first statement, of his or her right to consular assistance and to request that the diplomatic authorities be immediately notified of his or her arrest or detention;
- c. Push for urgent passage of the bill for the “Consular Notification Compliance Act” (“CNCA”), which has been pending with the United States Congress since 2011;
- d. Provide every indigent person accused of a capital offense with the necessary legal representation;
- e. Ensure that the legal counsel provided by the State in death penalty cases is effective, trained to serve in death penalty cases, and able to thoroughly and diligently investigate all mitigating evidence;
- f. Review its laws, procedures and practices to make certain that no one with a mental disability at the time of the commission of the crime or execution of the death sentence, receives the death penalty or is executed. The State should also ensure that anyone accused

of a capital offense who requests an independent evaluation of his or her mental health and who does not have the means to retain the services of an independent expert, has access to such an evaluation;

- g. Review its laws, procedures and practices to ensure that solitary confinement is not used as a court-imposed sentence in the case of persons sentenced to death. Ensure that solitary confinement is reserved for only the most exceptional circumstances, in accordance with international standards;
- h. Ensure that persons convicted and sentenced to death have the opportunity to have contact with family members and access to various programs and activities; and
- i. As a measure of non-repetition, ensure compliance with the precautionary measures granted by the IACHR for persons facing the death penalty.

1220. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

Case 12.854, Report No. 53/13, Iván Teleguz (United States)

1221. In the Report No. 53/13 the IACHR concluded that the United States is responsible for the violation of the right to life, liberty and personal security (Article I), right to a fair trial (Article XVIII), right of petition (Article XXIV), right of protection from arbitrary arrest (Article XXV) and right to due process of law (Article XXVI) guaranteed in the American Declaration, with respect to Ivan Teleguz, who is deprived of his liberty on death row in the state of Virginia. In the said Report the Commission recommended to the United States the following measures:

1. Grant Ivan Teleguz effective relief, including the review of his trial in accordance with the guarantees of due process and a fair trial enshrined in Articles I, XVIII, XXIV and XXVI of the American Declaration;
2. Review its laws, procedures, and practices to ensure that people accused of capital crimes are tried and, if convicted, sentenced in accordance with the rights established in the American Declaration, including Articles I, XVIII, XXIV, XXV and XXVI thereof;
3. Ensure that every foreign national deprived of his or her liberty is informed, without delay and prior to his or her first statement, of his or her right to consular assistance and to request that the diplomatic authorities be immediately notified of his or her arrest or detention; and
4. Push for urgent passage of the bill for the “Consular Notification Compliance Act” (“CNCA”), which has been pending with the United States Congress since 2011.

1222. On December 5, 2014, the IACHR asked both parties for information on compliance with the above-mentioned recommendations, pursuant to Article 48.1 of its Rules of Procedure. The parties have not presented information on compliance with the recommendations set forth above this year.

Case 12.553, Report No. 86/09, Jorge, José and Dante Peirano Basso (Uruguay)

1223. In Report No. 86/09 of August 6, 2009, the Inter-American Commission concluded that the State was responsible for violation of the rights that Jorge, José and Dante Peirano have under articles 7(2), (3), (5) and (6), 8(1) and (2), and 25(1) and (2), as a function of its obligations under articles 1(1) and 2 of the American Convention. It therefore made specific recommendations. Summarizing, the petitioners had alleged that the three Peirano Basso brothers were deprived of their liberty on August 8, 2002. As of the date on

which the complaint was filed, i.e., October 18, 2004, they had not been formally charged and had not been tried. The petitioners alleged that by January 2005, the requirements for their release had been met, as they had already spent two and a half years in prison. The State accused them of violating Law 2230 (1893), which punishes the directors of companies in dissolution who commit tax evasion and other financial offenses. According to the complaint, persons charged with this crime need not be incarcerated during their trial; nevertheless, the Peirano Basso brothers were held in prison because of the “social alarm” brought on by the collapse of the Uruguayan banking system, which they were alleged to have caused.

1224. In its report the Commission decided the following:

1. Reiterate the recommendation that the State amends its legislation, to make it consistent with the rules of the American Convention, which guarantee the right to personal liberty.

1225. In a note dated December 20, 2010, the State reported that the Executive Branch had sent the bill to amend the Penal Code to the Parliament on November 9, 2010. The House of Representatives’ Committee on the Constitution, Codes, General Legislation and Government took it under consideration on November 16, 2010. It explained that from December 15, 2010 to March 30, 2011, representatives will be able to propose amendments.

1226. In notes dated July 15, 2010 and February 7, 2011, the petitioners requested a hearing with the IACHR and stated that the judge in the case had decided to continue the proceedings despite the repeal of the article under which the Peiranos had been investigated and imprisoned (Art. 76, Law 2.230). They also reported other allegedly arbitrary actions, including an injunction prohibiting the petitioners from leaving Montevideo, the suspension of Jorge Peirano’s professional credentials, and the disallowance of time served in remand custody in the United States by Juan Peirano. Subsequently, the petitioners submitted a statement dated July 18, 2011 in which they reported as very serious an April 15, 2011 decision by the Supreme Court to allow the case against the Peirano brothers to proceed, despite the repeal of Article 76 of Law 18.411 in 2008. In its decision, the Supreme Court held that, although the offense in question had been abrogated, the proceedings should continue because the State’s charges against the Peiranos had been broadened in October 2006 to include the charge of “fraudulent business insolvency” (Art. 5, Law 14.095). The petitioners claim that this decision violates the principle of the retroactivity of the lighter criminal penalty set forth in Article 9 of the American Convention because the State broadened its complaint in order to justify the lengthy period of detention in view of the imminent repeal of Article 76 of Law 2.230. Furthermore, contrary to the holding of the Supreme Court, they consider the broadening of the State’s charges improper, given that there have been no new facts in the case since the indictment (which, in their opinion, may not be altered) and that the sole original charge in the indictment was for a now abrogated offense.

1227. With regard to the legal reform, the petitioners reported in a communication to the Commission on November 21, 2011 that, even though the bill was before the Legislature, they had concerns about its eventual outcome, given the lack of political will to achieve the necessary changes within the executive branch and existing provisions that delayed preliminary implementation of the new criminal procedure system until 2014. The petitioners asked the IACHR to require the Uruguayan State to provide information on actions taken after approval and publication of the report.

1228. In a communication received on December 15, 2011, the Uruguayan State provided the code of criminal procedure bill that the executive branch had put before the Legislature, as well as stenographic versions of the meetings of the Senate Constitution and Legislation Committee on May 3, 10, and 31 and July 19, 2011.

1229. In its communication of January 3, 2013, the State reported that it continued to make progress on the implementation of the Commission’s recommendations. It pointed out that the Chamber of Representatives’ Committee on the Constitution, Codes, General Legislation and Government was still studying the bill to amend the Penal Code, and the bills to amend the General Procedural Code and the Code of Criminal Procedure. The State also mentioned that progress is being made in other areas, as in the case of

the regime of penalties and alternatives to imprisonment. Here it noted that the Chamber of Representatives' Committee on the Constitution, Codes, General Legislation and Government had completed its consultations on the bill to amend Law No. 17.725 on Penalties and Alternatives to Incarceration. The corresponding report must be drawn up before the bill can be introduced in the full Chamber.

1230. In its communication the State reported that it had a number of clarifications regarding the assertions made by the petitioners in their note of August 6, 2012, where they claimed that "despite the repeal of Article 76 of Law 2230, under which Messrs. Peirano had been tried and imprisoned, the judge presiding over the case had decided to go ahead with the proceedings."

1231. The State said that the court's decision was based on an interlocutory ruling on a request filed by the various defense attorneys representing all the defendants on trial –including the Peirano brothers-, seeking to have the case closed and the record of the case filed. The State indicated that the interlocutory ruling was appealed and the Criminal Appellate Court of Third Rotation overturned the ruling, and ordered the record of the proceedings closed. The public prosecutor then filed a cassation appeal to challenge the appellate court's ruling, which the Supreme Court overturned and confirmed the original court decision. Therefore, the State argues that the case brought against the Peirano brothers and the other defendants followed appropriate procedure and that –contrary to what the petitioners are claiming- the Supreme Court's decision is what prevented the case from being closed; the principle of retroactivity of the law was never violated.

1232. Therefore, the State contends that one cannot make the case that the principle of the retroactivity of the law most beneficial to the criminal defendant was violated because Article 76 of Law 2230 was repealed in 2008; by that time, the indictment alleging a different crime (criminalized in Article 5 of Law 14,095 of 1972) had long since been filed. The State contends that none of the circumstances posited in Article 9 of the American Convention was present. In effect, this is not a case in which the law applied was not the applicable law at the time the crime was committed (as already noted, law 14,095 dates from 1972, and the events on trial in this case occurred well thereafter). The State further contends that this is not a case in which a heavier penalty was applied, since in its indictment, the Public Prosecutor's Office classified the criminal behavior with which the defendants were accused under the provisions Article 5 of Law 14,095. The State observes that the indictment marks the start of the criminal trial; the crime with which the defendant is charged can be changed provided that the facts for which the defendant is standing trial are not changed. Finally, the State points out that the article that was repealed was one that the Public Prosecutor's Office did not cite in its indictment. Hence the vicissitudes of a provision that was not used in the prosecution's case are irrelevant to the defendants since the defense arguments must go to and contest the indictment; the verdict must be rendered on the basis of the indictment. The charges against the defendant have to be analyzed in rendering a final decision.

1233. The State also asserted that the court did not deny the petitioners' right to leave the country; instead, it authorized them to leave provided they put up bond. It added that the suspension of Jorge Peirano's professional credentials was the result of enforcement of Article 140 of Law 15,750. It therefore contends that the application of the law in force at the time cannot be deemed a judicial abuse. As to the assertion that no allowance was made for the time that Juan Peirano served in preventive detention in the United States, the State's contention was that the preventive detention served in the United States was in connection with another case, not the case of the Peirano brothers, Jorge, José and Dante. In effect, the State points out that Juan Peirano's extradition from the United States was done pursuant to existing legal provisions and the extradition treaty, which are not part of case 12,553 processed with the IACHR.

1234. The petitioners provided information in a communication received on September 11, 2012, expressing their concern over the fact that the State had not complied with the Commission's second recommendation in which the State was asked to amend its legal or other provisions in order to make them fully compatible with the rules of the American Convention that ensure the right to personal liberty, not only as a guarantee of non-repetition, but also as a measure to put an end to the violations suffered by the victims in the present case. They contend that the effect of the State's failure to comply with the Commission's second recommendation has been to deprive the victims of any protection against judicial abuse, and ensures that

the violations of articles 8 and 25 of the American Convention of which the Peirano brothers have been victim will become continuing violations.

1235. In a communication dated November 1, 2012, the petitioners reported that once the victims in the case were released pursuant to the first recommendation in Report 35/07, they were subjected to a kind of “partial freedom”, since they were not allowed to leave Montevideo; one of them was allegedly unable to practice his profession because his professional credentials were said to have been suspended even before he was convicted of anything; furthermore, they were allegedly granted extraditions, etc.

1236. In a communication received on July 18, 2012, the petitioners reported that the Peirano Basso brothers were still being criminally prosecuted. The petitioners observed that although enactment of Law No. 18411 of November 14, 2008, had repealed Article 76 of Law No. 2230 –for which the brothers had been prosecuted- and the criminal case was filed as a result, the Prosecutor’s Office appealed that decision, which the Uruguayan Supreme Court overturned on April 15, 2011, ordering that the decision to close the case be revoked and that the criminal proceedings were to go forward.

1237. The petitioners assert that the ground cited in the Supreme Court’s ruling was that the crime being prosecuted is established in the formal indictment, and not in the prosecution of the case; they consider this interpretation to be at variance with domestic and international law on this subject. Therefore, this is not simply a matter of the State’s failure to comply with the second recommendation; it is also a violation of international law.

1238. The petitioners add that in the case against the Peirano brothers, the only crime charged in the final order binding them over for trial was abrogated; the final order binding them over for trial is the one that spells out the crime for which the defendants are being prosecuted. They contend that the court order mapped out the legal grounds on which the case was being prosecuted, which was Article 76 of Law 2230, not Article 5 of Law 14095 (fraudulent corporate insolvency); however, the case is now being prosecuted on the basis of Article 5 of Law 14095. They are therefore arguing that the set of facts existing at the time the order to stand trial was delivered and the set of facts when the complaint was filed had allegedly changed, which is not the case.

1239. On November 18, the State reiterated that the Senate Constitution and Legislation Committee was debating a bill to reform the Code of Criminal Procedure, that it was the first chamber of the legislature to address the matter, and that it was hoped that it would be approved in December 2013. The State also informed that the bill was part of a broader criminal reform process given that a proposed organizational law creating the Office of the National Prosecutor as a decentralized department was being examined. At present, that office is still part of the Ministry of Education and Culture and the Criminal Code reform bill is currently being studied by the relevant committee in the House of Representatives.

1240. For their part, on November 25, the petitioners submitted information indicating that the Code of Criminal Procedure reform bill would not be approved under this administration because the deadline for adopting laws that entailed spending expired in October 2013. They said that national elections would soon be held and that the adoption of laws that entailed spending was also banned in an election year. As a result, they said that a new parliament would not take up the bill until 2015. Furthermore, they noted that the Peirano brothers still have to obtain judicial permission to travel outside Montevideo and that Jorge Peirano was still ineligible after eight years of preventive detention, even though the judgment at first instance had been issued, sentencing him to six years in prison. As a result, his ineligibility was being kept in place for longer than the amount of time ordered in the criminal sentence. They added that a new development that had arisen in the case was that the above judgment of first instance had been handed down 11 years after the proceedings began, which, moreover, had been set aside at one point. They claimed that this affected the right to be presumed innocent, fair trial guarantees, and other international guarantees. They said that the judgment is currently under appeal. In sum, they say that the Peiranos are still being submitted to the same criminal proceeding and procedural rules that the IACHR described as falling short of the standard set by the Convention and that the delay by the State in implementing the recommendation pending affected thousands of persons currently being or who will be subjected to an arbitrary process. The

petitioners hold that despite being at liberty, in other ways, the victims are still being subjected to an ongoing violation of their rights to an impartial and fair trial.

1241. On December 2, 2014, the IACHR requested up-to-date information from the parties regarding compliance with the pending recommendation. The State sent information on December 29, 2014, which gave an account of the passage and enactment of the new Code of Criminal Procedure (CPP) on December 19, 2014.

1242. For their part, on February 11, 2015, the petitioners presented information on compliance, indicating that the Code of Criminal Procedure had indeed been adopted but that there had not been a technical advice from the IACHR, and that they believed that [the CPP] fails to meet international standards. The petitioners requested that a public hearing be held with all the members of the IACHR to reconsider sending the case to the Inter-American Court of Human Rights. The petitioners once again noted that the Peirano brothers are still being criminally prosecuted and that the new Code of Criminal Procedure fails to indicate in its statement of purpose that it was adopted in compliance with the recommendation issued in Report No. 86/09. The petitioners further indicated that there is not a single judge in the country who has applied the “reasonable time” standard set forth in the report or even cited that document. The petitioners stressed that the aforementioned Code would enter into force in 2017 and criticized the fact that it would not go into effect sooner.

1243. Regarding the petitioners’ assertions with respect to the criminal case being pursued against the Peiranos, the IACHR observes that the report in question had recommended that “*The Uruguayan State must take all the necessary measures to release Jorge, Jose, and Dante Peirano Basso while a [judgment] is pending, without prejudice to the continuation of proceedings,*” a recommendation the IACHR considered fulfilled in the same Report No. 86/09.⁹⁷

1244. With respect to the second recommendation made in Report No. 86/09, the Commission is evaluating the information provided by the State and takes note of Uruguay’s adoption of a new Code of Criminal Procedure by means of Law 19.293, as well as the enactment thereof by the Executive branch on December 19, 2014. The Commission will conduct an analysis on compliance in terms of whether the precepts of the new CPP are “fully compatible with the standards of the American Convention that ensure the right to personal liberty.”

1245. In view of the foregoing, the IACHR believes the State has taken an important step forward in implementing the pending recommendation, and therefore considers [the recommendation] to be partially fulfilled. The Commission will continue to analyze the corresponding compatibility with the Convention.

Case 12.555 (Petition 562/03), Report No. 110/06, Sebastián Echaniz Alcorta and Juan Víctor Galarza Mendiola (Venezuela)

1246. On October 27, 2006, by means of Report No. 110/06, the Commission approved a friendly settlement agreement in the case of Sebastián Echaniz Alcorta and Juan Víctor Galarza Mendiola. The case deals with the deportation, from Venezuela to Spain, of Juan Víctor Galarza Mendiola on June 2, 2002, and of Sebastián Echaniz Alcorta on December 16, 2002, both of whom are Spanish nationals of Basque origin.

1247. In the friendly settlement agreement, the Venezuelan State accepted its responsibility for violating the human rights of Juan Víctor Galarza Mendiola and Sebastián Echaniz Alcorta, by illegally deporting them and illegally handing them over to the Spanish State. The Venezuelan State also acknowledged its violation of the following articles of the American Convention: Right to Humane Treatment, Right to Personal Liberty, Right to a Fair Trial, Right to Privacy, Rights of the Family, Freedom of Movement and Residence, Right to Equal Protection, and Right to Judicial Protection, in accordance with the general obligation to respect and guarantee rights. It also admitted the violation of Article 13 of the Inter-American

⁹⁷ IACHR Report No. 86/09, Case 12.553, Merits, *Jorge, Jose, and Dante Peirano Basso*, Eastern Republic of Uruguay, August 6, 2009.

Convention to Prevent and Punish Torture, it undertook to provide, inter alia, pecuniary damages and guarantees of non-repetition.

1248. On October 21, 2006, the Commission adopted Report No. 110/06, in which it applauded the efforts made by both parties in reaching the friendly settlement and, in addition, clarified that the agreement referred to a series of matters beyond the jurisdiction of the Commission and/or that were not addressed in the case before it. The Commission therefore deemed it was necessary to state that the adopted report in no way implied a ruling on the individuals not named as victims in the case before the Commission, on the citizenship of Messrs. Juan Víctor Galarza Mendiola and Sebastián Echaniz Alcorta, nor on the treatment they may have received in third countries not subject to the IACHR's jurisdiction.

1249. On October 4, 2013 and on November 25, 2014, the IACHR requested information on compliance with pending items from both parties and received no reply from either party.

1250. Based on the foregoing, the IACHR concludes that compliance with the friendly settlement agreement remains pending. Therefore, the Commission will continue to monitor the pending items.

Case 11.706, Report No. 32/12, Yanomami Indigenous People of Xaximú (Venezuela)

1251. On October 1, 1999, through the good offices of the Commission, a friendly settlement agreement was executed between the Venezuelan State and the petitioners. The case is about the death of 16 Yanomami indigenous people, by a group of Brazilian gold prospectors (*garimpeiros*), who had also injured another group, in the region of Haximu, State of Amazonas, Venezuela, on the border with Brazil.

1252. In the agreement, the State promised to conduct surveillance and control over the Yanomami area, by establishing a Joint and Standing Surveillance and Control Plan to monitor and oversee the entry of *garimpeiros* and illegal mining in the Yanomami area; with regard to the health of the Yanomami people, it pledged to design, fund and put into operation, through the Ministry of Health and in coordination with the Regional Council of Health of the State of Amazonas, a Comprehensive Health Program for the Yanomami Peoples. With respect to the judicial investigation of the massacre, it pledged to undertake follow-up to the judicial investigation into the criminal proceeding that is being brought before the Brazilian authorities, in order to establish responsibility and apply the appropriate criminal punishments. It also undertook to study and promote legislative measures for the protection of indigenous peoples and the appointment of an expert on indigenous affairs. Subsequently, the IACHR received information on the proposals for compliance with the agreement between the parties, specifically regarding the surveillance and control of the Yanomami area and the Yanomami health plan.

1253. On March 20, 2012, the IACHR approved Friendly Settlement Report No. 32/12 recognizing the willingness of the State to comply with the items of the agreement and the progress made in this regard, based on the information provided by the parties during the processing of the instant matter. Additionally, it assessed the proposals for compliance outlined by the petitioners. With regard to the judicial investigation proceedings into the facts of this case, the IACHR took into account that the investigation led to the punishment of those responsible by the Brazilian authorities.

1254. Consequently, the IACHR decided to:

1. Approve the terms of the friendly settlement agreement reached by the parties with the respective amendments.
2. Make the instant report public and include it in the Annual Report of the Commission to the OAS General Assembly.

1255. On October 08, 2013, the IACHR requested both parties to report on compliance with the pending items and received no reply from either side. On November 25, 2014, the IACHR received a joint communication from the Venezuelan Program of Action and Education in Human Rights [*Programa*

Venezolano de Educación Acción en Derechos Humanos] (PROVEA) and CEJIL, providing information on the two pending items of the agreement: the supervision and monitoring of the Yanomami area and the provision of health services to the Yanomami people.

1256. With respect to the first item, the petitioners expressed their concern over the alleged absence of surveillance and control of the unlawful entry of *garimpeiros* into the area, as well as the proliferation of illegal mining, maintaining that both the former and the latter were taking place with the complicity of the Armed Forces and the Environmental Police. The petitioners alleged that those acts have had adverse effects on the community, posing major threats to the safety and lives of the Yanomami people. They alleged that those acts have resulted in the pollution of the Atabapo River and the disturbance of the waterway ecosystem in the area, as well as the introduction and expansion of endemic diseases, organized crime, different forms of violence against indigenous women, and drug trafficking. In view of the above, the petitioners assert that the Venezuelan State continues to lack appropriate policies and measures to control the unlawful entry of *garimpeiros*, as well as appropriate policies to control the corruption of members of the Armed Forces, who have contributed to the establishment and growth of illegal mining in the area.

1257. With respect to the second point, the petitioners assert that, in spite of the progress made by the IACHR on the issue, they have documented some setbacks: the constant and ongoing lack of adequate health personnel in rural areas and their continuous rotation; lack of continuity in medical treatments, which hinders the effective eradication of epidemics; increased mortality rate in 2013 due to infectious diseases such as malaria, pneumonia, and tuberculosis; lack of adequate transportation to access remote areas and the lack of suitable medical equipment to treat the aforementioned health crisis; and the need to continue training members of this ethnic group as “Yanomami Community Agents for Primary Health Care.” In particular, the petitioners ask that the efforts made to date be supported by increased monitoring by the institutions, and that the additional medicines and supplies necessary for it to complete its work be provided. Finally, the petitioners assert that the Yanomami Health Plan does not currently have a sufficient budget.

1258. On November 26, 2014, the IACHR requested updated information regarding compliance. To date, no reply has been received from either of the parties.

1259. Based on the foregoing, the IACHR concludes that there has been partial compliance with the recommendations made in Report 122/12. Accordingly, the Commission will continue to monitor compliance.

Case 12.473, Report No. 63/13, Jesús Manuel Cárdenas et al. (Venezuela)

1260. On March 2, 2005, through the good offices of the Commission, the Venezuelan State and the petitioners entered into a friendly settlement agreement. The case concerns the responsibility of the Bolivarian Republic of Venezuela for failing to comply with two court decisions issued by domestic courts upholding the 18 alleged victims’ right to social security.

1261. On July 16, 2013, the IACHR approved the friendly settlement agreement in which the State agreed to the following:

1. To pay the 18 pensioners and their heirs, as appropriate, 100 percent of the pensions owed as of the date of payment.
2. To adopt a mechanism that enables the victims and survivors to collect their retirement pensions in the future, after the sums owed have been paid, in accordance with Venezuelan law.
3. The payment of six thousand U.S. dollars (US \$6,000) or its equivalent in bolívares in compensation for pecuniary and non-pecuniary damages caused to each of the victims and their families. The State may request an additional two months beyond the previously established time limit in order to comply with these reparations.
4. To take steps to satisfy the non-pecuniary claims, ensuring that the State apologizes to the victims and their families. This shall consist of the following:

- a. Acknowledgement of the international responsibility of the Venezuelan State under international law for the violation of human rights that occurred in 1992 as a result of the privatization of the company VIASA, which infringed the vested rights of the pensioners, and the acknowledgement by President Hugo Chávez Frías of the need to resolve the situation.
- b. Publication of the apology to the pensioners and their families in a nationally circulated daily newspaper.
- c. Production of a special television program on the State-owned network with the largest nationwide audience in tribute to the deceased pensioner Jesús Manuel Naranjo, President of the National Association of Retired Workers and Pensioners of VIASA, and in recognition of the perseverance of the pensioners in fighting for their rights.
- d. Implementation of an educational campaign to raise awareness about the rights of retired persons in Venezuela and benefits to which they are entitled.

1262. With respect to the first item, the approval report established that the State has been timely and consistently making the monthly retirement and pension benefits payments to the victims in the case. Nevertheless, the Commission decided to continue monitoring all of the items contained in the agreement.

1263. In a communication received on November 5, 2013, the petitioners asserted that the Venezuelan State had not complied with the other items in the agreement beyond the pecuniary aspect.

1264. On November 26, 2014, the IACHR requested updated information on compliance. To date, neither party has replied.

1265. Based on the foregoing, the Commission concludes that there has been partial compliance with the friendly settlement agreement. Therefore, the Commission will continue to monitor the items pending.