



## Inter-American Court of Human Rights

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# I. ORIGIN, STRUCTURE AND COMPETENCE OF THE COURT

## A. ESTABLISHMENT

The Inter-American Court of Human Rights (hereinafter “the Court or “the Inter-American Court”) was created by the entry into force of the American Convention on Human Rights or the “Pact of San José, Costa Rica” (hereinafter “the Convention” or “the American Convention”) on July 18, 1978, when the eleventh instrument of ratification by a Member State of the Organization of American States (hereinafter “the OAS” or “the Organization”) was deposited. The Convention was adopted at the Inter-American Specialized Conference on Human Rights, which was held in San José, Costa Rica, from November 7 to 22, 1969.

The two organs for the protection of human rights provided for under Article 33 of the American Convention are the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) and the Court. The function of these organs is to ensure compliance with the obligations imposed by the Convention.

## B. ORGANIZATION

Under the terms of the Statute of the Court (hereinafter “the Statute”), the Court is an autonomous judicial institution with its seat in San Jose, Costa Rica; its purpose is the application and interpretation of the Convention.

The Court consists of seven judges, nationals of OAS Member States, who are elected in an individual capacity “from among jurists of the highest moral authority and of recognized competence in the field of human rights, who possess the qualifications required for the exercise of the highest judicial functions, in conformity with the law of the State of which they are nationals or of the State that proposes them as candidates” (Article 52 of the Convention). Article 8 of the Statute provides that the Secretary General of the Organization of American States shall request the States Parties to the Convention (hereinafter “States Parties”) to submit a list of their candidates for the position of judge of the Court. In accordance with Article 53(2) of the Convention, each State Party may propose up to three candidates, nationals of the State that proposes them or of any other OAS Member State.

The judges are elected by the States Parties by secret ballot and by the vote of an absolute majority during the OAS General Assembly immediately before the expiry of the terms of the outgoing judges. Vacancies on the Court caused by death, permanent disability, resignation or dismissal shall be filled, if possible, at the next session of the OAS General Assembly (Article 6(1) and 6(2) of the Statute).

Judges shall be elected for a term of six years and may be re-elected only once. Judges whose terms have expired shall continue to serve with regard to the cases they have begun to hear and that are still pending (Article 54(3) of the Convention). If necessary, in order to maintain the Court’s quorum, one or more interim judges may be appointed by the States Parties (Article 6(3) of





the Statute). When none of the judges called on to hear a case is a national of the respondent State, that State may appoint a judge *ad hoc*; States have taken advantage of this possibility in numerous cases before the Court.

States parties to a case are represented in the proceedings before the Court by the agents they designate (Article 21 of the Rules of Procedure) and the Commission is represented by the delegates that it appoints for this purpose. Under the 2001 reform to the rules of procedure, the representatives of the alleged victim may submit autonomously a brief with requests, arguments and evidence, and also take part in the different proceedings and procedural stages before the Court.

The judges are at the disposal of the Court, which holds as many regular sessions a year as may be necessary for the proper discharge of its functions. Currently, the Court holds four regular sessions each year. Special sessions may also be called by the President of the Court or at the request of the majority of the judges. Although the judges are not required to reside at the seat of the Court, the President shall render his service on a permanent basis (Article 16 of the Statute).

The President and Vice President are elected by the judges for a period of two years and may be reelected (Article 12 of the Statute).

There is a Permanent Commission of the Court composed of the President, the Vice President and any other judges that the President considers appropriate, according to the needs of the Court. The Court may also create other commissions for specific matters (Article 6 of the Rules of Procedure).

The Secretariat functions under the direction of a Secretary, elected by the Court (Article 14 of the Statute) and a Deputy Secretary (Article 14 of the Statute)

### **C. COMPOSITION**

The following judges, listed in order of precedence, sat on the Court in 2004:

Sergio García Ramírez (Mexico), President

Alirio Abreu Burelli (Venezuela), Vice President

Oliver Jackman (Barbados)

Antônio A. Cançado Trindade (Brazil)

Cecilia Medina Quiroga (Chile)

Manuel E. Ventura Robles (Costa Rica), and

Diego García Sayán (Peru).

The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica).

Respondent States have exercised their right to appoint a judge *ad hoc* in eleven cases that are pending before the Court (Article 55 of the Convention). The following is the list of the judges *ad hoc* and the cases for which they were appointed in 2004:

Ernesto Rey Cantor	The case of the "19 Tradesmen" (Colombia)
Alejandro Sánchez Garrido	The Plan de Sánchez Massacre case (Guatemala)
Emilio Camacho Paredes	Ricardo Canese case (Paraguay)
Marco Antonio Mata Coto	Herrera Ulloa case (Costa Rica)
Víctor Manuel Nuñez	The "Minors' Rehabilitation Institute" case (Paraguay)
Francisco Eguiguren Praeli	Gómez Paquiyaury case (Peru)
Juan Federico Monroy Gálvez	Lori Berenson Mejía case (Peru)
Oscar Luján Fappiano	Carpio Nicolle case (Guatemala)
Hernán Salgado Pesantes	Tibi case (Ecuador)
Alejandro Montiel Arguello	Serrano Cruz case (El Salvador)
Freddy Kruisland	The Moiwana Community case (Suriname)

#### D. JURISDICTION

The Convention confers contentious and advisory functions on the Court. The first function involves the power to decide cases in which it is alleged that one of the States Parties has violated the Convention and the second function involves the power of the Member States of the Organization to request that the Court interpret the Convention or "other treaties concerning the protection of Human Rights in the American States". Within their spheres of competence, the organs of the OAS mentioned in its Charter may also consult the Court.

**1. Contentious function:** this function enables the Court to determine whether a States has incurred international responsibility for having violated any of the rights embodied or established in the American Convention on Human Rights. The contentious competence of the Court is regulated in Article 62 of the American Convention which establishes:

1. A State Party may, upon depositing its instrument of ratification or adherence to this Convention, or at any subsequent time, declare that it recognizes as binding, *ipso facto*, and not requiring special agreement, the jurisdiction of the Court on all matters relating to the interpretation or application of this Convention.
2. Such declaration may be made unconditionally, on the condition of reciprocity, for a specified period, or for specific cases. It shall be presented to the Secretary General of the Organization, who shall transmit copies thereof to the other member states of the Organization and to the Secretary of the Court.



3. The jurisdiction of the Court shall comprise all cases concerning the interpretation and application of the provisions of this Convention that are submitted to it, provided that the States Parties to the case recognize or have recognized such jurisdiction, whether by special declaration pursuant to the preceding paragraphs, or by a special agreement.

According to Article 61(1) of the Convention “[o]nly the States Parties and the Commission shall have the right to submit a case to the Court.”

Article 63(1) of the Convention contains the following provision concerning the Court's judgments:

If the Court finds that there has been a violation of a right or freedom protected by this Convention, the Court shall rule that the injured party be ensured the enjoyment of his right or freedom that was violated. It shall also rule, if appropriate, that the consequences of the measure or situation that constituted the breach of such right or freedom be remedied and that fair compensation be paid to the injured party.

Paragraph 2 of Article 68 of the Convention provides that: “[t]hat part of a judgment that stipulates compensatory damages may be executed in the country concerned in accordance with domestic procedure governing the execution of judgments against the State.”

The judgments rendered by the Court are “final and not subject to appeal.” In “case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment” (Article 67 of the Convention). The States Parties “undertake to comply with the judgment of the Court in any case to which they are parties” (Article 68 of the Convention).

The Court submits a report on its work to the General Assembly at each regular session, and it “[s]hall specify, in particular, the cases in which a State has not complied with its judgments” (Article 65 of the Convention).

Twenty-one States Parties have recognized the contentious jurisdiction of the Court. They are: Costa Rica, Peru, Venezuela, Honduras, Ecuador, Argentina, Uruguay, Colombia, Guatemala, Suriname, Panama, Chile, Nicaragua, Paraguay, Bolivia, El Salvador, Haiti, Brazil, Mexico, the Dominican Republic and Barbados.

**2. Advisory function:** this function enables the Court to respond to consultations by Member States of the OAS or this Organization’s organs, in the terms of Article 64 of the Convention, which stipulates:

1. The member states of the Organization may consult the Court regarding the interpretation of this Convention or of other treaties concerning the protection of Human Rights in the American states. Within their spheres of competence, the organs listed in Chapter X of the Charter of the Organization of American States, as amended by the Protocol of Buenos Aires, may in like manner consult the Court.

2. The Court, at the request of a member state of the Organization, may provide that state with opinions regarding the compatibility of any of its domestic laws with the aforesaid international instruments.

The right to request an advisory opinion is not limited to the States Parties to the Convention. Any OAS Member State may request such an opinion. The OAS Member States are: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Colombia, Costa Rica, Chile, Dominica, the Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Saint Kitts and Nevis, Saint Lucia, Saint Vincent and the Grenadines, Suriname, Trinidad and Tobago, the United States of America, Uruguay and Venezuela.

The advisory jurisdiction of the Court enhances the Organization's capacity to deal with questions arising from the application of the Convention, because it enables the organs of the OAS to consult the Court, within their spheres of competence.

**3. Provisional measures:** the Court may adopt any measures it deems pertinent in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, both in cases which the Court is hearing and in matters not yet submitted to it, at the request of the Inter-American Commission. Article 63(2) of the Convention stipulates that:

In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

## **E. BUDGET**

Article 72 of the Convention provides that "the Court shall draw up its own budget and submit it for approval to the General Assembly through the General Secretariat. The latter may not introduce any changes in it". In accordance with Article 26 of its Statute, the Court administers its own budget. The 2004 budget of the Court was US\$1,391,300.00 (one million three hundred and ninety-one thousand three hundred United States dollars).

## **F. RELATIONS WITH SIMILAR REGIONAL ORGANIZATIONS**

The Court has close institutional links with the Inter-American Commission. These ties have been strengthened through meetings between the members of the two bodies, held on the recommendation of the General Assembly (*infra* III). The Court also maintains close relations with the Inter-American Institute of Human Rights, established under an agreement between the Government of Costa Rica and the Court, which entered into force on November 17, 1980. The Institute is an autonomous, international academic institution, with a global, interdisciplinary approach to the teaching, research and promotion of human rights. The Court also maintains institutional relations with the European Court of Human Rights, created by the European Convention on Human Rights and established by the Council of Europe with similar functions to those of the Inter-American Court.



## II. JURISDICTIONAL AND ADVISORY ACTIVITIES OF THE COURT

### A. Sixty-second regular session of the Court

The Court held its sixty-second session from April 19 to May 7, 2004, at its seat in San Jose, Costa Rica, with the following members: Judge Sergio García Ramírez (Mexico), President; Judge Alirio Abreu Burelli (Venezuela), Vice President; Judge Oliver Jackman (Barbados); Judge Antônio A. Cançado Trindade (Brazil); Judge Cecilia Medina Quiroga (Chile); Judge Manuel E. Ventura Robles (Costa Rica), and Judge Diego García Sayán (Peru). The following judges *ad hoc* also participated in the session: in the *case of the 19 Tradesmen*, Ernesto Rey Cantor, appointed by the State of Colombia; in the *Plan de Sánchez Massacre case*, Alejandro Sánchez Garrido, appointed by the State of Guatemala; in the *Ricardo Canese case*, Emilio Camacho Paredes, appointed by the State of Paraguay; in the *Herrera Ulloa case*, Marco Antonio Mata Coto, appointed by the State of Costa Rica; in the *"Minors' Rehabilitation Institute" case*, Víctor Manuel Núñez, appointed by the State of Paraguay; in the *Gómez Paquiyauri case*, Francisco Eguiguren Praeli, appointed by the State of Peru; and in the *Lori Berenson Mejía case*, Juan Federico Doroteo Monroy Gálvez, appointed by the State of Peru. The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica). During this session, the Court considered the following matters:

**1. The case of the 19 Tradesmen (Colombia):** *Merits and possible reparations and costs.* On April 21 and 22, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights and the State of Colombia on merits and possible reparations and costs. It also heard the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-American Commission.

**2. The Plan de Sánchez Massacre case (Guatemala):** *Preliminary objections and possible merits, reparations and costs.* On April 23 and 24, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victims, and the State of Guatemala on preliminary objections and possible merits, reparations and costs, and also the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-American Commission. However, at the start of the public hearing, the Guatemalan State acknowledged its international responsibility for the human rights violations committed in this case and withdrew all the preliminary objections it had filed. Accordingly, on April 23, 2004, the Court issued an order in which it decided to consider that the preliminary objections filed by the State had been withdrawn; to admit the State's acknowledgement of international responsibility, and to continue holding this public hearing, but to restrict its purpose to reparations and costs. Consequently, the public hearing continued, but only with regard to reparations and costs, and the Court heard the statements of the witnesses and the reports of the expert witnesses convened for the hearing, and the final oral arguments of the Inter-American Commission, the representatives of the victims, and the State.

On April 29, 2004, the Court delivered its judgment on merits in this case, in which it decided to reaffirm its order of April 23, 2004, and to declare that the dispute concerning the facts that

gave rise to the case had ceased. Moreover, in accordance with the terms of the State's acknowledgement of international responsibility, it declared that the State had violated the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment), 8(1) (Right to a Fair Trial), 11 (Right to Privacy), 12(2) and 12(3) (Freedom of Conscience and Religion), 13(2)(a) and 13(5) (Freedom of Thought and Expression), 16(1) (Freedom of Association), 21(1) and 21(2) (Right to Property), 24 (Right to Equal Protection), and 25 (Right to Judicial Protection) of the American Convention on Human Rights; and had failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the surviving victims of this massacre. Lastly, the Court decided to continue hearing the reparations and costs stage of the case.

Judge Sergio García Ramírez informed the Court of his separate concurring opinion and Judge Antônio A. Cançado Trindade of his separate opinion, both of which accompany the judgment.

**3. Molina Theissen case (Guatemala): Preliminary objections and possible merits, reparations and costs.** On April 26 and 27, 2004, the Court held a public hearing to hear the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victim and his next of kin, and the State of Guatemala on preliminary objections and possible merits, reparations and costs, and also the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-American Commission and the representatives of the alleged victim and his next of kin. However, at the beginning of the public hearing, the Guatemalan State acknowledged its international responsibility for the human rights violations committed in this case and withdrew all the preliminary objections it had filed.

Accordingly, on April 26, 2004, the Court issued an order in which it decided to consider that all the preliminary objections filed by the State had been withdrawn; to admit the State's acknowledgement of international responsibility, and to continue holding the public hearing, but to restrict its purpose to reparations and costs. Consequently, the public hearing continued, but only with regard to reparations and costs. During the hearing the Court heard the statements of the witnesses and the reports of the expert witnesses convened for this hearing and the final oral arguments of the Inter-American Commission, the representatives of the victim and his next of kin, and the State.

On May 4, 2004, the Court issued its judgment on merits in this case, in which it decided to reaffirm its order of April 26, 2004, to declare that the dispute concerning the facts that had given rise to the case had ceased and, to declare, in accordance with the terms of the State's acknowledgement of international responsibility and the facts that had been established, that the State had violated the rights embodied in Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial), 17 (Rights of the Family), 19 (Rights of the Child) and 25 (Right to Judicial Protection) of the American Convention on Human Rights, and had failed to comply with the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, and the obligation established in Articles I and II of the Inter-American Convention on Forced Disappearance of Persons to the detriment of Marco Antonio Molina Theissen. The Court also declared that the State had violated the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment), 8 (Right to a Fair Trial), 17 (Rights of the Family) and 25 (Right to Judicial Protection) of the American Convention on Human Rights, and had failed to comply with the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof to the detriment of the next of kin of Marco Antonio Molina Theissen: Emma Theissen Álvarez widow of Molina, Carlos Augusto Molina Palma, Emma Guadalupe, Ana Lucrecia and María Eugenia, all Molina Theissen. Lastly, the Court decided to continue hearing the case with regard to the stage on reparations and costs.



**4. Alfonso Martín del Campo Dodd case (Mexico): Preliminary objections.** On April 27, 2004, the Court held a public hearing during which it heard the oral arguments of the United Mexican States, the Inter-American Commission on Human Rights, and the representatives of the alleged victim and his next of kin on preliminary objections.

**5. Ricardo Canese case (Paraguay): Merits and possible reparations and costs.** On April 28 and 29, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victim, and the State of Paraguay on merits and possible reparations and costs, and also the statements of the witnesses and the report of the expert witnesses proposed by the Inter-American Commission and the representatives of the alleged victim.

**6. Herrera Ulloa case (Costa Rica): Preliminary objections and possible merits, reparations and costs.** On April 30 and May 1, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victims, and the State of Costa Rica on preliminary objections and possible merits, reparations and costs, as well as the statements of the witnesses, and the report of the expert witnesses proposed by the Inter-American Commission, the representatives of the alleged victims, and the State.

**7. The “Minors’ Rehabilitation Institute” case (Paraguay): Preliminary objections and possible merits, reparations and costs.** On May 3, 4 and 5, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victims and their next of kin, and the State of Paraguay on preliminary objections and possible merits, reparations and costs, as well as the statements of the witnesses and the report of the expert witnesses proposed by the Inter-American Commission and the representatives of the alleged victims and their next of kin.

**8. Gómez Paquiyauri case (Peru): Merits and possible reparations and costs.** On May 5, 6 and 7, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representative of the alleged victims and their next of kin, and the State of Peru on merits and possible reparations and costs, and also the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-American Commission and the representative of the alleged victims and their next of kin.

*Provisional measures.* On May 7, 2004, the Court issued an order on provisional measures in this case, in favor of Ricardo Samuel Gómez Quispe, Marcelina Paquiyauri Illanes de Gómez, Lucy Rosa, Miguel Ángel, Ricardo Emilio, Carlos Pedro and Marcelina Haydée, all Gómez Paquiyauri; Jacinta Peralta Allcarima, and the minor Nora Emely Gómez Peralta, and also Ángel del Rosario Vásquez Chumo and the members of his family (*infra* II.G.1).

**9. Lori Berenson Mejía case (Peru): Merits and possible reparations and costs.** On May 7, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victim, and the State of Peru on merits and possible reparations and costs, as well as the statements of the witnesses proposed by the Inter-American Commission, the representatives of the alleged victim, and the State.

**10. Pilar Noriega et al., (previously known as the “case of the Miguel Agustín Pro Juárez Human Rights Center et al.”) (Mexico): Provisional measures.** On April 20, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to dis-

continue the provisional measures in favor of the members of the Miguel Agustín Pro Juárez Human Rights Center called for in its order of November 30, 2001, and also to call upon the State to maintain any necessary measures to protect the lives and safety of the lawyers, Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez, and in favor of Eusebio Ochoa López and Irene Alicia Plácido Evangelista, the parents of Digna Ochoa y Plácido, and her siblings, Carmen, Jesús, Luz María, Eusebio, Guadalupe, Ismael, Elia, Estela, Roberto, Juan Carlos, Ignacio and Agustín, all Ochoa y Plácido.

**11. The Urso Branco Prison case (Brazil): Provisional measures.** On April 22, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, that the Federative Republic of Brazil should: adopt all necessary measures to protect the lives and safety of all those confined in the Urso Branco Prison, and also of all those who entered the prison, including visitors; adapt the conditions of this prison to applicable international standards for the protection of human rights; forward to the Court an updated list of all those confined in the prison, so that those who have been released and who enter that prison can be identified; indicate the number and name of the prisoners who are serving sentences and of all those confined without having been convicted; provide information on whether those who have been convicted and those who have not been convicted are located in different sections, and investigate the facts that gave rise to the adoption of the provisional measures in order to identify those responsible and impose the corresponding sanctions, including an investigation into the grave events that occurred in the prison after the Court had issued the orders of June 18 and August 29, 2002.

The Court also convened the Inter-American Commission on Human Rights, the representatives of the beneficiaries of the measures and the Brazilian State to a public hearing to hear their arguments on compliance with the provisional measures that had been ordered (*infra* II.B.1).

**12. Liliana Ortega et al., Luisiana Ríos et al., Luis Uzcátegui, and Marta Colomina and Liliana Velásquez cases (Venezuela): Provisional measures.** On May 4, 2004, the Court issued an order on provisional measures in these cases, in which it decided, *inter alia*, that the State of Venezuela should: comply with the decisions of the Inter-American Court of Human Rights, implement the provisional measures ordered by the Court and submit the requested reports, as often as the Court indicated. The Court also noted that its terms of reference include the authority to monitor compliance with the provisional measures it orders, evaluate the reports submitted, and issue instructions and orders concerning compliance with its decisions.

In the same order, the Court reiterated, *inter alia*: that, in application of Article 65 of the Convention, the State had failed in its obligation to inform the Inter-American Court of Human Rights about the implementation of the measures it has ordered, and that the said State should comply with the provisions of the orders of December 2, 2003, and adopt forthwith the necessary measures to protect the lives and safety of Liliana Ortega, Yris Medina Cova, Hilda (Gilda) Páez, Maritza Romero, Aura Liscano (Lizcano), Alicia de González, Carmen Alicia Mendoza, Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos, Argenis Uribe, Carlos Colmenares, Noé Pernía, Pedro Nikken, Luis Enrique Uzcátegui Jiménez, Marta Colomina and Liliana Velásquez, and also the freedom of expression of the last two persons. The Court also reiterated the obligation to investigate the reported facts that gave rise to these measures in order to identify those responsible and sanction them.

**13. Other matters:** On May 4, 2004, the Court issued an order in which it unanimously elected Emilia Segares Rodríguez as Deputy Secretary of the Court. Ms. Segares, who previously worked as Coordinator of the Legal Area, is a Costa Rican lawyer, and has worked with the Court for eight years.





## B. Sixty-third regular session of the Court

The Court held its sixty-third session from June 28 to July 10, 2004, at its seat in San Jose, Costa Rica, with the following members: Judge Sergio García Ramírez (Mexico), President; Judge Alirio Abreu Burelli (Venezuela), Vice President; Judge Oliver Jackman (Barbados); Judge Antônio A. Cançado Trindade (Brazil); Judge Cecilia Medina Quiroga (Chile); Judge Manuel E. Ventura Robles (Costa Rica), and Judge Diego García Sayán (Peru). The following judges *ad hoc* also participated in the session: in the *case of the 19 Tradesmen*, Ernesto Rey Cantor, appointed by the State of Colombia; in the *Herrera Ulloa case*, Marco Antonio Mata Coto, appointed by the State of Costa Rica; in the *Gómez Paquiyauri case*, Francisco Eguiguren Praeli, appointed by the State of Peru; in the *Carpio Nicolle et al. case*, Oscar Luján Fappiano, appointed by the State of Guatemala; and in the *Tibi case*, Hernán Salgado Pesantes, appointed by the State of Ecuador. The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica). During this session, the Court considered the following matters:

**1. The Urso Branco Prison case (Brazil): Provisional measures.** On June 28, 2004, the Court held a public hearing during which it heard the arguments of the Inter-American Commission on Human Rights, the representatives of the beneficiaries of the measures, and the Federative Republic of Brazil on compliance with the provisional measures ordered by the Court.

On July 7, 2004, the Court issued an order on provisional measures, in which it decided, *inter alia*, that the Brazilian State should: adopt forthwith all necessary measures to protect the lives and safety of all those confined in the Urso Branco Prison, and also all those entering the prison, including visitors and security personnel working in the prison; adapt the conditions of the prison to the applicable international standards for the protection of human rights; forward to the Court an exact and updated list of all those confined in the prison, and investigate the facts that gave rise to the measures, in order to identify those responsible and apply the corresponding sanctions.

**2. De La Cruz Flores case (Peru): Merits, and possible reparations and costs.** On July 2, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victim, and the State of Peru on merits and possible reparations and costs, and also the statements of the witness, and the reports of the expert witnesses proposed by the Inter-American Commission and the representatives of the alleged victim.

**3. Carpio Nicolle et al. case (Guatemala): Merits, and possible reparations and costs.** On July 5 and 6, 2004, the Court held a public hearing to hear the final oral arguments of the Inter-American Commission on Human Rights, and the representatives of the alleged victims and their next of kin, and the State of Guatemala on merits and possible reparations and costs, and also the statements of the witnesses and the report of the expert witness proposed by the Inter-American Commission and the representatives of the alleged victims. However, at the beginning of the public hearing, the Guatemalan State acknowledged its international responsibility for the human rights violations committed in this case. Accordingly, on July 5, 2004, the Court issued an order in which it decided to declare that the dispute concerning the facts had ceased, to admit the State's acknowledgement of international responsibility, and to continue holding the public hearing, but to restrict its purpose to reparations and costs. Consequently, the public hearing continued, but only on reparations and costs. The statements of the witnesses and the report of the expert witness who had been convened for the hearing were heard, together with the final oral arguments of the Inter-American Commission, the representatives of the victims and their next of kin, and the Guatemalan State.

*Provisional measures.* On July 8, 2004, the Court issued an order on provisional measures in this case for, in which it decided to expand the provisional measures required in its order of September 5, 2001, to protect also the lives and safety of Jorge Carpio Arrivillaga, Rodrigo Carpio Arrivillaga and Abraham Méndez García, and the latter's wife and children, and also of the youths, Rodrigo and Daniela Carpio Fischer, should they return to Guatemala; also to call upon the State to maintain the necessary measures to protect the lives and safety of Martha Arrivillaga de Carpio and Karen Fischer, and to investigate the facts related to the alleged threats against Karen Fischer, including the alleged attack on Ms. Fischer and her security personnel on June 19, 2004.

**4. Tibi case (Ecuador):** *Preliminary objections and possible merits, reparations and costs.* On July 7 and 8, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victim and his next of kin, and the State of Ecuador on preliminary objections and possible merits, reparations and costs, and also the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-American Commission, the representatives of the alleged victim and his next of kin, and the State.

**5. Herrera Ulloa case (Costa Rica):** *Preliminary objections, and possible merits, reparations and costs.* On July 2, 2004, the Court delivered its judgment on preliminary objections, merits, reparations and costs in this case, in which it decided to reject the first preliminary objection filed by the State of Costa Rica concerning the failure to exhaust domestic remedies, and also its second preliminary objection regarding the "time-barred nature (and even, actual non-existence) of the procedural measure that, allegedly prejudiced Mr. Vargas Rohmoser."

Regarding merits, the Court declared that the State had violated the rights embodied in Articles 13 (Freedom of Thought and Expression) and 8(1) and 8(2)(h) (Right to a Fair Trial) of the American Convention, and had failed to comply with the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, all to the detriment of Mauricio Herrera Ulloa.

In relation to reparations, the Court decided, *inter alia*, that the Costa Rican State should: nullify all the effects of the judgment handed down on November 12, 1999, by the Criminal Court of the First Judicial Circuit of San José; within a reasonable time, adapt its domestic laws to the provisions of Article 8(2)(h) of the American Convention on Human Rights; and pay compensation for the non-pecuniary damage suffered by Mauricio Herrera Ulloa, and also for the expenses incurred in the proceeding before the inter-American system for the protection of human rights.

Judge Sergio García Ramírez informed the Court of his separate concurring opinion, which accompanies the judgment.

**6. Molina Theissen case (Guatemala):** *Reparations and costs.* On July 3, 2004, the Court delivered its judgment on reparations and costs in this case, in which it decided, *inter alia*, that the State of Guatemala should: find and return the remains of Marco Antonio Molina Theissen to his next of kin; conduct an effective investigation into the facts of the case, in order to identify, prosecute and punish the masterminds and perpetrators of the forced disappearance of Marco Antonio Molina Theissen; organize a public act attended by senior authorities to acknowledge its international responsibility; designate an existing educational center in Guatemala City with a name that alludes to the children who disappeared during the internal armed conflict and place a plaque there in memory of Marco Antonio Molina Theissen; pay compensation for the pecuniary and non-pecuniary damage suffered by Marco Antonio Molina Theissen and his next of kin, and well as for the



costs and expenses incurred as a result of both the domestic proceedings and the proceeding before the inter-American system for the protection of human rights.

**7. The case of the 19 Tradesmen (Colombia):** *Merits, and possible reparations and costs.* On July 5, 2004, the Court delivered its judgment on merits, reparations and costs in this case, in which it declared that the State of Colombia had violated the rights embodied in Articles 7 (Right to Personal Liberty), 5 (Right to Humane Treatment), 4 (Right to Life), 8(1) (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, and had failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Álvaro Lobo Pacheco, Gerson Javier Rodríguez Quintero, Israel Pundor Quintero, Ángel María Barrera Sánchez, Antonio Flórez Contreras, Víctor Manuel Ayala Sánchez, Alirio Chaparro Murillo, Álvaro Camargo, Gilberto Ortíz Sarmiento, Reinaldo Corzo Vargas, Luis Hernando Jáuregui Jaimes, Luis Domingo Sauza Suárez, Juan Alberto Montero Fuentes, José Ferney Fernández Díaz, Rubén Emilio Pineda Bedoya, Carlos Arturo Riatiga Carvajal, Juan Bautista, Alberto Gómez (whose second last name is possibly Ramírez) and Huber Pérez (whose second last name is possibly Castaño). The Court also declared that the State had violated the rights embodied in Articles 5 (Right to Humane Treatment), 8(1) (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention and had failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the next of kin of the above.

With regard to reparations, the Court decided, *inter alia*, that the Colombian State should: conduct an effective investigation into the facts of the case, within a reasonable time, so as to identify, prosecute and punish the masterminds and perpetrators of the violations committed to the detriment of the 19 tradesmen; erect a monument in memory of the victims; organize a public act acknowledging its international responsibility; provide free medical and psychological treatment to the next of kin of the victims; and pay compensation for the pecuniary and non-pecuniary damage suffered by the 19 tradesmen and their next of kin, and also for the costs and expenses incurred before the inter-American system for the protection of human rights.

Judge Cecilia Medina Quiroga informed the Court of her partially dissenting opinion, which accompanies the judgment.

**8. Gómez Paquiyauri case (Peru):** *Merits and possible reparations and costs.* On July 8, 2004, the Court delivered its judgment on merits, reparations and costs in this case, in which it declared that the State of Peru had violated the rights embodied in Article 4(1) (Right to Life), 7 (Right to Personal Liberty), and 19 (Rights of the Child) of the American Convention on Human Rights, and had failed to comply with the obligations established in Articles 1(1) (Obligation to Respect Rights) of the American Convention, and 1, 6 and 9 of the Inter-American Convention to Prevent and Punish Torture to the detriment of Rafael Samuel and Emilio Moisés Gómez Paquiyauri. The Court also declared that the State had violated the rights embodied in Articles 5 (Right to Humane Treatment), 11 (Right to Privacy), 8 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention, and failed to comply with obligations established in Articles 1(1) of the American Convention and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of next of kin of Rafael Samuel and Emilio Moisés Gómez Paquiyauri.

With regard to reparations, the Court decided, *inter alia*, that the Peruvian State should: investigate the facts of the case effectively, within a reasonable time, in order to identify, prosecute and punish all the perpetrators of the violations committed to the detriment of the victims; officially designate an educational center in the province of El Callao with the name Rafael Samuel Gómez Paquiyauri and Emilio Moisés Gómez Paquiyauri, in a public ceremony and in the presence of the victims' next of kin, and pay compensation for the pecuniary and non-pecuniary damage suffered

by Rafael Samuel and Emilio Moisés Gómez Paquiyaury and their next of kin, and also for the costs and expenses incurred at the domestic level and before the inter-American system for the protection of human rights.

Judge Antônio A. Cançado Trindade informed the Court of his separate opinion, Judge Cecilia Medina Quiroga, of her partially dissenting opinion, and Judge *ad hoc* Francisco Eguiguren Praeli, of his separate opinion, all of which accompany the judgment.

**9. The Kankuamo Indigenous People case (Colombia): Provisional measures.** On July 5, 2004, the Court issued an order on provisional measures in this case, in favor of all the members of the communities that comprise the Kankuamo indigenous people (*infra* II.G.2).

Judge Sergio García Ramírez informed the Court of his separate concurring opinion and Judge Antônio A. Cançado Trindade, of his concurring opinion, which accompany the order.

**10. The Sarayaku Indigenous People case (Ecuador): Provisional measures.** On July 6, 2004, the Court issued an order on provisional measures in this case, in favor of the members of the Kichwa indigenous people of Sarayaku and those who defend their interests (*infra* II.G.3).

Judge Sergio García Ramírez informed the Court of his separate concurring opinion and Judge Antônio A. Cançado Trindade of his concurring opinion, which accompany the order.

**11. The *El Nacional* and *Así es la Noticia* Newspapers case (Venezuela): Provisional measures.** On July 6, 2004, the Court issued an order on provisional measures in this case in favor of all those who work with the *El Nacional* and *Así es la Noticia* newspapers, and also all those who are on their premises, or who are linked to their journalistic activities (*infra* II.G.4).

Judge Sergio García Ramírez informed the Court of his separate concurring opinion, which accompanies the order.

**12. Carlos Nieto *et al.* case (Venezuela): Provisional measures.** On July 9, 2004, the Court issued an order on provisional measures in this case, in favor of Carlos Nieto Palma and his next of kin, including his nephew, John Carmelo Laicono Nieto (*infra* II.G.5).

### C. Sixty-fourth regular session of the Court

The Court held its sixty-fourth session from August 30 to September 9, 2004, at its seat in San Jose, Costa Rica, with the following members: Judge Sergio García Ramírez (Mexico), President; Judge Alirio Abreu Burelli (Venezuela), Vice President; Judge Oliver Jackman (Barbados); Judge Antônio A. Cançado Trindade (Brazil); Judge Cecilia Medina Quiroga (Chile); Judge Manuel E. Ventura Robles (Costa Rica), and Judge Diego García Sayán (Peru). The following judges *ad hoc* also participated in the session: in the *Ricardo Canese case*, Emilio Camacho Paredes, appointed by the State of Paraguay; in the *"Minors' Rehabilitation Institute"* case, Víctor Manuel Nuñez Rodríguez, appointed by the State of Paraguay; in the *Tibi case*, Hernán Salgado Pesantes, appointed by the State of Ecuador; in the *Serrano Cruz Sisters case*, Alejandro Montiel Arguello appointed by the State of El Salvador; and in the *Moiwana Community case*, Freddy Kruisland, appointed by the State of Suriname. The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica). During this session, the Court considered the following matters:



**1. The Serrano Cruz Sisters case (El Salvador):** *Preliminary objections, and possible merits, reparations and costs.* On September 7 and 8, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victims and their next of kin, and the State of El Salvador on preliminary objections and possible merits, reparations and costs, as well as the statements of the witnesses proposed by the Inter-American Commission, the representatives, and the State.

**2. The Moiwana Community case (Suriname):** *Preliminary objections, and possible merits, reparations and costs.* On September 9, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights, the representatives of the alleged victims and their next of kin, and the State of Suriname on preliminary objections and possible merits, reparations and costs, as well as the statements of the witnesses and the expert witness proposed by the Inter-American Commission.

**3. Ricardo Canese case (Paraguay):** *Merits, and possible reparations and costs.* On August 31, 2004, the Court delivered its judgment on merits, reparations and costs in this case, in which it declared that the State of Paraguay had violated the rights embodied in Articles 13 (Right to Freedom of Thought and Expression), 22 (Right to Freedom of Movement and Residence), 8(1), 8(2) and 8(2)(f) (Right to a Fair Trial) and 9 (Freedom from Ex Post Facto Laws) of the American Convention on Human Rights, and had failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Ricardo Nicolás Canese Krivoshein.

With regard to reparations, *inter alia*, the Court ordered that the Paraguayan State should pay compensation for the pecuniary and non-pecuniary damage suffered by Ricardo Nicolás Canese and for the costs and expenses incurred in the domestic proceedings and before the inter-American system for the protection of human rights.

Judge *ad hoc* Emilio Camacho Paredes informed the Court of his separate concurring opinion, which accompanies the judgment.

**4. The “Minors’ Rehabilitation Institute” case (Paraguay):** *Preliminary objections, and possible merits, reparations and costs.* On September 2, 2004, the Court delivered its judgment on preliminary objections, merits, reparations and costs in this case, in which it decided to reject the first preliminary objections filed by the State of Paraguay concerning the legal defect in the presentation of the application, and the second preliminary objection it had filed concerning the failure to invoke Article 26 of the American Convention on Human Rights from the outset, and to consider the third preliminary objection filed by the State concerning the concurrency of legal actions to have been withdrawn.

With regard to merits, the Court declared that the Paraguayan State had violated the rights embodied in Articles 4(1) (Right to Life), 5(1), 5(2) and 5(6) (Right to Humane Treatment) and 19 (Right of the Child) of the American Convention, and had failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of all those interned in the Institute from August 14, 1996, to July 25, 2001.

The Court also declared that the State had violated: the right to life embodied in Article 4(1) (Right to Life) of the American Convention, to the detriment of the 12 interns who died, nine of them as a result of the fires, two from knife wounds, and one from a bullet wound; the right embodied in Article 5(1) and 5(2) (Right to Humane Treatment) of the American Convention to the detriment of the children who were injured as a result of the fires; the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention, to the detriment of the next of kin of the dead and

injured identified in the judgment; the right embodied in Article 25 (Judicial Protection) of the American Convention, to the detriment of the 238 interns named in the general writ of *habeas corpus*; the right embodied in Article 8(1) (Right to a Fair Trial) of the American Convention, in relation to the obligation established in Article 2 (Domestic Legal Effects) thereof, to the detriment of all the children interned in the Institute from August 14, 1996, to July 25, 2001. The Court also declared that the State had violated the right embodied in Article 19 (Rights of the Child) of the American Convention, in the case of the victims who were children and, in relation to all the said violations, it had failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) of the American Convention.

With regard to reparations, the Court ordered, *inter alia*, that the Paraguayan State should: organize a public act to acknowledge its international responsibility and issue a statement regarding the elaboration of a short, medium and long-term State policy on children in conflict with the law, which was fully consistent with Paraguay's international commitments; provide psychological treatment, vocational training and a special education program for all those interned in the Institute between August 14, 1996, and July 25, 2001; provide medical and/or psychological care for the former interns who were injured in the fires, and psychological care for the next of kin of the interns who died or were injured; and pay compensation for the pecuniary and non-pecuniary damage suffered by the victims in this case and their next of kin, and also for the costs and expenses incurred in the domestic proceedings and before the inter-American system for the protection of human rights.

Judge Antônio A. Cançado Trindade informed the Court of his separate opinion, which accompanies the judgment.

**5. Alfonso Martín del Campo Dodd case (Mexico): Preliminary objections.** On September 3, 2004, the Court delivered its judgment on preliminary objections in this case in which it decided to admit the first preliminary objection filed by the State concerning the Inter-American Court's lack of competence *ratione temporis* and, consequently, to file the case.

Judge Cecilia Medina Quiroga informed the Court of her separate opinion, which accompanies the judgment.

**6. Tibi case (Ecuador): Preliminary objections, and possible merits, reparations and costs.** On September 7, 2004, the Court delivered judgment on preliminary objections, merits, reparations and costs in this case in this case, in which it decided to reject the first preliminary objection filed by the State concerning failure to exhaust domestic remedies and its second preliminary objection concerning the Inter-American Court's lack of competence *ratione materiae* to hear violations of the Inter-American Convention to Prevent and Punish Torture.

With regard to merits, the Court declared that the Ecuadorian State had violated the rights embodied in Articles 7(1), 7(2), 7(3), 7(4) and 7(5) (Right to Personal Liberty), 5(1), 5(2) and 5(4) (Right to Humane Treatment), 21 (Right to Property) and 8(1), 8(2), 8(2)(b), 8(2)(d) 8(2)(e) and 8(2)(g) (Right to a Fair Trial) of the American Convention on Human Rights and failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, and the obligations established in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Daniel Tibi. The Court also declared that the State had violated the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention, and had failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Beatrice Baruet, Sarah and Jeanne Camila Vachon, Lisianne Judith Tibi and Valerian Edouard Tibi.



In relation to reparations, the Court ordered, *inter alia*, that the State should: within a reasonable time, conduct an effective investigation into the facts of the case in order to identify prosecute and punish all the perpetrators of the violations committed to the detriment of Daniel Tibi; publish the proven facts and the operative paragraphs of the judgment at least once in the official gazette and in another daily newspaper with national circulation in Ecuador, and, translated into French, in a newspaper with widespread circulation in the region where Daniel Tibi resides in France; establish a training program for personnel from the Judiciary, the Attorney General's office, the police and the prisons, including medical, psychiatric and psychology personnel, on the principles and norms for the protection of human rights and the treatment of prisoners; publish a formal written statement issued by the State's highest authorities, acknowledging the State's international responsibility for the facts referred to in this case and apologize to Mr. Tibi and the other victims mentioned in the judgment; and pay compensation for pecuniary and non-pecuniary damage, and also the costs and expenses incurred in the domestic proceedings and before the inter-American system for the protection of human rights.

Judge Sergio García Ramírez informed the Court of his separate concurring opinion, Judge Antônio A. Cançado Trindade of his separate opinion and Judge *ad hoc* Hernán Salgado Pesantes of his separate opinion, which accompany the judgment.

**7. Raxcacó *et al.* case (Guatemala): Provisional measures.** On August 30, 2004, the Court issued an order on provisional measures in this case, in favor of Ronald Ernesto Raxcacó Reyes, Hugo Humberto Ruiz Fuentes, Bernardino Rodríguez Lara and Pablo Arturo Ruiz Almengor (*infra* II.G.9).

**8. The case of the 19 Tradesmen (Sandra Belinda Montero Fuentes *et al.*) (Colombia): Provisional measures.** On September 3, 2004, the Court issued an order on provisional measures in this case, in favor of Sandra Belinda Montero Fuentes and her children, Juan Manuel Ayala Montero and María Paola Casanova Montero (*infra* II.G.6).

**9. The *Globovisión* Television Station case (Venezuela): Provisional measures.** On September 4, 2004, the Court issued an order on provisional measures in this case, in favor of the journalists, administrative personnel and other employees of *Globovisión*, and other persons who are on the premises of this television station, or who are directly connected to its journalistic activities (*infra* II.G.7).

Judge Sergio García Ramírez informed the Court of his separate concurring opinion and Judge Antônio A. Cançado Trindade of his concurring opinion, which accompany the order.

**10. Luisiana Ríos *et al.* case (Radio Caracas Television/RCTV) (Venezuela): Provisional measures.** On September 8, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to expand the provisional measures of protection in favor of the journalists, administrative personnel and other employees of Radio Caracas Television who work in its offices or who are linked to its journalistic activities and to reiterate to the State that it should: adopt all necessary measures to protect the lives and safety of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos, Argenis Uribe, Carlos Colmenares, Noé Pernía and Pedro Nikken, and also the freedom of expression of the last three individuals, and continue investigating the facts that gave rise to the adoption of these provisional measures and their expansion, in order to identify those responsible and impose the corresponding sanctions.

**11. The Plan de Sánchez Massacre case (Salvador Jerónimo *et al.*) (Guatemala): Provisional measures.** On September 8, 2004, the Court issued an order on provisional measures in

this case, in favor of Salvador Jerónimo Sánchez, Prudencia Cajbon, Faustina Tojom, Juan Manuel Jerónimo and Buenaventura Jerónimo (*infra* II.G.8).

**12. Other matters:** On September 3, 2004, on the occasion of the twenty-fifth anniversary of the installation of the Inter-American Court of Human Rights, the Court received the visit of Rodrigo Carazo Odio, former President of the Republic of Costa Rica, accompanied by his wife, Estrella Zeledón, and by Gerardo Trejos Salas, the former President's adviser during his Government, also accompanied by his wife, Gloria Mazariegos. The Judges of the Court, the Secretary, the Deputy Secretary and the head of administration of the Court lunched with their guests, and discussed the origins of the Court and also current and future challenges for the inter-American system for the protection of human rights.

#### D. Sixty-fifth regular session of the Court

The Court held its sixty-fifth session from November 15 to 26, 2004, at its seat in San Jose, Costa Rica, with the following members: Judge Sergio García Ramírez (Mexico), President; Judge Alirio Abreu Burelli (Venezuela), Vice President; Judge Oliver Jackman (Barbados); Judge Antônio A. Cançado Trindade (Brazil); Judge Cecilia Medina Quiroga (Chile); Judge Manuel E. Ventura Robles (Costa Rica) and Judge Diego García Sayán (Peru). The following judges *ad hoc* also participated in the session: in the *Serrano Cruz Sisters case*, Alejandro Montiel Arguello appointed by the State of El Salvador; in the *Plan de Sánchez Massacre case*, Alejandro Sánchez Garrido, appointed by the State of Guatemala; in the *Lori Berenson Mejía case*, Juan Federico Doroteo Monroy Gálvez, appointed by the State of Peru; and in the *Carpio Nicolle et al. case*, Oscar Luján Fappiano, appointed by the State of Guatemala. The Secretary of the Court is Pablo Saavedra Alessandri (Chile) and the Deputy Secretary is Emilia Segares Rodríguez (Costa Rica). During this session, the Court considered the following matters:

**1. Caesar case (Trinidad and Tobago).** *Merits, and possible reparations and costs.* On November 15, 2004, the Court held a public hearing during which it heard the final oral arguments of the Inter-American Commission on Human Rights and the representatives of the alleged victim on merits and possible reparations and costs, as well as the report of an expert witness proposed by the Inter-American Commission. The State of Trinidad and Tobago did not take part in this public hearing.

**2. De La Cruz Flores case (Peru).** *Merits, and possible reparations and costs.* On November 18, 2004, the Court delivered the judgment on merits, reparations and costs in this case, in which it declared that the State of Peru had violated the rights embodied in Articles 9 (Freedom from Ex Post Facto Laws), 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 5 (Right to Humane Treatment) of the American Convention on Human Rights, and failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of María Teresa De La Cruz Flores. The Court also declared that the State had violated the right embodied in Article 5 (Right to Humane Treatment) of the American Convention, and failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Alcira Domitila Flores Rosas de De La Cruz, Alcira Isabel, Celso Fernando and Jorge Alfonso, all De La Cruz Flores, and Ana Teresa and Danilo Alfredo, both Blanco De La Cruz.

With regard to reparations, the Court ordered, *inter alia*, that the Peruvian State should: observe the principle of freedom from ex post facto laws embodied in Article 9 of the American Convention and the requirements of due process of law in the new proceedings against María Teresa De La Cruz Flores; provide medical and psychological care to the victim through the public health





services and reincorporate María Teresa De La Cruz Flores into the activities in which, as a doctor, she had been involved in public institutions at the time of her detention; provide the victim with a grant to allow her to undertake further training and update herself professionally and re-register María Teresa De La Cruz Flores for the appropriate pension scheme, and pay compensation for the pecuniary and non-pecuniary damage suffered by María Teresa De La Cruz Flores and her next of kin, and also for the costs and expenses incurred in the domestic proceedings and before the inter-American system for the protection of human rights.

Judge Sergio García Ramírez informed the Court of his separate opinion, which accompanies the judgment.

**3. The Plan de Sánchez Massacre case (Guatemala).** *Reparations and costs.* On November 19, 2004, the Court delivered its judgment on reparations and costs in this case, in which it decided, *inter alia*, that the Guatemalan State should: conduct an effective investigation into the facts of the Plan de Sánchez Massacre in order to identify, prosecute and punish the masterminds and perpetrators; organize a public act acknowledging its responsibility for the events that occurred in this case, and in reparation to the victims; translate the American Convention on Human Rights into the Maya Achí language if this had not been done already, and also the judgment on merits handed down by the Court on April 29, 2004, and this judgment on reparations and costs delivered on November 19, 2004; publish the section entitled “Proven Facts” and the operative paragraphs of these judgments in the official gazette and in another daily newspaper with national circulation, in Spanish and in Maya Achí; provide, free of charge, any medical care required by the victims, including any necessary medication; provide adequate housing to the surviving victims who resided in the village of Plan de Sánchez, and pay compensation for the pecuniary and non-pecuniary damage suffered by the victims, and also for the costs and expenses incurred in the domestic proceedings and before the inter-American system for the protection of human rights

The Court also decided that, in the 13 communities concerned, which are listed in the judgment, the State should implement the following programs: study and dissemination of the Maya Achí culture; maintenance and improvement of the road system; sewerage and potable water system; supply of teaching personnel trained in intercultural and bilingual teaching for primary, secondary and diversified schooling in these communities, and the establishment of a healthcare center in the village of Plan de Sánchez with adequate personnel and conditions.

Judge Sergio García Ramírez informed the Court of his separate opinion and Judge Antônio A. Cançado Trindade of his separate opinion. Judge Medina Quiroga endorsed the separate opinion of Judge Sergio García Ramírez.

**4. Carpio Nicolle et al. case (Guatemala).** *Merits, and possible reparations and costs.* On November 22, 2004, the Court delivered its judgment on merits, reparations and costs in this case, in which it declared that the State had violated the rights embodied in the following articles of the American Convention on Human Rights: 4(1) (Right to Life), 13(1), 13(2)(a) and 13(3) (Freedom of Thought and Expression), 23(1)(a), (b) and (c) (Right to Participate in Government), to the detriment of Mr. Carpio Nicolle; 4(1) (Right to Life) to the detriment of Juan Vicente Villacorta Fajardo, Alejandro Ávila Guzmán and Rigoberto Rivas González; 5(1) and 5(2) (Right to Humane Treatment), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) to the detriment of Martha Arrivillaga de Carpio, Sydney Shaw Arrivillaga, Mario Arturo López Arrivillaga and Ricardo San Pedro Suárez; 5(1) (Right to Humane Treatment), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) to the detriment of Jorge Carpio Arrivillaga, Rodrigo Carpio Arrivillaga, Karen Fischer, Rodrigo Carpio Fischer, Daniela Carpio Fischer, Silvia Arrivillaga de Villacorta, Álvaro Martín Villacorta Arrivillaga, Silvia Piedad Villacorta Arrivillaga, Juan Carlos

Villacorta Arrivillaga, María Isabel Villacorta Arrivillaga, José Arturo Villacorta Arrivillaga, Rosa Everilda Mansilla Pineda, Lisbeth Azucena Rivas Mansilla, Dalia Yaneth Rivas Mansilla, César Aníbal Rivas Mansilla, Nixon Rigoberto Rivas Mansilla, Sonia Lisbeth Hernández Saraccine, Alejandro Ávila Hernández, Sydney Roberto Ávila Hernández, María Paula González Chamo and María Nohemi Guzmán; 5(1) and 5(2) (Right to Humane Treatment), 19 (Rights of the Child), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) to the detriment of the minor at the time, Sydney Shaw Díaz. The Court also declared that, in relation to all the above violations, the State had failed to comply with the obligation established in Article 1(1) (Obligation to Respect Rights) of the American Convention.

With regard to reparations, the Court ordered, *inter alia*, that the Guatemalan State should: conduct an effective investigation into the facts of this case in order to identify, prosecute and punish the masterminds and perpetrators of the acts; remove all de facto and de jure mechanisms and obstacles that maintain impunity in this case; provide sufficient guarantees of safety to the witnesses, judicial and fiscal authorities and other agents of justice, and to the next of kin of the victims; take all measures within its powers to expedite the proceedings; adopt concrete measures to strengthen its investigative capacity; organize a public act acknowledging its responsibility in this case, and pay compensation for the pecuniary and non-pecuniary damage suffered by the victims, and also for the costs and expenses incurred before the inter-American system for the protection of human rights.

**5. The Serrano Cruz Sisters case (El Salvador).** *Preliminary objections.* On November 23, 2004, the Court delivered its judgment on preliminary objections in this case, in which it decided to admit the first preliminary objection *ratione temporis* filed by the State, entitled "Lack of competence, owing to the terms under which the State of El Salvador accepted the jurisdiction of the Inter-American Court of Human Rights," with regard to facts or acts that occurred prior to June 6, 1995, the date on which the State deposited the instrument accepting the Court's jurisdiction with the OAS General Secretariat.

Hence, the Court decided, by six votes to one (Judge Antônio A. Cançado Trindade dissenting), to accept the first preliminary objection *ratione temporis* filed by the State, entitled "Lack of competence, owing to the terms under which the State of El Salvador accepted the jurisdiction of the Inter-American Court of Human Rights," with regard to facts or acts that commenced prior to June 6, 1995, and which were prolonged until after that date on which the State accepted the Court's jurisdiction. Also by six votes to one (Judge *ad hoc* Alejandro Montiel Argüello dissenting), it decided to reject the first preliminary objection *ratione temporis* filed by the State, entitled "Lack of competence, owing to the terms under which the State of El Salvador accepted the jurisdiction of the Inter-American Court of Human Rights," with regard to the alleged violations of Articles 8 and 25 of the Convention, in relation to Article 1(1) thereof, and any other violation that was committed or initiated after June 6, 1995, date on which the State deposited the instrument accepting the Court's jurisdiction with the OAS General Secretariat.

The Court also decided unanimously to reject the preliminary objection entitled "Non-retroactivity of the application of the classification of forced disappearances of persons"; to reject the second preliminary objection entitled "Lack of competence *Rationae Materiae*"; and, unanimously, to reject the third preliminary objection entitled "Inadmissibility of the application owing to lack of clarity and incongruity between the purpose of the claim and the substance of the application," as this was not a genuine preliminary objection. Finally, it decided, by six votes to one (Judge *ad hoc* Alejandro Montiel Argüello dissenting), to reject the fourth preliminary objection filed by the State concerning "non-exhaustion of domestic remedies."



Judge Antônio A. Cançado Trindade informed the Court of his dissenting opinion on the second operative paragraph of the judgment, and Judge *ad hoc* Alejandro Montiel Argüello informed the Court of his dissenting opinion on the third and seventh operative paragraphs of the judgment. These opinions accompany the judgment.

**6. Lori Berenson Mejía case (Peru).** *Merits, and possible reparations and costs.* On November 25, 2004, the Court delivered its judgment on merits, reparations and costs in this case, in which it declared that the State of Peru had violated the right embodied in Article 5(1), 5(2) and 5(6) (Right to Humane Treatment) of the American Convention on Human Rights, to the detriment of Lori Berenson Mejía, owing to the detention conditions to which she was subjected in the Yanamayo Prison. The Court also declared that the State had violated the rights embodied in Articles 9 (Freedom from Ex Post Facto Laws), and 8(1), 8(2), 8(2)(b), (c), (d), (f) and (h) and 8(5) (Right to a Fair Trial) of the American Convention, and failed to comply with the obligation established in Article 2 (Domestic Legal Effects) of the American Convention, to the detriment of Lori Berenson, in relation to her trial before the military justice system. In addition, the Court declared that the State failed to comply with the obligation established in Article 1 (Obligation to Respect Rights) of the American Convention, in relation to all the said violations.

By six votes to one (Judge Cecilia Medina Quiroga dissenting), the Court declared that it had not been proved that the State had violated the rights embodied in Articles 9, 8(1), 8(2), 8(2) (b), (c), (d), (f) and (h), 8(4) and 8(5) of the American Convention on Human Rights, or had failed to comply with the obligation established in Article 1(1) thereof, to the detriment of Lori Berenson, in relation to her trial before the ordinary justice system.

With regard to reparations, the Court decided, *inter alia*, that the Peruvian State should: adapt its domestic legislation to the standards of the American Convention; provide Lori Berenson with appropriate, specialized medical care; condone the amount, which it had been established that Lori Berenson should pay to the State for civil reparation; take the necessary measures forthwith to adapt the conditions of detention in the Yanamayo prison to international standards; transfer the other prisoners who, owing to their physical conditions, should not be imprisoned at the altitude of that prison, and pay compensation for the costs and expenses incurred in the domestic proceedings and before the inter-American system for the protection of human rights.

Judge Cecilia Medina Quiroga informed the Court of her dissenting opinion and Judge Oliver Jackman informed the Court of his separate concurring opinion, which accompany this judgment.

**7. The case of the Communities of the Jiguamiandó and of the Curbaradó (Colombia).** *Provisional measures.* On November 17, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, that the State of Colombia should: maintain the measures adopted; order forthwith any measures necessary to protect effectively the lives and safety of all the members of the Community Council of the Jiguamiandó and the families of the Curbaradó; maintain all necessary measures to ensure that those benefiting from these provisional measures could continue living in their usual place of residence; provide special protection to the so-called humanitarian refuge zones established by the members of the Community Council of the Jiguamiandó and the families of the Curbaradó; and investigate the facts that gave rise to the adoption of the provisional measures, in order to identify those responsible and impose the corresponding sanctions.

**8. The case of the Peace Community of San José de Apartadó (Colombia).** *Provisional measures.* On November 17, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, that the State of Colombia should: maintain the measures adopted; order forthwith all measures necessary to protect effectively the lives and safety of all the members

of the Peace Community of San José de Apartadó; maintain all necessary measures to ensure that those benefiting from these provisional measures could continue living in their usual place of residence; ensure that the members of the Peace Community of San José de Apartadó could receive and transport products, supplies and food, effectively and permanently, and investigate the facts that gave rise to the adoption of the provisional measures in order to identify those responsible and impose the corresponding sanctions.

**9. The Mendoza Prisons case (Argentina).** *Provisional measures.* On November 22, 2004, the Court issued an order on provisional measures in this case, in favor of all those deprived of their liberty in the Mendoza Provincial Prison and in the Gustavo André Unit, in Lavalle, and also in favor of all those who are within these prisons (*infra* II.G.12).

**10. Eloisa Barrios et al. case (Venezuela).** *Provisional measures.* On November 23, 2004, the Court issued an order on provisional measures in this case in favor of Eloisa Barrios, Inés Barrios, Beatriz Barrios, Carolina García, Jorge Barrios, Rigoberto Barrios, Oscar Barrios, Pablo Solórzano, Caudy Barrios and Juan Barrios (*infra* II.G.11).

**11. Acevedo Jaramillo et al. case (Peru).** *Request for provisional measures.* On October 14, 2004, pursuant to Articles 63(2) of the American Convention and 25(3) of the Rules of Procedure of the Court, Manuel Antonio Condori Araujo, Ana María Zegarra Laos, Wilfredo Castillo S. and Guillermo Castro Bárcena, representatives of some of the alleged victims in this case, and Javier A. Mujica Petit, requested the adoption of “the necessary urgent provisional measures of protection to safeguard the full liberty and safety of Alejandro Hinostriza Rimari (alleged victim), Manuel Antonio Condori Araujo and Ana María Zegarra Laos (representatives of some of the alleged victims and proposed as witnesses in the said case before the Court) and Guillermo Castro Bárcena (representative of the alleged victims)”.

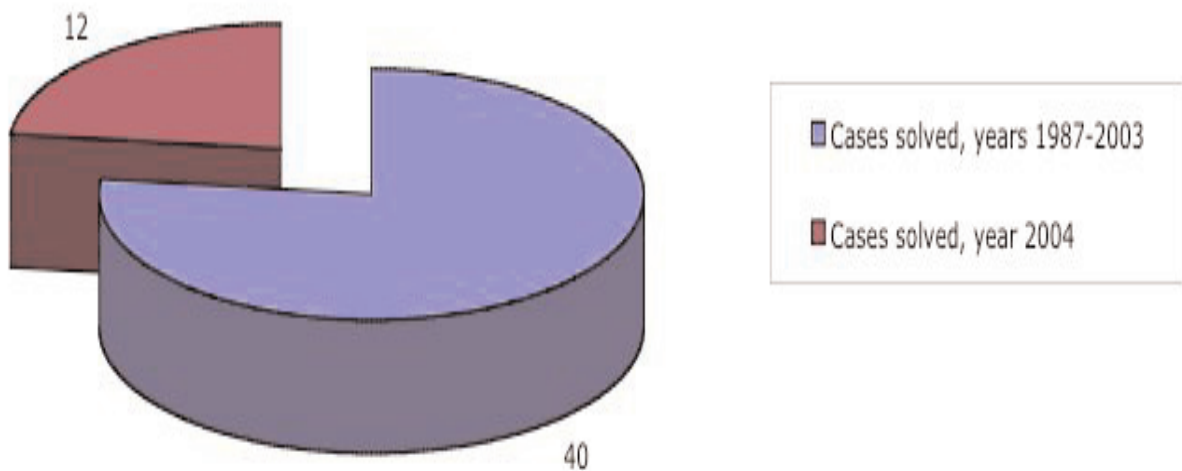
On November 23, 2004, the Court issued an order in this case, in which it decided to reject the request for provisional measures submitted by the representatives of the alleged victims, in favor of Manuel Antonio Condorí Araujo, Ana María Zegarra Laos, Guillermo Castro Bárcena and Alejandro Hinostriza Rimari, because it considered that a situation of extreme gravity and urgency requiring the adoption of provisional measures had not been substantiated. The Court also decided that the President or the Court would consider how to proceed, in due course, should the alleged victims’ representatives and the witnesses be prevented from leaving the country to attend a possible public hearing, which had not yet been convened.

**12. Boyce and Joseph case (Barbados).** *Provisional measures.* On November 25, 2004, the Court issued an order on provisional measures in this case, in favor of Lennox Boyce and Jeffrey Joseph (*infra* II.G.10).

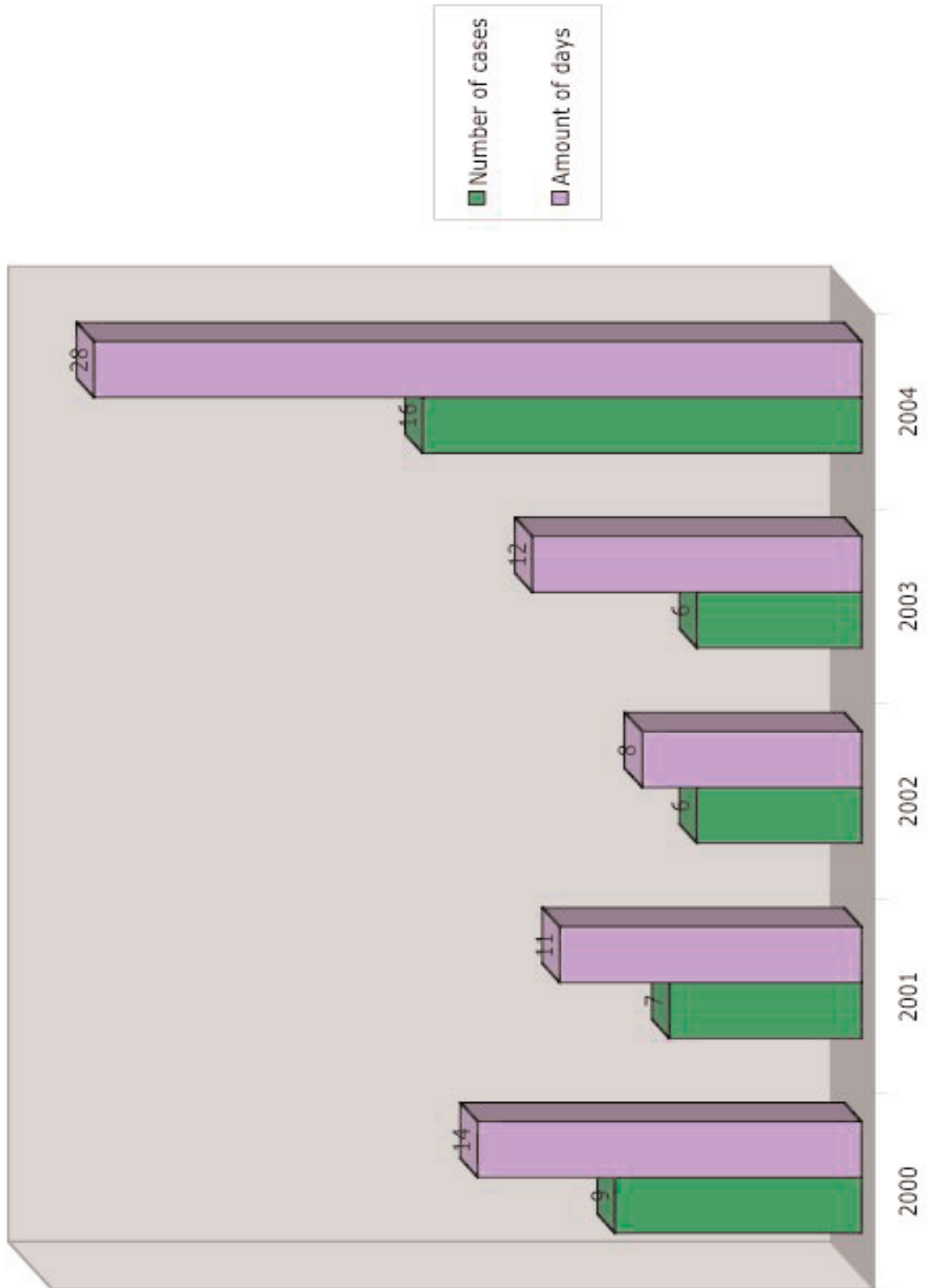
**13.** During this session the Court issued orders on compliance with judgment in the following cases: **El Caracazo** (Venezuela), **Cantoral Benavides** (Peru), **Garrido and Baigorria** (Argentina), **“Five Pensioners”** (Peru), **Trujillo Oroza** (Bolivia), **Barrios Altos** (Peru), **Juan Humberto Sánchez** (Honduras), **the Constitutional Court** (Peru), **Cesti Hurtado** (Peru), **Las Palmeras** (Colombia), **Castillo Páez** (Peru) and **Bulacio** (Argentina). The Court also issued an order on compliance with provisional measures in the **Blake** case (Guatemala).

**14. Other matters:** On the occasion of the Ibero-American Summit of Heads of State and Government held in San José, Costa Rica, from November 18 to 20, 2004, the Court received the Minister for Foreign Affairs of Peru, Manuel Rodríguez Cuadros, on November 18; and, on November 19, the former President of Chile, Patricio Aylwin Azócar, the Minister for Foreign Affairs of Brazil, Celso Amorim, and the Minister for Foreign Affairs of Paraguay, Leila Rachid Cowles.

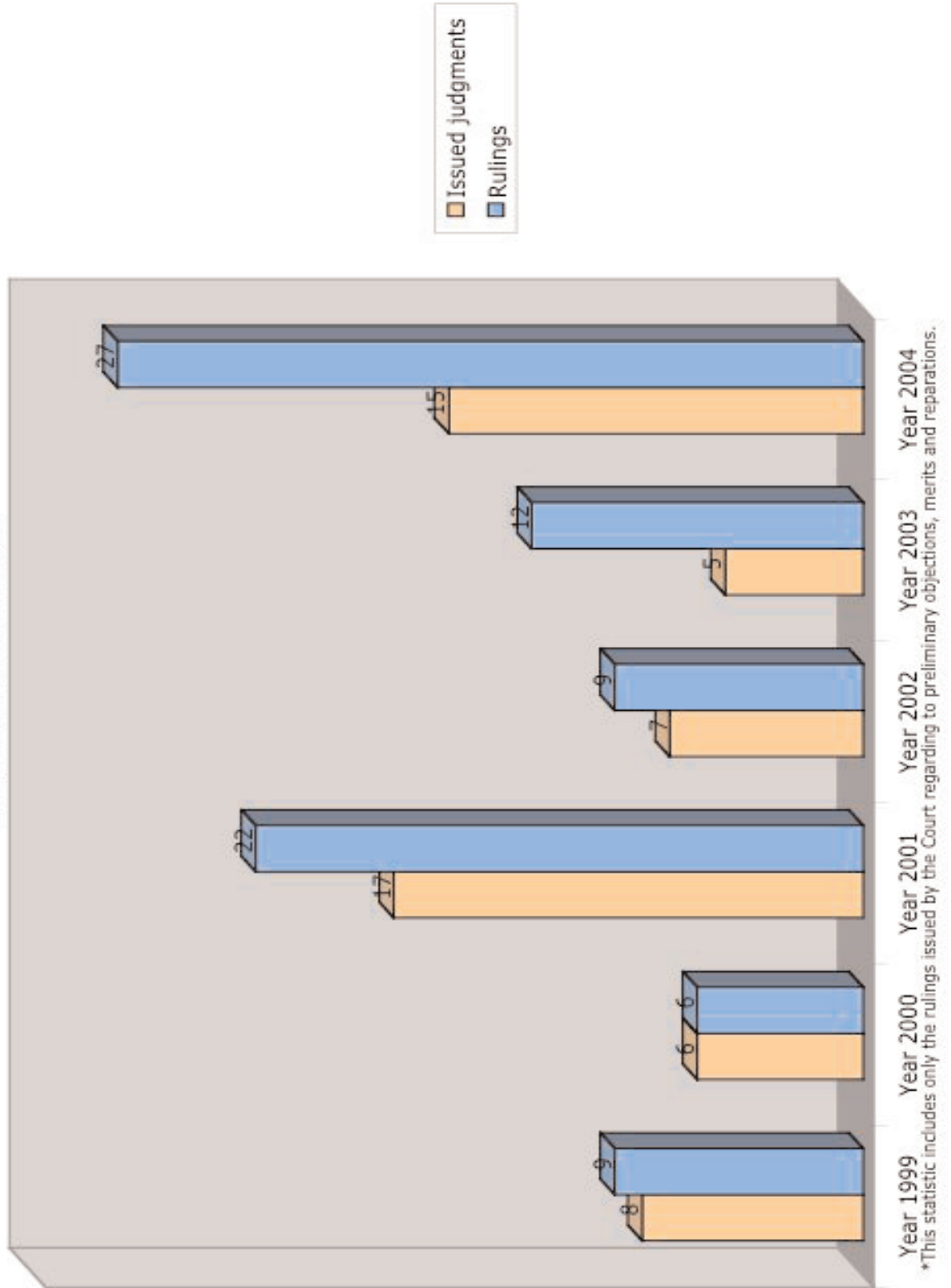
### Contentious cases solved by the Inter-American Court of Human Rights in its 25 years



**Celebration of public hearings of contentious cases in the Inter-American Court of Human Rights**



**Rulings issued by the Court regarding contentious cases Years 1999 to 2004\***



## **E. MONITORING OF COMPLIANCE WITH JUDGMENTS AND OF IMPLEMENTATION OF PROVISIONAL MEASURES**

In order to monitor compliance with the undertaking made by the States "to comply with the judgment of the Court in any case to which they are parties" (Article 68 of the Convention) and, in particular, to inform the General Assembly of "the cases in which a State has not complied with its judgments" (Article 65 of the Convention), the Court needs to know the extent to which States have complied with its rulings. Accordingly, the Court must monitor that the States concerned comply with the reparations it has ordered, before informing the OAS General Assembly about any failure to comply with its decisions.

The Court's monitoring of compliance with its decisions implies, first, that it must request information from the State on the activities carried out to implement compliance, and then obtain the comments of the Commission and of the victims or their representatives. When the Court has received this information, it can assess whether the State has complied with its judgment, guide the State's activities to that effect, and comply with its obligation to inform the General Assembly, in the terms of Article 65 of the Convention.

In light of the above, and exercising the powers inherent in its jurisdictional function of monitoring compliance with its judgments, the Court will now report on compliance in several contentious cases and with regard to provisional measures:

### **A. Contentious cases**

The Court issued a series of orders relating to the extent of compliance with its judgments: *Caracazo vs. Venezuela*, *Cantoral Benavides vs. Peru*, *Garrido and Baigorria vs. Argentina*, "Five Pensioners" vs. Peru, *Trujillo Oroza vs. Bolivia*, *Barrios Altos vs. Peru*, *Juan H. Sánchez vs. Honduras*, *Constitutional Court vs. Peru*, *Cesti Hurtado vs. Peru*, *Las Palmeras vs. Colombia*, *Castillo Paéz vs. Peru* and *Bulacio vs. Argentina*.

### **B. Provisional measures**

The Court issued a series of orders relating to the extent of compliance with the provisional measures it had adopted: *Urso Branco Prison case* with regard to Brazil, *Blake case* with regard to Guatemala, *Liliana Ortega et al.*, *Luisiana Ríos et al.*, *Luis Uzcátegui*, and *Marta Colomina and Liliana Velásquez cases* with regard to Venezuela, the case of the Communities of the Jiguamiandó and of the Curbaradó with regard to Colombia and the case of the Peace Community de San José de Apartadó with regard to Colombia.





## F. SUBMISSION OF NEW CONTENTIOUS CASES

During 2004, the following cases were submitted to the Court's consideration:

### 1. **Huilca Tecse vs. Peru**

On March 12, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Peru concerning the Huilca Tecse case (No. 11,768). The application referred to the alleged extrajudicial execution of a Peruvian trade union leader, Pedro Huilca Tecse, on December 18, 1992. The Commission indicated that this execution was allegedly carried out by members of the Colina group, a death squad linked to the Peruvian Army Intelligence Service. The application also referred to the alleged lack of a complete, impartial and effective investigation of the facts.

In the application, the Commission requested the Court to declare that the State was responsible for the violation of the right embodied in Article 4 (Right to Life) of the American Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Pedro Huilca Tecse, and also the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Martha Flores Gutiérrez, the alleged victim's companion, and of his children, Flor de María Huilca Gutiérrez, José Carlos Huilca Flores, Indira Isabel Huilca Flores, Pedro Humberto Huilca Gutiérrez and Katuska Tatiana Huilca Gutiérrez, and also of Julio César Flores Escobar, who was the alleged victim's stepson and the son of Martha Flores Gutiérrez.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation set out in the application, in accordance with Article 63(1) (Obligation to make Reparation) of the American Convention.

### 2. **"Pueblo Bello" vs. Colombia**

On March 23, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Colombia concerning the Pueblo Bello case (No. 11,748). The application referred to the alleged extrajudicial execution of Andrés Manuel Pedroza Jiménez and five other individuals, and also the presumed forced disappearance of 37 alleged victims as a result of events that occurred in the village of Pueblo Bello, in the municipality of Turbo, Antioquia Department. These acts were allegedly perpetrated with the acquiescence and collaboration of State agents.

In the application, the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 4 (Right to Life), 5 (Right to Humane Treatment) and 7 (Right to Personal Liberty) of the American Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the alleged victims. The Commission also requested the Court to declare that the State was responsible for the violation of the right embodied in Article 19 (Rights of the Child) of the Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the minors, Manuel de Jesús Montes Martínez and José Encarnación Barrera Orozco, who allegedly disappeared during these events. In addition, the Commission requested that the State should be declared responsible for the violation of the rights embodied in Articles 8 (Right to a Fair Trial) and

25 (Right to Judicial Protection) of the Convention, also in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the alleged victims and their next of kin.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation set out in the application, in accordance with Article 63(1) (Obligation to make Reparation) of the American Convention.

### 3. **Gutiérrez Soler vs. Colombia**

On March 26, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Colombia concerning the Wilson Gutiérrez Soler case (No. 12,291). The application refers to the alleged illegal detention of Wilson Gutiérrez Soler, his allegedly being subjected to torture and cruel, inhuman and degrading treatment while in the custody of State agents, the alleged violation of his right to a fair trial, and the alleged impunity with regard to these events.

In the application, the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 5(1), 5(2) and 5(4) (Right to Humane Treatment); 7(1), 7(2), 7(3), 7(4), 7(5) and 7(6) (Right to Personal Liberty); 8(1), 8(2)(d), 8(2)(e), 8(2)(g) and 8(3) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Wilson Gutiérrez Soler.

The Commission also requested the Court to declare that the State was responsible for violating the right embodied in Article 25 (Right to Judicial Protection) of the American Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the next of kin of Mr. Gutiérrez Soler.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation set out in the application, in accordance with Article 63(1) (Obligation to make Reparation) of the American Convention.

### 4. **Palamara Iribarne vs. Chile**

On April 13, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Chile concerning the Humberto Antonio Palamara Iribarne case (No. 11,571). The application refers to the alleged prohibition to publish a book by Mr. Palamara Iribarne entitled: "*Ética y Servicios de Inteligencia*" [Ethics and Intelligence Services], and the alleged seizure of copies of the book, the originals of the text, a diskette with the complete text, and the electrostatic matrices of the publication, all from the offices of the publishing company; and also the alleged erasing of the hard disc of the personal computer in Mr. Palamara's home, which contained the complete text of this book. The Commission also referred to the existence of the offense of "*desacato*" (disrespect towards public authorities), for which Mr. Palamara Iribarne had been sentenced to 61 days' medium-term imprisonment (at the minimum level), a fine, and suspension from public office or position throughout his sentence.



In the application, the Inter-American Commission requested the Court to declare that the State was responsible for violating the rights embodied in Articles 13 (Freedom of Thought and Expression) and 21 (Right to Property) of the American Convention, in relation to the obligations established in Article 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Humberto Palamara Iribarne.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation set out in the application, in accordance with Article 63(1) (Obligation to make Reparation) of the American Convention.

## **5. García Asto and Ramírez Rojas vs. Peru**

On June 22, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Peru concerning the García Asto and Ramírez Rojas case (No. 12,413). The application referred to the criminal proceedings to which Wilson García Asto and Urcesino Ramírez Rojas have been and continue to be subject, accused of committing the crime of terrorism. They have been deprived of their liberty for approximately 9 and 13 years, respectively.

In the application, the Commission requested the Court to declare that the State was responsible for violating the rights embodied in Articles 7 (Right to Personal Liberty), 8 (Right to a Fair Trial) and 9 (Freedom from Ex Post Facto Laws) of the American Convention, in relation to the obligations established in Article 1(1) (Obligation to Respect Rights) and Article 2 (Domestic Legal Effects), thereof.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation set out in the application, in accordance with Article 63(1) (Obligation to make Reparation) of the American Convention.

## **6. Blanco Romero *et al.* vs. Venezuela**

On June 30, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Venezuela concerning the Blanco Romero (No. 12,256), Hernández Paz (No. 12,258) and Rivas Fernández (No. 12,307) cases. The application referred to the alleged arbitrary detention and alleged forced disappearance at the hands of State agents of Oscar José Blanco Romero, Roberto Javier Hernández Paz and José Francisco Rivas Fernández.

In the application, the Commission requested the Court to declare that the State was responsible for violating the rights embodied in Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), 7 (Right to Personal Liberty), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) of the American Convention; 1 of the Inter-American Convention on Forced Disappearance of Persons, and 1, 2, 6 and 7 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Oscar José Blanco Romero, Roberto Javier Hernández Paz and José Francisco Rivas Fernández.

The Commission also requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 5 (Right to Humane Treatment), 8(1) (Right to a Fair

Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights), thereof, to the detriment of the next of kin of Messrs. Blanco Romero, Hernández Paz and Rivas Fernández. The Commission identified the following next of kin of the alleged victims: Alejandra Iriarte de Blanco, Teodora Paz, Néida Josefina Fernández Pelicie, Aleoscar Russeth Blanco Iriarte, Eduard José Romero Blanco, Oscar Alejandro Blanco, Orailis del Valle Blanco Romero, Gisela Romero, Aleidis Maritza Hernández and Francisco Jeremías Rivas.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation set out in the application, in accordance with Article 63(1) (Obligation to make Reparation) of the American Convention.

## 7. Ituango vs. Colombia

On July 30, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Colombia concerning the "La Granja" (No. 12,050) and "El Aro" (No. 12,266) cases, concerning the municipality of Ituango. The application refers to alleged events that had taken place in June 1996 and as of October 1997 in the districts (corregimientos) of "La Granja" and "El Aro", respectively, both located in the municipality of Ituango, Antioquia Department, Colombia. In the application, the Commission indicated that there had acts of omission, acquiescence and collaboration between members of the Police Force based in the municipality of Ituango and paramilitary groups belonging to the Colombian United Self-Defense Forces (AUC), which allegedly perpetrated successive armed raids in this municipality, "assassinating defenseless civilians, stealing the property of others, and causing terror and displacement." The Commission also stated that "[e]ven though more than eight years had elapsed since the raid in the district of La Granja and more than six years since the armed raid in the district of El Aro, the Colombian State has still not complied effectively with its obligation to elucidate the facts, prosecute those responsible, and make adequate reparation to the victims and their next of kin."

In its application, the Inter-American Commission requested the Court to declare that the Colombian State was responsible for violating the rights embodied in the following articles of the American Convention: 4 (Right to Life) to the detriment of William Villa García, Graciela Arboleda, Héctor Hernán Correa García, Jairo Sepúlveda, Arnulfo Sánchez, José Darío Martínez, Olcris Fail Díaz, Omar de Jesús Ortiz Carmona, Fabio Antonio Zuleta Zabala, Otoniel de Jesús Tejada Tejada, Omar Iván Gutiérrez Nohavá, Guillermo Andrés Mendoza Posso, Nelson de Jesús Palacio Cárdenas, Luis Modesto Múnera, Dora Luz Areiza, Wilmar de Jesús Restrepo Torres, Alberto Correa, Marco Aurelio Areiza and Rosa Areiza Barrera; 19 (Rights of the Child), to the detriment of the minor, Wilmar de Jesús Restrepo Torres; 7 (Right to Personal Liberty) to the detriment of Jairo Sepúlveda, Marco Aurelio Areiza Osorio and Rosa Areiza Barrera; 5 (Right to Humane Treatment) to the detriment of Marco Aurelio Areiza and Rosa Areiza Barrera; 21 (Right to Property) to the detriment of Luis Humberto Mendoza, Libardo Mendoza, Francisco Osvaldo Pino Posada, Omar Alfredo Torres Jaramillo, Ricardo Alfredo Builes Echeverry and Bernardo María Jiménez Lopera; and 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) to the detriment of all those indicated above and their next of kin. The Commission alleged the violation of all the aforesaid rights in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) of the American Convention.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to make reparation) of the American Convention.



## 8. **Juárez Cruzat *et al.* vs. Peru**

On September 9, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Peru concerning the Juárez Cruzat *et al.* case (No. 11,015). The application referred to the alleged events that took place from May 6 to 9, 1992, in the 'Miguel Castro Castro' Prison in Lima, during which, allegedly, at least 42 prisoners died, 175 were injured, and another 322 were subjected to cruel, inhuman and degrading treatment for different periods of time. According to the Commission, "[f]rom May 6 to 9, 1992, the Peruvian State conducted an operation known as 'Mudanza 1', essentially in order to transfer approximately 90 women confined in the 'Miguel Castro Castro' Prison to women's prisons."

In the application the Inter-American Commission requested the Court to declare that the Peruvian State was responsible for violating the rights embodied in the following articles of the American Convention: 4 (Right to Life) and 5 (Right to Humane Treatment), to the detriment of "at least 42" prisoners who died; 5 (Right to Humane Treatment), to the detriment of "at least 175" prisoners who were injured and 322 prisoners "who, although uninjured, were [allegedly] subjected to cruel, inhuman and degrading treatment"; and 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) to the detriment of the alleged victims and their next of kin. The Commission alleged that all these rights had been violated in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) of the American Convention.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to make reparation) of the American Convention.

## 9. **Fermín Ramírez vs. Guatemala**

On September 10, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Guatemala concerning the Fermín Ramírez case (No. 12,403). The application referred to the State's responsibility for the prejudice suffered by Mr. Fermín Ramírez, because the Guatemalan judicial authorities "abstained from informing him, previously and in detail, of the facts on which the judgment sentencing him to death was founded"; "prevented him from exercising the right to be heard with regard to the acts and circumstances of which he was accused in the judgment convicting him" and, "by accusing him of new acts in the judgment, and an abrupt change in the category of crime in the judgment convicting him, prevented his defense lawyers from adapting to the new circumstances, and having adequate time and means to prepare his defense." The Commission also considered that the State was responsible for sentencing Mr. Fermín Ramírez "to death in a criminal trial that did not respect the rules of due process," and failing "to exercise effective protection of the rights violated during this trial."

In the application, the Inter-American Commission requested the Court to declare that the Guatemalan State was responsible for violating the rights embodied in Articles 4 (Right to Life), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to detriment of Mr. Fermín Ramírez.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to make reparation) of the American Convention.

## 10. **Gómez Palomino vs. Peru**

On September 13, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Peru concerning the Gómez Palomino case (No. 11,062). The application referred to the alleged illegal detention and forced disappearance of Mr. Gómez Palomino, presumably resulting in his death, allegedly attributable to the State and allegedly carried out on or after July 9, 1992, in Lima, Peru.

In its application, the Commission requested the Court to declare that the State was responsible for violating the following articles of the American Convention: 7 (Right to Personal Liberty), 5 (Right to Humane Treatment), 4 (Right to Life), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection), to the detriment of Mr. Gómez Palomino; 5 (Right to Humane Treatment), to the detriment of Victoria Margarita Palomino Buitrón, Mr. Gómez Palomino's mother, and Esmila Liliana Conislla Cárdenas, his "companion"; 7(6) (Right to Personal Liberty), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) to the detriment of the next of kin of Mr. Gómez Palomino and of Conislla Cárdenas. The Commission alleged that all these rights had been violated in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention, and Article I of the Inter-American Convention on Forced Disappearance of Persons.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to make reparation) of the American Convention.

## 11. **Raxcacó Reyes vs. Guatemala**

On September 18, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Guatemala concerning the Raxcacó Reyes case (No. 12,402). This application referred to the State's responsibility, to the detriment of Ronald Ernesto Raxcacó Reyes, "for having sentenced Mr. Raxcacó Reyes to a mandatory death penalty"; "for having extended the application of the death penalty to a crime for which the law did not establish this sanction at the time Guatemala became a State Party to the American Convention"; "for not having provided Mr. Raxcacó Reyes with proceedings that guaranteed his right to request amnesty, pardon or commutation of his sentence"; "for having confined Mr. Raxcacó Reyes under inhuman conditions of detention and, consequently, having violated his right to humane treatment," "for not having adapted its legislation to the American Convention and, in particular, for having reformed Article 201 of the Guatemalan Penal Code contrary to the provisions of Article 4(2) of the Convention."

In the application, the Commission requested the Court to declare that the State was responsible for violating the rights established in Articles 4(1), 4(2) and 4(6) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), 8(1) (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligations established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of Mr. Raxcacó Reyes.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to make reparation) of the American Convention.



## 12. Ximenes Lopes vs. Brazil

On October 1, 2004, pursuant to Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against the State of Brazil concerning the Ximenes Lopes case (No. 12,237). The application referred to: the alleged inhuman and degrading conditions under which Damião Ximenes Lopes – a person suffering from a mental disability – was hospitalized in a health center, operating within the framework of the Brazilian Unified Health System, called the *Casa de Repouso Guararapes* [the Guararapes Rest Home]; the alleged beatings and the attacks on his personal integrity by officials of the Home; his death while he was undergoing psychiatric treatment; and also the alleged lack of an investigation and of judicial guarantees that characterized the case and ensure continued impunity. The Commission added that the facts of the case were aggravated by the vulnerability of those with mental disabilities, and also by the State's special obligation to provide protection to those who are being cared for in health centers operating under the Brazilian Unified Health System.

In the application, the Commission requested the Court to declare that the Brazilian State was responsible for violating the rights embodied in Articles 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial) and 25 (Right to Judicial Protection) of the American Convention, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Damião Ximenes Lopes.

In view of the above, the Commission requested the Court to order the State to adopt specific measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to make reparation) of the American Convention.

## G. NEW PROVISIONAL MEASURES

During 2004, the following requests for provisional measures were submitted to the Court:

### 1. Provisional measures in the Gómez Paquiyauri case (Peru)

On May 7, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, the representative of the alleged victims and their next of kin in this case submitted a request for provisional measures with regard to the State of Peru in favor of the members of the Gómez Paquiyauri family who had appeared before the Court as witnesses in the public hearing held from May 5 to 7 (*supra* II.A.8), and those who are in Peru, to ensure that they do not suffer reprisals for their status as alleged victims in this case.

The same day, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, that the State should adopt forthwith all necessary measures to protect the lives and safety of the members of the Gómez Paquiyauri family who testified before the Court, Ricardo Samuel Gómez Quispe, Marcelina Paquiyauri Illanes de Gómez, Lucy Rosa Gómez Paquiyauri, Miguel Ángel Gómez Paquiyauri and Jacinta Peralta Allccarima; and those who are in Peru: Ricardo Emilio, Carlos Pedro and Marcelina Haydée, all Gómez Paquiyauri, and the minor, Nora Emely Gómez Peralta; and also of Ángel del Rosario Vásquez Chumo and the members of his family.

### 2. Provisional measures in the Kankuamo Indigenous People case (Colombia)

On July 2, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights, 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission, the

Inter-American Commission on Human Rights submitted a request for provisional measures with regard to the State of Colombia in favor of the Kankuamo indigenous people, in order to protect their lives, safety, cultural identity and special relationship with their ancestral lands.

On July 5, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, that the State should: adopt forthwith all necessary measures to protect the lives and safety of all the members of the communities that compose the Kankuamo indigenous people; investigate the facts that gave rise to the adoption of the measures in order to identify those responsible and impose the corresponding sanctions, and guarantee the necessary conditions of security to ensure respect for the right to freedom of movement of the members of the Kankuamo indigenous people, so that those who have been forced to displace to other regions, may return to their homes if they so wish.

### **3. Provisional measures in the Sarayaku Indigenous People case (Ecuador)**

On June 15, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights, 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted a request for provisional measures with regard to the State of Ecuador in favor of the members of the Kichwa indigenous people of Sarayaku and their defenders, to protect their lives, safety, right to freedom of movement and special relationship with their ancestral lands.

On July 6, 2004, the Court issued an order on provisional measures in this case in which it decided, *inter alia*, that the State should: adopt forthwith all necessary measures to protect the lives and safety of the members of the Kichwa indigenous people of Sarayaku and those who defend them in essential official procedures; guarantee the right to freedom of movement of the members of this indigenous people, and investigate the facts that gave rise to the adoption of the measures in order to identify those responsible and impose the corresponding sanctions.

### **4. Provisional measures in the case of the *El Nacional* and *Así es la Noticia* newspapers (Venezuela)**

On June 25, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights, 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted a request for provisional measures with regard to the State of Venezuela in favor of the persons who work for the newspapers, *El Nacional* and *Así es la Noticia*, to protect their lives, safety and freedom of expression.

On July 6, 2004, the Court issued an order on provisional measures in this case in which it decided, *inter alia*, that the State should: adopt forthwith all necessary measures to protect the lives, safety, and freedom of expression of the employees of the newspapers, *El Nacional* and *Así es la Noticia*, and all those who are on the premises of these newspapers or who are linked to their journalistic activities, and investigate the facts that gave rise to the adoption of the measures in order to identify those responsible and impose the corresponding sanctions.

### **5 Provisional measures in the Carlos Nieto Palma *et al.* case (Venezuela)**

On July 7, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights, 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission the





Inter-American Commission on Human Rights submitted a request for provisional measures with regard to Venezuela to protect the life, safety, and freedom of expression and association of the human rights defender, Carlos Nieto Palma, who works as General Coordinator of the non-governmental organization, *Una Ventana a la Libertad*, and also to protect the lives and safety of his next of kin.

On July 9, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, that the State should: adopt forthwith all necessary measures to safeguard and protect the life, personal liberty and safety of Carlos Nieto Palma, and also the lives and safety of his family, and investigate the facts that gave rise to the adoption of these measures in order to identify those responsible and impose the corresponding sanctions.

#### **6. Provisional measures in the case of the 19 Tradesmen (Sandra Belinda Montero Fuentes *et al.*) (Colombia)**

On July 30, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights, 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted a request for provisional measures with regard to the State of Colombia, in favor of Sandra Belinda Montero and her next of kin in order to protect their lives and safety.

The same day, the President of the Court issued an order on urgent measures in this case, in which he decided, *inter alia*, that the State should: adopt forthwith all necessary measures to protect the lives and safety of Sandra Belinda Montero Fuentes, Víctor Hugo Ayala Mantilla, Juan Manuel Ayala Montero, Sandra Catherine Ayala Montero and Hilda María Fuentes Pérez, and investigate the facts that gave rise to the adoption of these urgent measures and, if applicable, identify those responsible and impose the corresponding sanctions.

On September 3, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to ratify the order of the President of July 30, 2004, and that the State should: maintain the necessary measures to protect the lives and safety of Sandra Belinda Montero Fuentes and her son, Juan Manuel Ayala Montero; adopt forthwith the necessary measures to protect the life and safety of the minor, María Paola Casanova Montero, 7 years of age, daughter of Sandra Belinda Montero Fuentes, and investigate the facts that gave rise to the adoption of the measures and, if applicable, identify those responsible and impose the corresponding sanctions.

#### **7. Provisional measures in the *Globovisión* Television Station case (Venezuela)**

On July 16, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights, 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted a request for provisional measures with regard to the State of Venezuela, in favor of the journalists, administrative personnel and other employees of the Venezuelan television station, *Globovisión*, who work on its premises or who are linked to its journalistic activities, in order to protect their lives, safety and freedom of expression.

On August 3, 2004, the President of the Court issued an order on urgent measures in this case, in which he decided, *inter alia*, that the State should: adopt forthwith all necessary measures to protect the lives, safety and freedom of expression of the journalists, administrative personnel and employees of *Globovisión*, and other persons who are on its premises or who are directly linked

to its journalistic activities and, investigate the facts that gave rise to the adoption of these urgent measures in order to identify those responsible and impose the corresponding sanctions.

On September 4, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*: to ratify the order of the President of August 3, 2004, and that the State should: maintain the measures it had adopted; adopt forthwith the measures necessary to comply with the provisions of the President's order; and continue investigating the facts that gave rise to the adoption of the measures, in order to identify those responsible and impose the corresponding sanctions.

#### **8. Provisional measures in the Plan de Sánchez Massacre (Salvador Jerónimo *et al.*) case (Guatemala)**

On July 21, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, the representatives of the alleged victims in this case submitted a request for provisional measures with regard to the State of Guatemala, in favor of Jerónimo Sánchez, Prudencia Cajbon, Faustina Tojom, Juan Manuel Jerónimo and Buenaventura Manuel Jerónimo, who are involved in the Plan de Sánchez Massacre case, in order to protect their lives, safety and personal liberty.

On July 30, 2004, the President of the Court issued an order on urgent measures in this case, in which he decided, *inter alia*, that the State should adopt forthwith all necessary measures to protect the lives, safety and personal liberty of Salvador Jerónimo Sánchez, Prudencia Cajbon, Faustina Tojom, Juan Manuel Jerónimo and Buenaventura Jerónimo, and investigate the facts that gave rise to the adoption of these urgent measures in order to identify those responsible and impose the corresponding sanctions.

On September 8, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to ratify the order of the President of August 3, 2004, and that the State should: maintain all necessary measures to safeguard and protect the lives, personal liberty and safety of Salvador Jerónimo Sánchez, Prudencia Cajbon, Faustina Tojom, Juan Manuel Jerónimo and Buenaventura Jerónimo, and investigate the facts that gave rise to the adoption of the provisional measures, in order to identify those responsible and impose the corresponding sanctions.

#### **9. Provisional measures in the Raxcacó *et al.* case (Guatemala)**

On August 16, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted a request for provisional measures with regard to the State of Guatemala in favor of Ronald Ernesto Raxcacó Reyes, Hugo Humberto Ruiz Fuentes, Bernardino Rodríguez Lara and Pablo Arturo Ruiz Almengor, who had been sentenced to death, in order to safeguard their lives and safety by postponing their execution, in order not to obstruct the processing of their respective cases before the inter-American system, before the Inter-American Commission and Court.

On August 30, 2004, the Court issued an order on provisional measures in this case in which it decided, *inter alia*, that the State should adopt forthwith the necessary measures to protect the lives of the said persons, in order not to obstruct the processing of their respective cases before the inter-American system for the protection of human rights.



## 10. Provisional measures in the Boyce and Joseph case (Barbados)

On September 17, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted a request for provisional measures with regard to the State of Barbados in favor of Lennox Boyce and Jeffrey Joseph, who had been sentenced to death, in order to safeguard their lives and safety by postponing their execution, in order not to obstruct the processing of their respective cases before the inter-American system, before the Inter-American Commission and Court.

On September 17, 2004, the President of the Court issued an order on urgent measures in this case, in which he decided, *inter alia*, that the State should adopt forthwith all necessary measures to protect the lives and safety of the said persons, in order not to obstruct the processing of their respective cases before the inter-American system for the protection of human rights.

On November 25, 2004, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to ratify the order of the president of September 17, 2004, and that the State should adopt forthwith all necessary measures to protect the lives and safety of the said persons, in order not to obstruct the processing of their cases before the inter-American system for the protection of human rights.

## 11. Provisional measures in the Eloisa Barrios *et al.* case (Venezuela)

On September 23, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the Commission, the Inter-American Commission on Human Rights submitted a request for provisional measures with regard to the Bolivarian Republic of Venezuela in favor of Eloisa Barrios, Jorge Barrios, Rigoberto Barrios, Oscar Barrios, Inés Barrios, Pablo Solórzano, Beatriz Barrios, Caudy Barrios, Carolina García and Juan Barrios, in order to protect the lives and safety of the above, who were eye witnesses to the murder of Narciso Barrios, allegedly by State agents.

On September 24, 2004, the President of the Court issued an order on urgent measures in this case, in which he decided, *inter alia*, that the State should: adopt forthwith all necessary measures to protect the lives and safety of Eloisa Barrios, Jorge Barrios, Rigoberto Barrios, Oscar Barrios, Inés Barrios, Pablo Solórzano, Beatriz Barrios, Caudy Barrios, Carolina García and Juan Barrios, and investigate the facts that gave rise to the adoption of the urgent measures, in order to identify those responsible and impose the corresponding sanctions.

On November 23, 2004, the Court issued an order on provisional measures in this case in which it decided, *inter alia*, to ratify the order of the President of September 24, 2004, and that the State should: maintain the measures it had adopted; order forthwith any necessary measures to protect effectively the lives and safety of Eloisa Barrios, Inés Barrios, Beatriz Barrios y Carolina García, Jorge Barrios, Rigoberto Barrios, Oscar Barrios, Pablo Solórzano, Caudy Barrios and Juan Barrios, and investigate the facts that gave rise to these measures in order to identify those responsible and impose the corresponding sanctions.

## 12. Provisional measures in the Mendoza Prisons case (Argentina)

On October 14, 2004, pursuant to Articles 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, and 74 of the Rules of Procedure of the

Commission, the Inter-American Commission on Human Rights submitted a request for the adoption of provisional measures with regard to the Republic of Argentina in favor of the persons confined in the Mendoza Provincial Prison and in the Gustavo André Unit, in Lavalle, as well as of all those who enter those prison centers, including the employees and officials who work in them, in order to safeguard their lives and safety.

On November 22, 2004 the Court issued an order on provisional measures in this case in which it decided, *inter alia*, that the State should: adopt forthwith all necessary measures to protect the lives and safety of all those confined in the Mendoza Provincial Prison and in the Gustavo André Unit, in Lavalle, as well as of all those are in those prison centers, and investigate the facts that gave rise to the adoption of these provisional measures in order to identify those responsible and impose the corresponding sanctions.

### **13. Urgent measures in the Fermín Ramírez case (Guatemala)**

On December 3, 2004, pursuant to Article 63(2) of the American Convention on Human Rights and 25 of the Rules of Procedure of the Court, the representatives of the alleged victim in this case submitted a request for provisional measures with regard to the Republic of Guatemala, in favor of Mr. Fermín Ramírez, who had been sentenced to death, in order to safeguard his life.

On December 21, 2004, the President of the Court issued an order on urgent measures, in which he decided, *inter alia*, that the State should adopt forthwith all necessary measures to protect the life and safety of Mr. Fermín Ramírez, so as not to obstruct the processing of his case before the inter-American system for the protection of human rights.

## **H. SUBMISSION OF NEW REQUESTS FOR ADVISORY OPINIONS**

At the end of 2003 and during 2004, the following requests for advisory opinions were submitted to the Court's consideration:

### **1. Advisory Opinion OC-19**

On December 10, 2003, the State of the Bolivarian Republic of Venezuela submitted to the Court a request for an advisory opinion in accordance with Article 64(1) of the American Convention. In this request, the Venezuelan State asked for the Court's opinion on two specific questions:

1. Was there an organ within the inter-American human rights system with the necessary competence to exercise control over the legality of the proceedings of the Inter-American Commission on Human Rights, to which the States Parties to the American Convention on Human Rights could resort in defense of legality?
2. Should such an organ exist, the Venezuelan Government wished to know: what was its name and what were the powers of the organ?

In its request, the Venezuelan State considered that "the answer to these questions requires a comprehensive interpretation of the American Convention on Human Rights and the other international instruments that form part of the inter-American human rights system." It also indicated



that the “considerations that give rise to the request for an advisory opinion are based on the fact that, currently, the States Parties to the American Convention on Human Rights appear to be defenseless in the face of acts of the Inter-American Commission on Human Rights that are not in accordance with the international legal system, which it should respect.”

## 2. Advisory Opinion OC-20

On April 20, 2004, the Inter-American Commission submitted to the Court a request for an advisory opinion pursuant to Article 64(1) of the American Convention on Human Rights. In this request, the Commission asked the Court to interpret Articles 1(1), 2, 4, 5, 8, 25 and 44 of the American Convention on Human Rights, in relation to the corresponding protections of the American Declaration of the Rights and Duties of Man, in light of the requirements of Article 29 of the Convention and of other interpretative principles.

In particular, the Commission wished to know the Court’s opinion on three questions concerning the interpretation of these provisions:

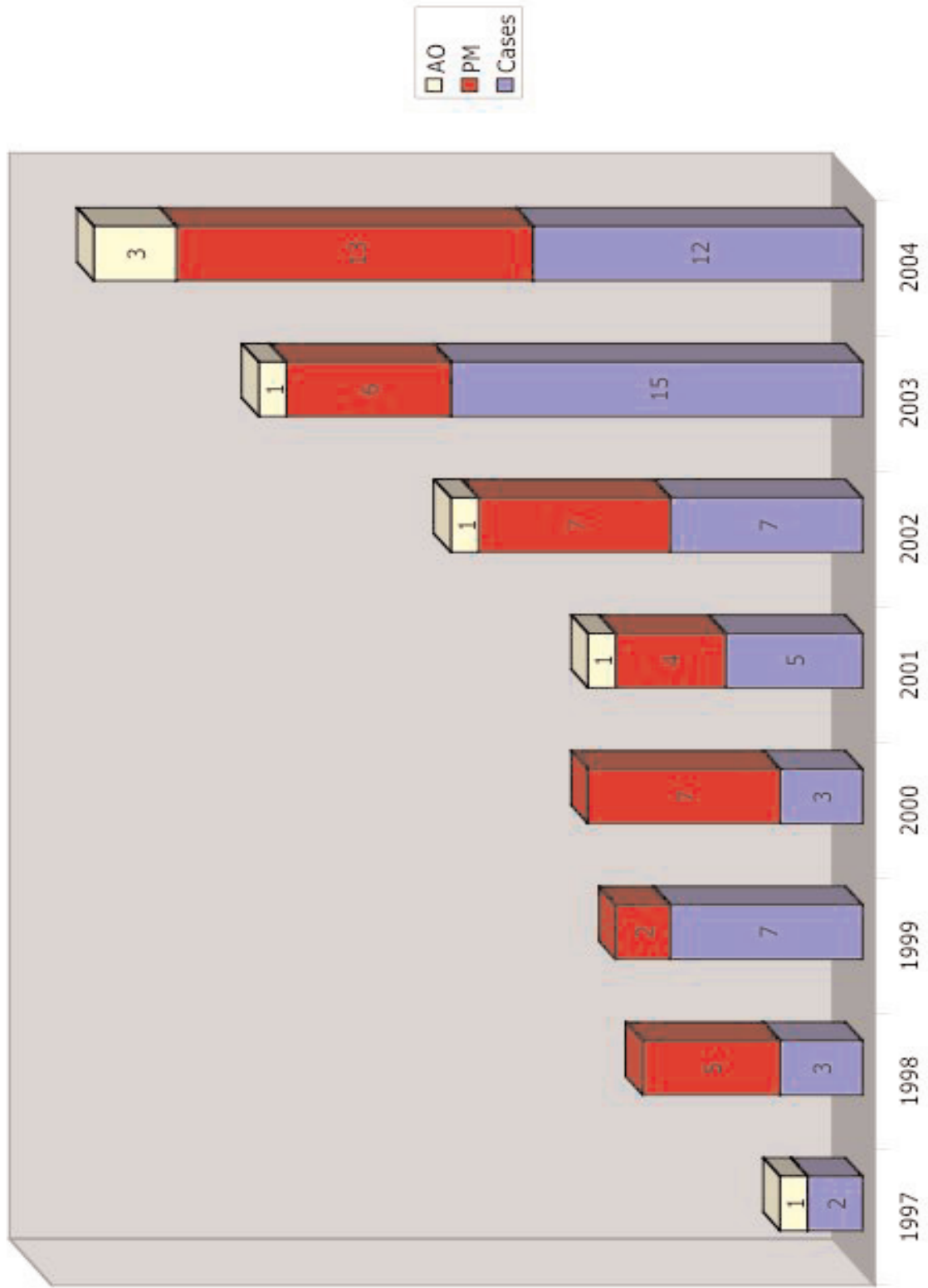
- a) Was it incompatible with the guarantees contained in Articles 1(1), 2, 4, 5, 8 and 25 of the American Convention on Human Rights, and the corresponding protections in the American Declaration of the Rights and Duties of Man, if a State adopted legislative and other measures denying those sentenced to death access to a legal remedy or any other effective remedy to contest the obligatory nature of the sanction imposed.
- b) Based on the duration or the conditions under which the person has been detained, was it incompatible with the guarantees contained in Articles 1(1), 2, 5 and 25 of the American Convention on Human Rights, and the corresponding protections in the American Declaration of the Rights and Duties of Man, if a State adopted legislative and other measures denying those sentenced to death access to a legal remedy or any other effective remedy to contest the obligatory nature of the sanction imposed?
- c) Based on the fact that they were involved in a proceeding pending before the inter-American human rights system, was it incompatible with the guarantees contained in Articles 1(1), 2, 25 and 44 of the American Convention on Human Rights and the corresponding protections in the American Declaration of the Rights and Duties of Man, if a State adopted legislative and other measures denying those sentenced to death access to a legal remedy or any other effective remedy to contest the obligatory nature of the sanction imposed?

## 3. Advisory Opinion OC-21

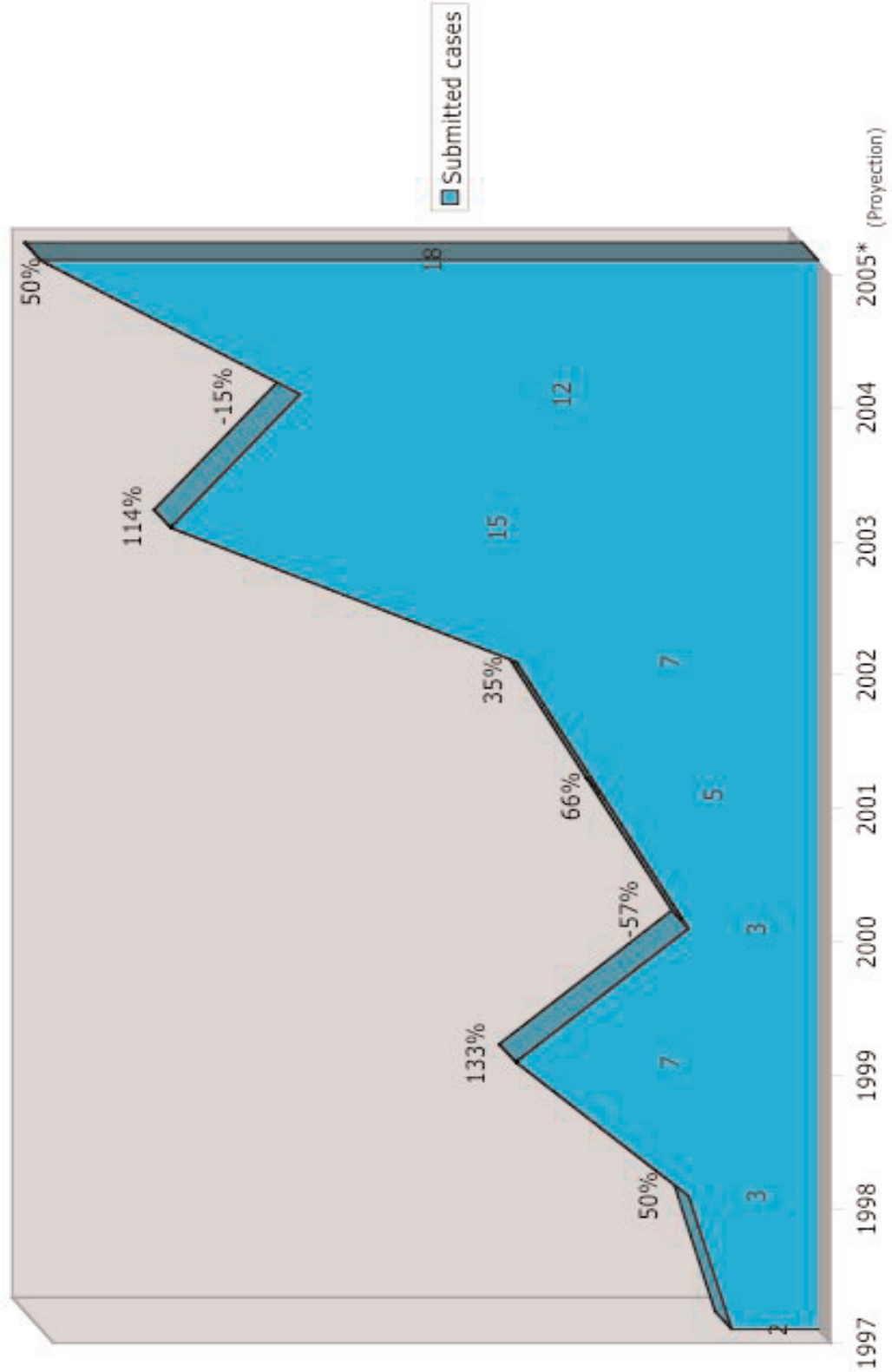
In a communication of December 8, 2004, received by the Secretariat of the Inter-American Court of Human Rights on December 10, 2004, the State of Costa Rica submitted to the Court a request for an advisory opinion, in order to “determine the compatibility of article 9, paragraph (e) of the Legislative Assembly Personnel Act (Act No. 4556 of May 8, 1970) and article 13 of the Constitutional Jurisdiction Act (Act No. 7135 of October 19, 1989) with the American Convention on Human Rights and other instruments in this area.”

This request will be submitted to the consideration of the Court during its first session in 2005.

**Submission of contentious cases, provisional measures and advisory opinions to the Court's jurisdiction**



**Percentage increase in the submission of contentious cases to the Court's jurisdiction**



## I. STATUS OF MATTERS PENDING BEFORE THE COURT

### 1. Contentious cases

	<b>Name of the case</b>	<b>Respondent State</b>	<b>Current status</b>
1.	Neira Alegría <i>et al.</i> case	Peru	Monitoring compliance with judgment
2.	Caballero Delgado and Santana case	Colombia	Monitoring compliance with judgment
3.	El Amparo case	Venezuela	Monitoring compliance with judgment
4.	Loayza Tamayo case	Peru	Monitoring compliance with judgment
5.	Castillo Páez case	Peru	Monitoring compliance with judgment
6.	Garrido and Baigorria case	Argentina	Monitoring compliance with judgment
7.	Blake case	Guatemala	Monitoring compliance with judgment
8.	Suárez Rosero case	Ecuador	Monitoring compliance with judgment
9.	Benavides Cevallos case	Ecuador	Monitoring compliance with judgment
10.	Castillo Petruzzi <i>et al.</i> case	Peru	Monitoring compliance with judgment
11.	Baena Ricardo <i>et al.</i> case	Panama	Monitoring compliance with judgment
12.	Ivcher Bronstein case	Peru	Monitoring compliance with judgment
13.	The Constitutional Court case	Peru	Monitoring compliance with judgment
14.	The "White Van" case (Paniagua Morales <i>et al.</i> )	Guatemala	Monitoring compliance with judgment
15.	The "Street Children" case (Villagrán Morales <i>et al.</i> )	Guatemala	Monitoring compliance with judgment
16.	Cesti Hurtado case	Peru	Monitoring compliance with judgment
17.	The Mayagna ( <i>Sumo</i> ) Awas Tingni Indigenous Community case	Nicaragua	Monitoring compliance with judgment
18.	Cantoral Benavides case	Peru	Monitoring compliance with judgment
19.	Durand and Ugarte case	Peru	Monitoring compliance with judgment
20.	Bámaca Velásquez case	Guatemala	Monitoring compliance with judgment





21.	Trujillo Oroza case	Bolivia	Monitoring compliance with judgment
22.	Hilaire, Constantine and Benjamin <i>et al.</i> case	Trinidad and Tobago	Monitoring compliance with judgment
23.	Barrios Altos case	Peru	Monitoring compliance with judgment
24.	Las Palmeras case	Colombia	Monitoring compliance with judgment
25.	El Caracazo case	Venezuela	Monitoring compliance with judgment
26.	Bulacio case	Argentina	Monitoring compliance with judgment
27.	Cantos case	Argentina	Monitoring compliance with judgment
28.	Juan Humberto Sánchez case	Honduras	Monitoring compliance with judgment
29.	The “Five Pensioners” case	Peru	Monitoring compliance with judgment
30.	Mack Chang case	Guatemala	Monitoring compliance with judgment
31.	Maritza Urrutia case	Guatemala	Monitoring compliance with judgment
32.	The case of the 19 Tradesmen	Colombia	Monitoring compliance with judgment
33.	The Gómez Paquiyauri Brothers case	Peru	Monitoring compliance with judgment
34.	The Minors’ Rehabilitation Institute case	Paraguay	Monitoring compliance with judgment
35.	Ricardo Canese case	Paraguay	Monitoring compliance with judgment
36.	Lori Berenson Mejía case	Peru	Monitoring compliance with judgment
37.	Herrera Ulloa case	Costa Rica	Monitoring compliance with judgment
38.	Carpio Nicolle <i>et al.</i> case	Guatemala	Monitoring compliance with judgment
39.	De La Cruz Flores case	Peru	Monitoring compliance with judgment
40.	The “Plan de Sánchez Massacre” case	Guatemala	Monitoring compliance with judgment
41.	The Serrano Cruz Sisters case	El Salvador	Merits and possible reparations and costs
42.	Daniel Tibi case	Ecuador	Monitoring compliance with judgment
43.	Molina Theissen case	Guatemala	Monitoring compliance with judgment
44.	Alfonso Martín del Campo Dodd case	Mexico	Filed

45.	The Moiwana Community case	Suriname	Preliminary objections and possible merits, reparations and costs
46.	Caesar case	Trinidad and Tobago	Merits and possible reparations and costs
47.	Yatama case	Nicaragua	Preliminary objections and possible merits, reparations and costs
48.	Acevedo Jaramillo <i>et al.</i> (SITRAMUN) case	Peru	Preliminary objections and possible merits, reparations and costs
49.	The "Mapiripán Massacre" case	Colombia	Preliminary objections and possible merits, reparations and costs
50.	Acosta Calderón case	Ecuador	Merits and possible reparations and costs
51.	The Yakyé Axa Community case	Paraguay	Merits and possible reparations and costs
52.	The case of the girl children, Yean and Bosico	Dominican Republic	Preliminary objections and possible merits, reparations and costs
53.	López Álvarez case	Honduras	Merits and possible reparations and costs
54.	Huilca Tecse case	Peru	Merits and possible reparations and costs
55.	"Pueblo Bello" case	Colombia	Preliminary objections and possible merits, reparations and costs
56.	Gutiérrez Soler case	Colombia	Preliminary objections and possible merits, reparations and costs
57.	Palamara Iribarne case	Chile	Merits and possible reparations and costs
58.	García Asto and Ramírez Rojas case	Peru	Merits and possible reparations and costs
59.	Blanco Romero <i>et al.</i> case	Venezuela	Merits and possible reparations and costs
60.	Ituango case	Colombia	Preliminary objections and possible merits, reparations and costs
61.	Juárez Cruzat <i>et al.</i> case	Peru	Initial steps (preliminary consideration of the application))
62.	Fermín Ramírez case	Guatemala	Initial steps (written proceedings)
63.	Gómez Palomino case	Peru	Initial steps (written proceedings)
64.	Raxcacó Reyes case	Guatemala	Initial steps (written proceedings)
65.	Ximenes Lopes case	Brazil	Initial steps (written proceedings)



## 2. Provisional measures

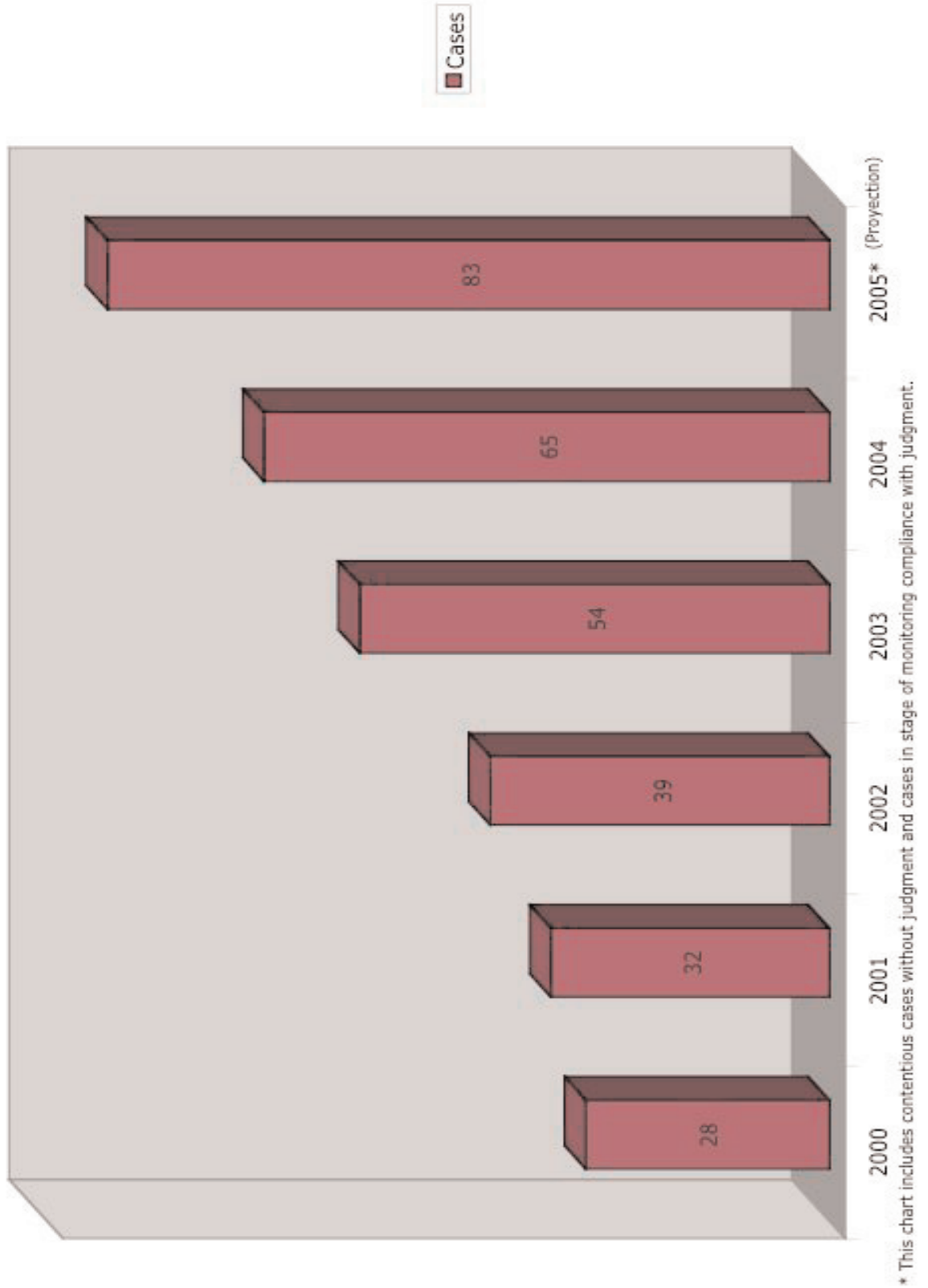
<b>Name of the case</b>	<b>State with regard to which they have been adopted</b>
1. Colotenango case	Guatemala
2. Carpio Nicolle <i>et al.</i> case	Guatemala
3. Giraldo Cardona case	Colombia
4. Álvarez <i>et al.</i> case	Colombia
5. James <i>et al.</i> case	Trinidad and Tobago
6. The case of Haitians and Dominicans of Haitian Origin in the Dominican Republic	Dominican Republic
7. Bámaca Velásquez case	Guatemala
8. Blake case	Guatemala
9. Caballero Delgado and Santana case	Colombia
10. The case of the Peace Community of San José de Apartadó	Colombia
11. The case of the Miguel Agustín Pro Juárez Human Rights Center <i>et al.</i>	Mexico
12. Gallardo Rodríguez case	Mexico
13. The Urso Branco Prison case	Brazil
14. The Mayagna ( <i>Sumo</i> ) Awas Tingni Community case	Nicaragua
15. Helen Mack <i>et al.</i> case	Guatemala
16. Luis Uzcátegui case	Venezuela
17. Lilliana Ortega <i>et al.</i> case	Venezuela
18. Luisiana Ríos <i>et al.</i> case (Radio Caracas Television/RCTV)	Venezuela
19. Lysias Fleury case	Haiti
20. Marta Colomina and Lilliana Velásquez case	Venezuela

21.	The case of the Jiguamiandó and the Curbaradó Communities	Colombia
22.	The Gómez Paquiyauri Brothers case	Peru
23.	The Kankuamo Indigenous People case	Colombia
24.	The Sarayaku Indigenous People case	Ecuador
25.	The case of the <i>El Nacional</i> and <i>Así es la Noticia</i> newspapers	Venezuela
26.	Carlos Nieto Palma <i>et al.</i> case	Venezuela
27.	The case of the 19 Tradesmen (Sandra Belinda Montero Fuentes <i>et al.</i> )	Colombia
28.	The <i>Globovisión</i> Television Station case	Venezuela
29.	Raxcacó <i>et al.</i> case	Guatemala
30.	Boyce and Joseph case	Barbados
31.	Eloisa Barrios <i>et al.</i> case	Venezuela
32.	The Mendoza Prisons case	Argentina
33.	The Plan de Sánchez Massacre case (Salvador Jerónimo <i>et al.</i> )	Guatemala
34.	Fermín Ramírez case	Guatemala

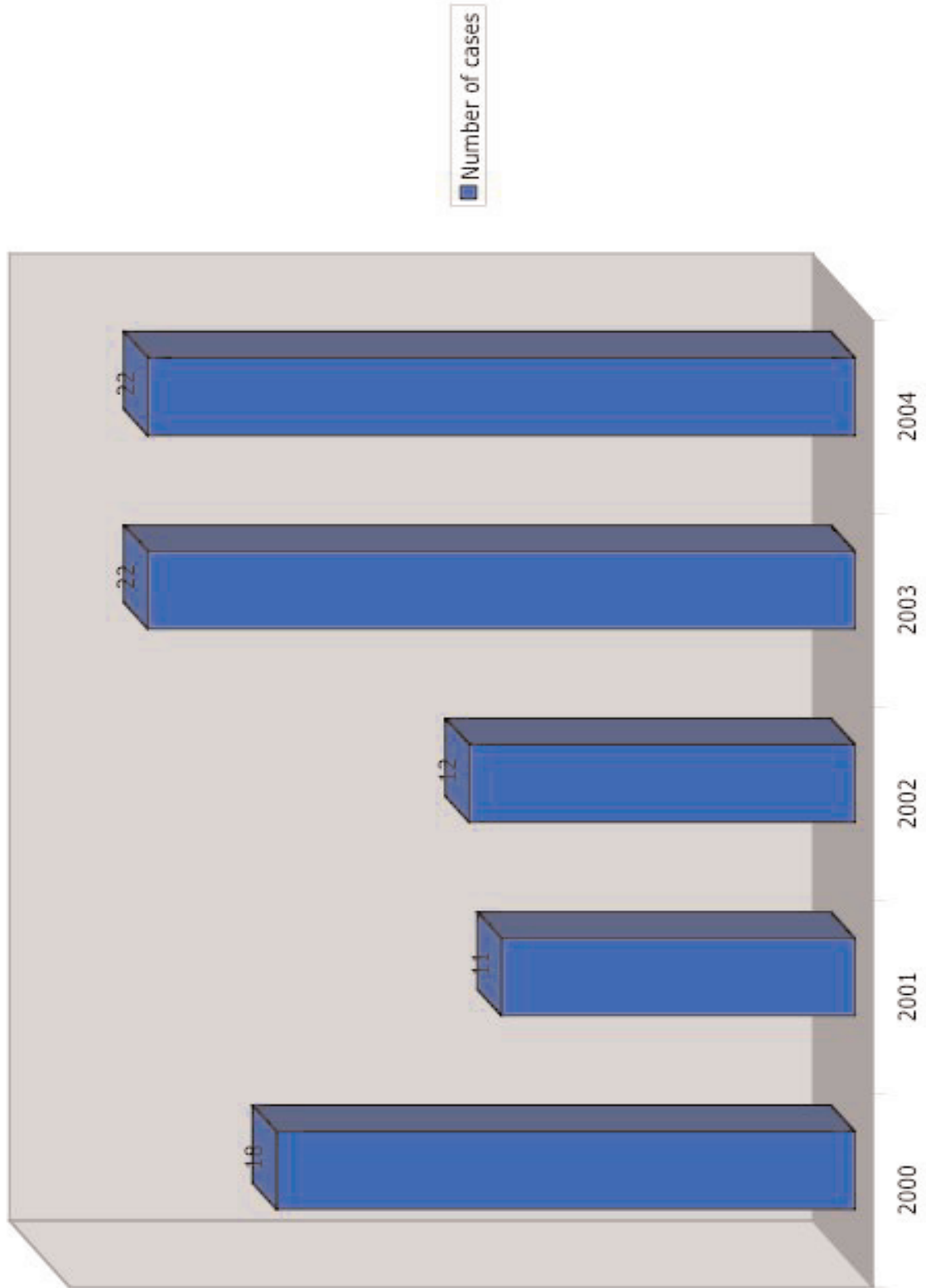
### 3. Advisory Opinions

	Name	Applicant
1.	Advisory Opinion OC-19	Venezuela
2.	Advisory Opinion OC-20	ICHR
3.	Advisory Opinion OC-21	Costa Rica

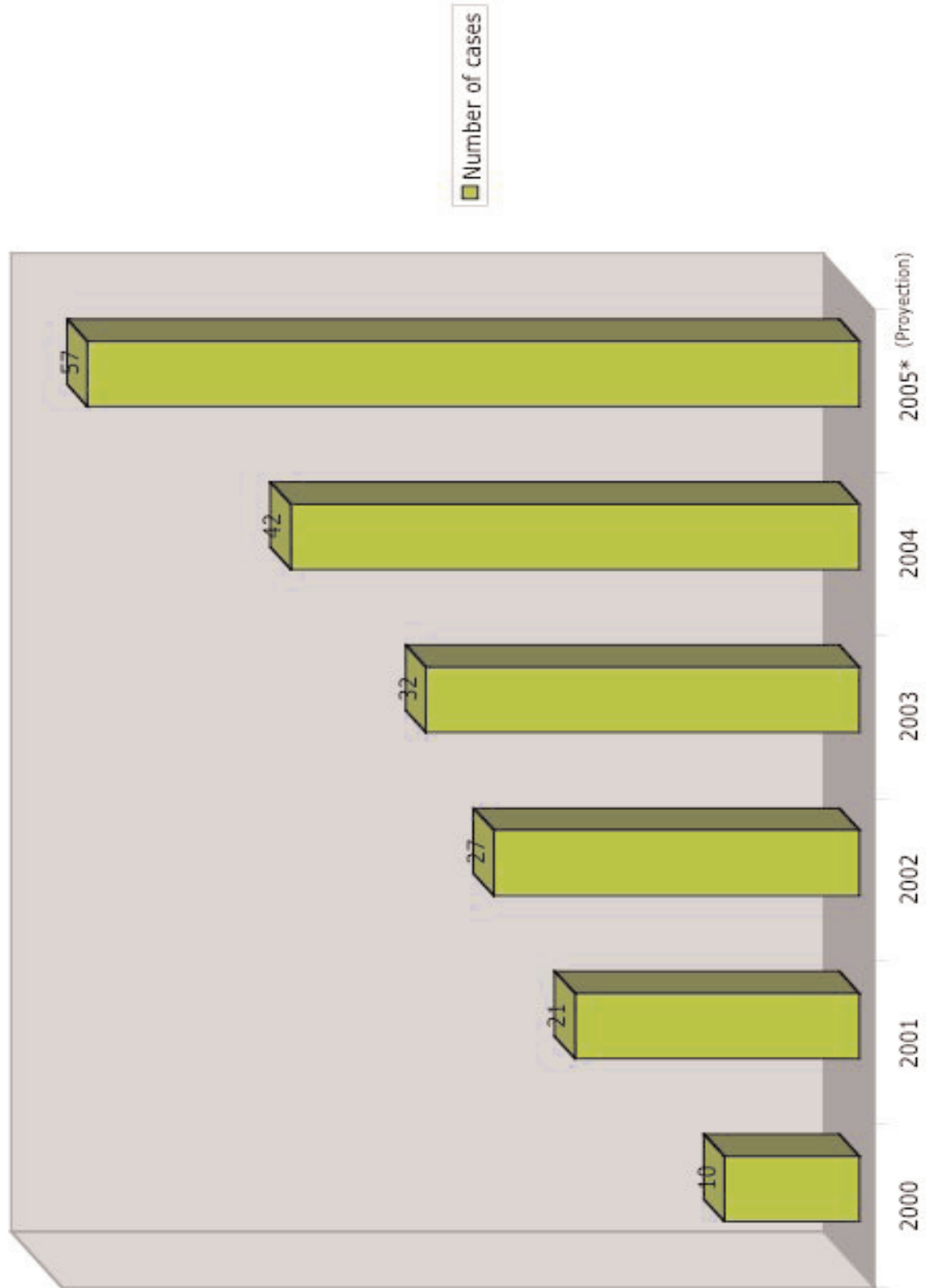
### Total of contentious cases before the Inter-American Court of Human Rights



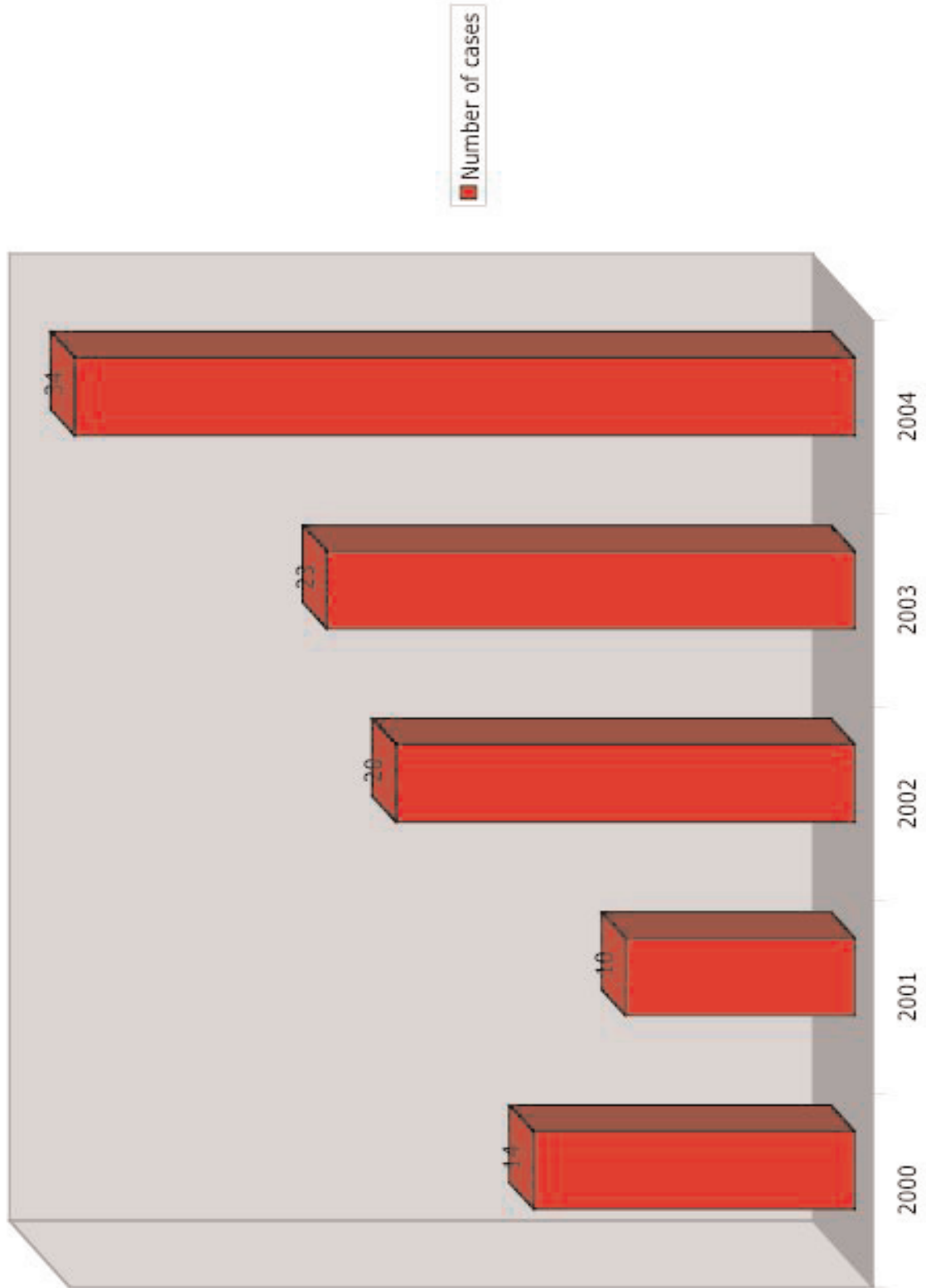
### Contentious cases without judgment before the Inter-American Court of Human Rights



### Contentious cases in stage of monitoring compliance with judgment before the Inter-American Court of Human Rights



**Provisional measures before the Inter-American Court of Human Rights**







### III. OTHER ACTIVITIES OF THE COURT

A description of the Court's principal activities during the year follows:

#### **Presentation of the 2003 Annual Report of the Inter-American Court of Human Rights**

On May 11, 2004, the President of the Court, accompanied by the Vice President and the Secretary, submitted the 2003 Annual Report of the Inter-American Court to the OAS Commission on Juridical and Political Affairs (CAJP). Judge García Ramírez presented a "Synthesis for the year 2003" and then offered his "Reflections on the Inter-American Court of Human Rights".

Subsequently, on May 14, 2004, CAJP issued Resolution CP/CAJP-2163/04 with its "Observations and Recommendations on the Annual Report of the Inter-American Court of Human Rights."

#### **Thirty-fourth regular session of the General Assembly of the Organization of American States**

The OAS General Assembly held its thirty-fourth regular session in Quito, Ecuador, from June 6 to 8, 2004. The Inter-American Court was represented by its President, its Vice President, and the Secretary of the Court.

On June 8, the President of the Court took the floor before the plenary session of the Assembly. In his address, he referred, among other matters, to the importance of the international protection of human rights remaining at the top of the Organization's political agenda; to the hope that those States that were still not parties to the American Convention would accede to it; and to the adoption of the principles established by the Court in domestic legislation. He also referred to the increase in the number of contentious cases, and provisional measures and requests for advisory opinions submitted to the Court, which gave rise to one of the most important and troubling challenges for the inter-American jurisdiction; and also to recognition of the importance of complying with the Court's decisions and the efforts made by States to respect them fully.

During the visit, a meeting was held with the Secretary General elect of the Organization, Miguel Ángel Rodríguez, to discuss different issues relating to the inter-American system for the protection of human rights.

On June 8, 2004, the OAS General Assembly adopted the 2003 Annual Report of the Court by Resolution AG/RES 2043 (XXXIV-O/04). In this resolution, the General Assembly resolved:

1. To accept the observations and recommendations of the Permanent Council on the Annual Report of the Inter-American Court of Human Rights and to transmit them to that organ.

2. To reaffirm the essential value of the work of the Inter-American Court of Human Rights in enhancing the promotion and defense of human rights in the Hemisphere.
3. To reiterate that the judgments of the Inter-American Court of Human Rights are final and may not be appealed and that the States Party to the Convention undertake to comply with the decisions of the Court in all cases to which they are party.
4. To reiterate the need for states parties to provide information required by the Court in order to enable it to fully meet its obligation to report to the General Assembly on compliance with its judgments.
5. To reaffirm the importance of the advisory function of the Inter-American Court of Human Rights for the development of inter-American jurisprudence and international human rights law and, in that context, to take note of Advisory Opinion OC-18/03.
6. To instruct the Permanent Council to continue its consideration of the issue of "access of victims to the Inter-American Court of Human Rights (*ius standi*) and its application in practice," including its financial and budgetary implications, taking into account the report of the Inter-American Court of Human Rights entitled "Bases for a Draft Protocol to the American Convention on Human Rights to Strengthen Its Mechanism for Protection – Volume II"; the proposal presented by the Government of Costa Rica, "Draft Optional Protocol to the American Convention on Human Rights"; and the revised Rules of Procedure of the Inter-American Court of Human Rights and of the Inter-American Commission on Human Rights.
7. To instruct the Permanent Council to continue to examine ways to bring about an effective and adequate increase in the financial resources allocated to the Inter-American Court of Human Rights in the program-budget of the Organization.
8. In addition, to encourage OAS member states to contribute to the Specific Fund for Strengthening the Inter-American System for the Protection and Promotion of Human Rights.
9. To urge the OAS member states to consider signing and ratifying, ratifying, or acceding to, as the case may be, the American Convention on Human Rights and other instruments of the system, including acceptance of the binding jurisdiction of the Inter-American Court of Human Rights.

Then, on June 8, 2004, the General Assembly adopted Resolution AG/RES 2030 (XXXIV-O/04) entitled "Strengthening of human rights systems pursuant to the Plan of Action of the Third Summit of the Americas," in which it resolved:

1. To reaffirm the commitment of member states of the Organization to continue strengthening and improving the inter-American system for the promotion and protection of human rights and, within that framework, their support for the functioning of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights.
2. To reaffirm the intent of the Organization of American States to continue to take concrete measures aimed at implementing the mandates of the Heads of State and Government on the strengthening and improvement of the inter-American human rights system, as set forth in the Plan of Action of the Third Summit of the Americas, namely:



- a) Universalization of the inter-American human rights system;
  - b) Compliance with judgments of the Inter-American Court of Human Rights and follow-up of the recommendations of the Inter-American Commission on Human Rights;
  - c) Facilitation of access for individuals to the inter-American human rights system;
  - d) A substantial increase in the budget of the Inter-American Court of Human Rights and that of the Inter-American Commission on Human Rights so that, within a reasonable time, they may address their growing activities and responsibilities; and
  - e) Examination of the possibility that the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights may operate on a permanent basis, taking into account, among other things, the views of those organs.
3. To underscore recent progress made in the specific areas of the inter-American human rights system identified in the Plan of Action of the Third Summit of the Americas, namely:
- a)
    - i. Ratification by Argentina of the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, or "Protocol of San Salvador"; and
    - ii. Ratification by Colombia and Ecuador of the Inter-American Convention on the Elimination of All Forms of Discrimination against Persons with Disabilities;
  - b) The voluntary contributions made, to facilitate the work of the bodies of the inter-American human rights system, by Brazil, Costa Rica, and Mexico to the Inter-American Court of Human Rights; and by Brazil, the United States, Mexico, Denmark, Finland, France, Spain, and Sweden, as well the Inter-American Development Bank and the European Commission, to the Inter-American Commission on Human Rights;
  - c) Application of the new Rules of Procedure of the Inter-American Court of Human Rights and those of the Inter-American Commission on Human Rights; and
  - d) The ongoing support from member states of the Organization for the organs of the human rights system and the important work of those organs to protect and promote human rights in the Hemisphere.
4. To instruct the Permanent Council to complement and consolidate the progress referred to in operative paragraph 3 by:
- a) Continuing to examine ways to bring about an effective and adequate increase in the financial resources allocated to the organs of the inter-American human rights system in the program-budget of the Organization;

- b) Supporting any initiatives taken by the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights to request funding from international and regional agencies, of proposals to further the activities of the bodies of the inter-American system for the promotion and protection of human rights;
  - c) Encouraging, in addition, OAS member states to contribute to the Specific Fund for Strengthening the Inter-American System for the Protection and Promotion of Human Rights;
  - d) Continuing to consider ways to promote compliance with the judgments of the Court and follow-up on the recommendations of the Inter-American Commission on Human Rights by the member states;
  - e) Continuing to analyze the priorities for its improvement, including consideration of the possibility that the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights may come to operate on a permanent basis, taking into account related information provided by the Presidents of both organs;
  - f) Requesting the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights to:
    - i. Continue to report on the correlation between, on the one hand, their Rules of Procedure and the amendments thereto that they adopt, and, on the other, the provisions of their own Statutes and of the American Convention on Human Rights; and
    - ii. Report on the impact and the meaning in practice of these regulatory reforms for the work of both organs and for the strengthening of the system; and
  - g) Proposing standards for the preparation of periodic reports on progressive measures adopted by the states parties to the Additional Protocol to the American Convention on Human Rights in the Area of Economic, Social, and Cultural Rights, or "Protocol of San Salvador," as provided in Article 19 of that legal instrument, in consultation with the Inter-American Commission on Human Rights and taking into account the contributions of the Inter-American Institute of Human Rights.
5. To instruct the Permanent Council to engage in a broad process of reflection on the inter-American system for the promotion and protection of human rights, in which it may elicit the opinion of member states, specialized agencies of the inter-American human rights system, nongovernmental organizations, national human rights institutes, academic institutions, and experts in the field, regarding:
- a) The major challenges facing the inter-American system for the promotion and protection of human rights in the Hemisphere;
  - b) Possible actions to strengthen and improve the system;



- c) The advisability of convening an inter-American human rights conference; and
  - d) In keeping with the foregoing, to present a report thereon to the General Assembly at its thirty-fifth regular session for consideration.
6. To instruct the Secretary General to promote accession to all inter-American human rights instruments, as appropriate.
  7. To promote the strengthening of national systems for the protection and promotion of human rights in member states and, to that end, to request the pertinent organs, agencies, and entities of the Organization to develop cooperative relations and information exchange with, *inter alia*, the Network of National Institutions for the Promotion and Protection of Human Rights of the Americas and the Iberoamerican Federation of Ombudsmen.
  8. To instruct the areas, units, and offices of the General Secretariat involved with human rights issues to work with the Permanent Council in implementing this resolution.
  9. To request the Permanent Council to follow up on this resolution, which shall be carried out in accordance with resources allocated in the program-budget of the Organization and other resources, and to present a report on its implementation to the General Assembly at its thirty-fifth regular session.

### **Joint meeting with the Inter-American Commission on Human Rights**

On August 20 and 21, 2004, members of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights held a meeting in Mexico City D.F. During the meeting they discussed topics such as: the role of the Commission before the Inter-American Court; the monitoring of compliance with the decisions of both organs, and the budgetary situation of the two organs of the inter-American system for the protection of human rights.

Judges Sergio García Ramírez (President), Alirio Abreu Burelli (Vice President), Cecilia Medina Quiroga, and Manuel E. Ventura Robles, and the Secretary of the Court, Pablo Saavedra Alessandri, and the Deputy Secretary, Emilia Segares Rodríguez, took part in the meeting representing the Court. The Commission was represented by the members of the Commission, José Zalaquett (President), Clare Roberts (Vice President), Susana Villarán, Evelio Fernández, Freddy Gutiérrez, Florentín Meléndez and Paulo Sergio Pinheiro, the Executive Secretary of the Commission, Santiago Cantón, the Principal Specialists, Ariel Dulitzky, Mario López and Elizabeth Abi-Mershed and the Special Rapporteur for Freedom of Expression, Eduardo Bertoni.

The two institutions hold this type of meeting periodically, mandated by the OAS General Assembly, in order to coordinate and program their work.

### **Meeting with the OAS Commission on Juridical and Political Affairs**

On October 26, 2004, the President of the Court, accompanied by the Secretary of the Court met with the Commission on Juridical and Political Affairs (CAJP), in Washington, D.C. The meeting

was also attended by members of the Inter-American Commission, and the Executive Director of the Inter-American Institute of Human Rights.

First, the representatives of the States expressed their opinions on the inter-American system for the protection of human rights and formulated questions and comments. The following were the most important points to emerge from their statements: a) the priority nature of the protection of human rights on the OAS agenda; b) total respect for the independence and autonomy of the organs of the system; c) concern about the evident insufficiency of the funding for the Commission and the Court; and d) some questions relating to procedural matters involving the Commission and the Court.

The President of the Court conveyed the greetings of the judges to the members of CAJP, and expressed appreciation for their opinions on the Court. He described the current status of the Court, underlining the prominent place of human rights on the OAS agenda and that autonomy and independence were essential elements for the task of "the organs" of the system; and he referred to the application of the current Rules of Procedure, the processing of the cases, the financial problems and other general matters. Also, he replied to the questions raised during the statements.

### **During the year, the Court also took part in the following activities:**

On January 16, 2004, the then President of the Court, Judge Antônio A. Cançado Trindade, met with the Minister for Foreign Affairs of Brazil, Ambassador Celso Amorin, at the Itamaraty Palace in Brasilia.

On January 22, 2004, the then President of the Inter-American Court of Human Rights, Judge Antônio A. Cançado Trindade, visited the set of the European Court at the Human Rights Palace in Strasbourg, France.

On March 3, 2004, Alexandre Charles Kiss, Secretary General of "Medio Ambiente sin Fronteras," visited the seat of the Inter-American Court of Human Rights.

On April 19, 2004, the judges of the Inter-American Court of Human Rights took part in the inauguration of the First Meeting of Presidents of Supreme Courts of Justice and Attorney Generals of Latin America, the Caribbean and their European Counterparts, organized by the Inter-American Institute of Human Rights and held in San José, Costa Rica.

On August 19, 2004, a mutual collaboration agreement was signed by the Secretaries of the Court, the Commission and the Inter-American Institute of Human Rights, to the strengthen the inter-American system for the protection of human rights and, whereby, they committed themselves to coordinating efforts in the area of the promotion of human rights.

On September 3, 2004, on the occasion of the twenty-fifth anniversary of the installation of the Inter-American Court of Human Rights, the Court received the visit of Rodrigo Carazo Odio, former President of the Republic of Costa Rica, accompanied by his wife, Estrella Zeledón, and by Gerardo Trejos Salas, the former president's adviser, during his government, also accompanied by his wife, Gloria Mazariegos.

From October 27 to 29, 2004, the President of the Court participated in the Nineteenth Pan-American Children's Congress, held in Mexico City, D.F. "The Family: basis for the comprehensive



development of boys, girls and adolescents” was the topic under discussion at this congress, which concluded with the issue of the respective declaration.

On November 15 and 16, 2004, the twentieth anniversary of the Cartagena Declaration on Refugees was celebrated in Mexico City, D.F., with a congress entitled “Latin America: land of asylum with innovative solutions.” This activity was organized with the cooperation of the Organization of American States (OAS), the United Nations High Commissioner for Refugees (UNHCR), the Inter-American Court of Human Rights, the Inter-American Institute of Human Rights (IIHR), the Ministry of Foreign Affairs of Mexico and the Norwegian Refugee Council (NRC). Judge, Antônio A. Cançado Trindade represented the Court at this activity.

On the occasion of the Ibero-American Summit of Heads of State and Government held in San José, Costa Rica, from November 18 to 20, 2004, the Court received the Minister for Foreign Affairs of Peru, Manuel Rodríguez Cuadros, on November 18 and, on November 19, the former President of Chile, Patricio Aylwin Azócar, the Minister for Foreign Affairs of Brazil, Celso Amorim, and the Minister for Foreign Affairs of Paraguay, Leila Rachid Cowles.

#### **IV. INTER-INSTITUTIONAL COOPERATION AGREEMENTS**

During 2004, the Inter-American Court of Human Rights signed seven cooperation agreements with different institutions of the Americas. These agreements were signed with: the Office of the Ombudsman of the Council of Europe, the Superior Court of Brazil, the *Universidad Católica de la Santísima Concepción*, Chile, the *Instituto Tecnológico y de Estudios Superiores de Occidente*, AC (ITESO), Mexico, the Ibero-American Federation of Ombudsmen (FIO), the Milano-Bicocca University, Italy, the Institute of Criminology and Criminal Sciences of the *Universidad de Santiago*, Cali, Colombia, and the *Universidad de Guadalajara*, Mexico. The purpose of these agreements is to establish a basis for collaboration in order to carry out joint activities with these institutions in the area of human rights research, teaching, divulgation and extension.

Between June and December, 2004 the United Nations High Commissioner for Refugees (UNHCR) donated in two occasions, arriving at a total amount of US\$ 21.498.67 (twenty one thousand four hundred ninety-eight and 67/100 United States dollars) intended to the Court’s Editorial Unit enforcement.

#### **V. ADMINISTRATIVE AND FINANCIAL AFFAIRS**

The Inter-American Court’s financial statements for the 2003 financial year were audited by the independent external auditing firm, Venegas, Pizarro, Ugarte y Co., Authorized Public Accountants, who represent HLB International in Costa Rica.

The audit included both OAS funds and the State of Costa Rica's contribution for this period. The financial statements are prepared by the administrative unit of the Inter-American Court and the audit was made in order to confirm that the Court's financial transactions take into account generally accepted accounting and auditing principles.

According to the March 3, 2004, report of the Authorized Public Accountants, the Court's financial statements adequately reflect the institution's financial situation and net assets, and also the income, expenditure and cash flows for the 2003 period, which are in accordance with consistently applied and generally accepted accounting principles for non-profit organizations, such as the Court.

The report of the independent auditors shows that the internal accounting control system used by the Court is adequate for recording and controlling transactions and that reasonable commercial practices are used to ensure the most effective use of its funds.

A copy of this report was sent to the OAS Financial Services Department and to the Organization's Inspector General.

### **International Cooperation**

In the area of international cooperation, during the present year, the Court signed a cooperation agreement with the European Commission amounting to €600,000.00 and the Mexican State renewed for the fifth time its support to the Inter-American Court of Human Rights amounting to US\$200,000.00. The Court also received cooperation from the Federative Republic of Brazil amounting to US\$40,000.

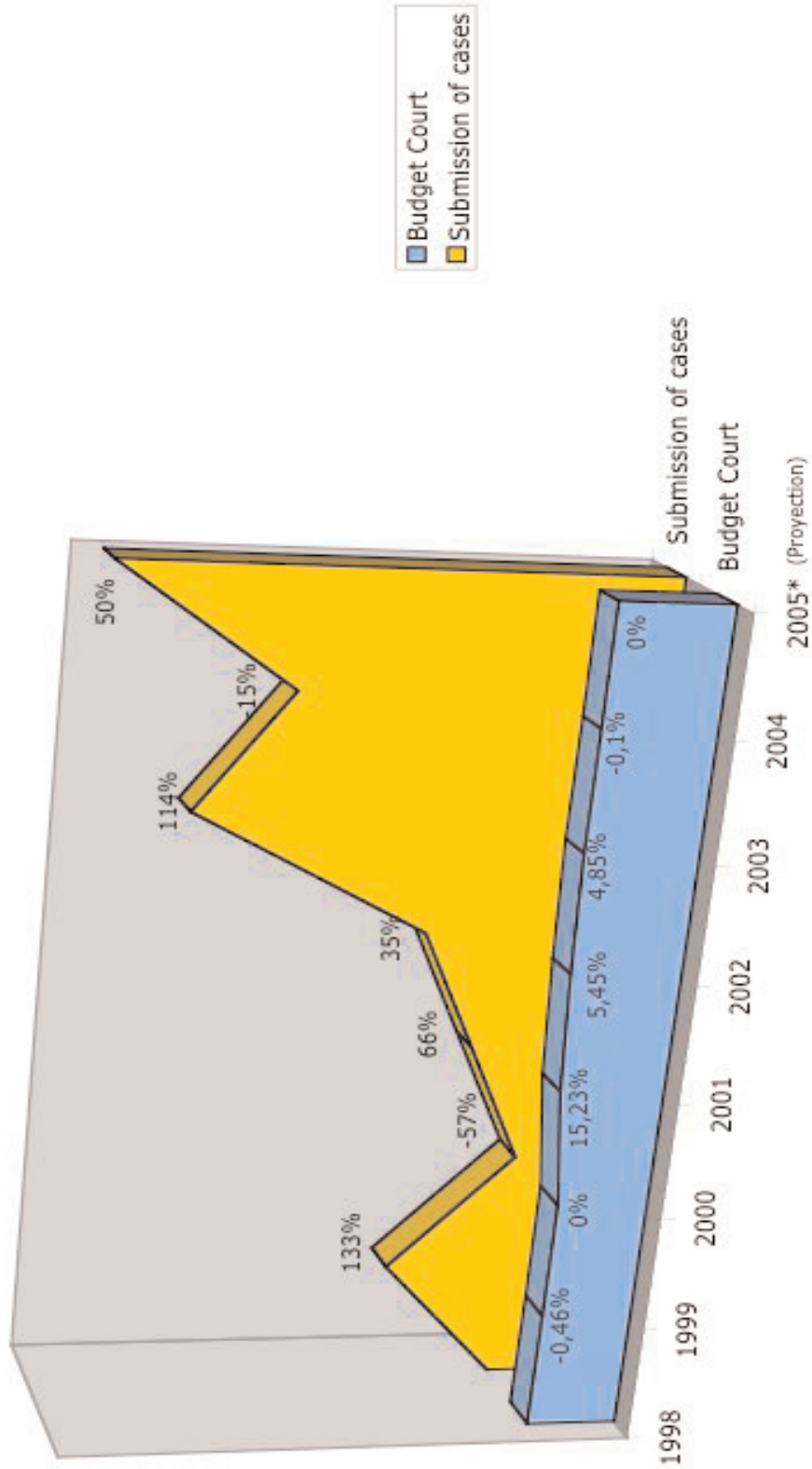
Even though the Inter-American Court's budget is financed by the OAS, the Government of Costa Rica also contributes an annual amount of US\$100,000.00 (one hundred thousand United States dollars), as part of the commitment it made on signing the Headquarters Agreement in 1983. The Government of Costa Rica has included this amount in its 2005 budget.

### **Adoption of the Court's budget for 2005**

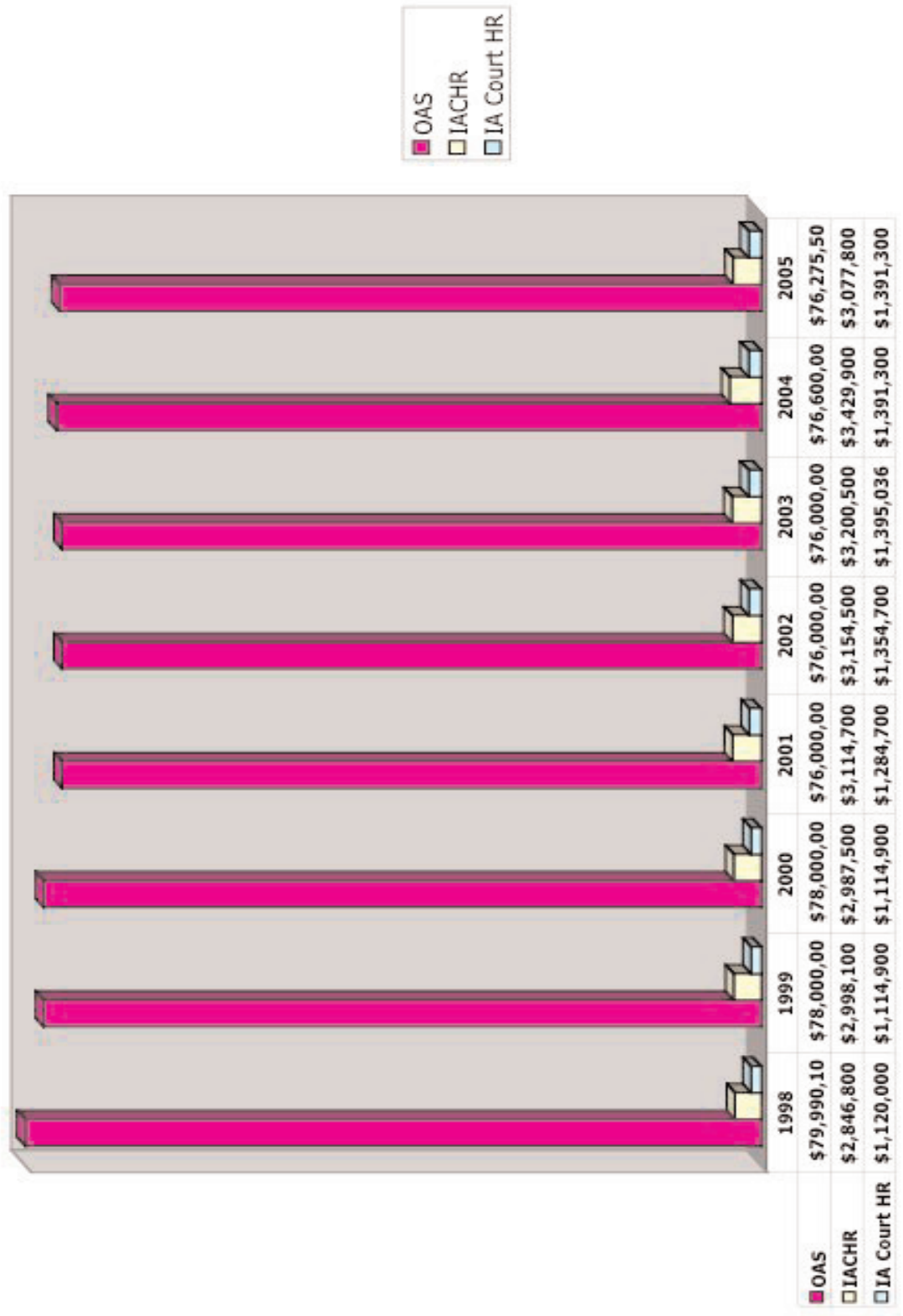
At its thirty-fourth regular session, held in Quito, Ecuador, from June 6 to 8, 2004, the General Assembly of the Organization of American States adopted the Court's budget for 2005, amounting to US\$1,391,300,00 (one million three hundred and ninety-one thousand three hundred United States dollars).



**Comparison between the increase of the Court's budget and the submission of contentious cases to its jurisdiction**



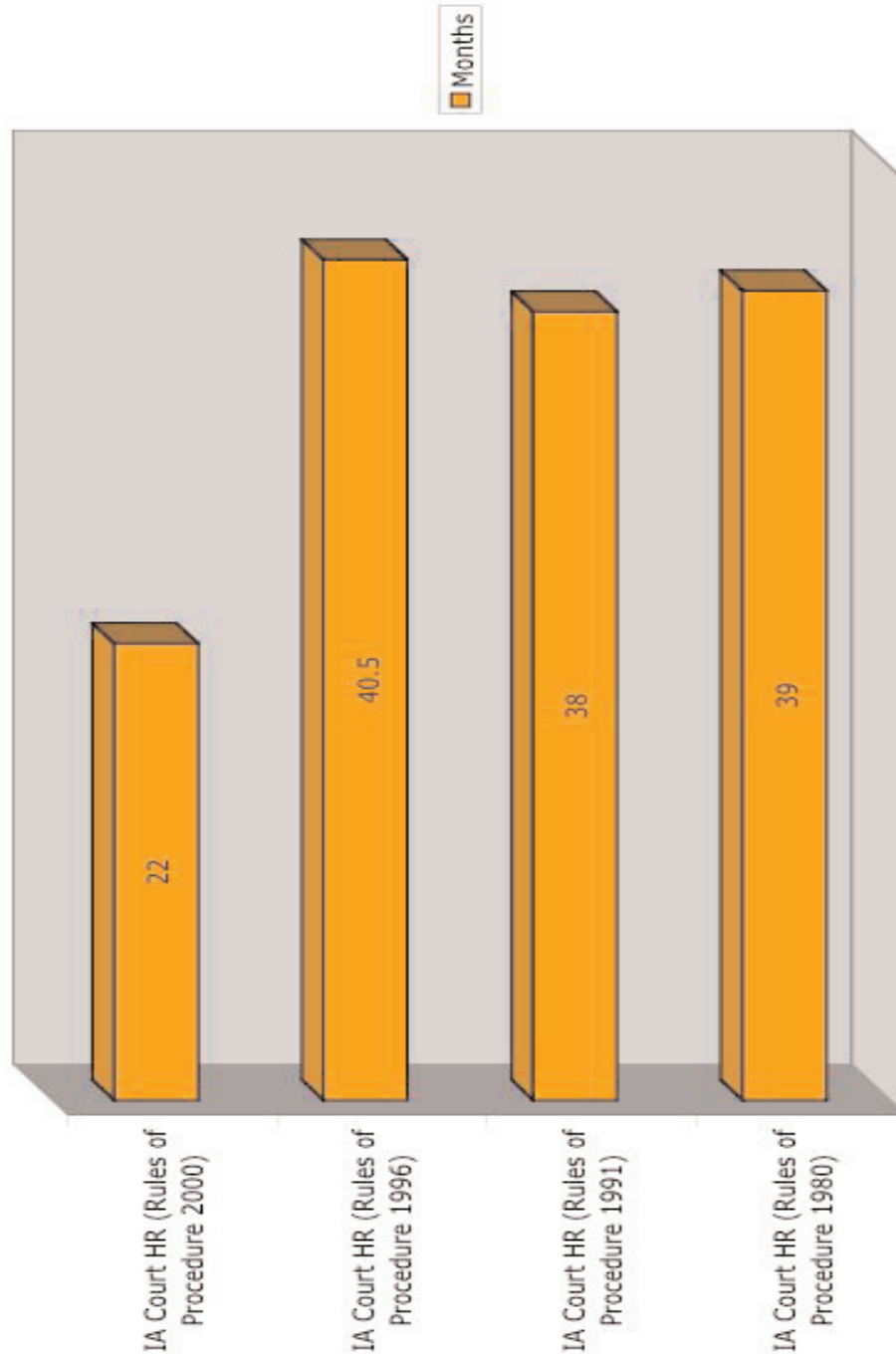
**Comparison between the regular annual fund of the OAS and the annual budget of the Commission and the Inter-American Court of Human Rights**



## VI. STATISTICS OF THE COURT

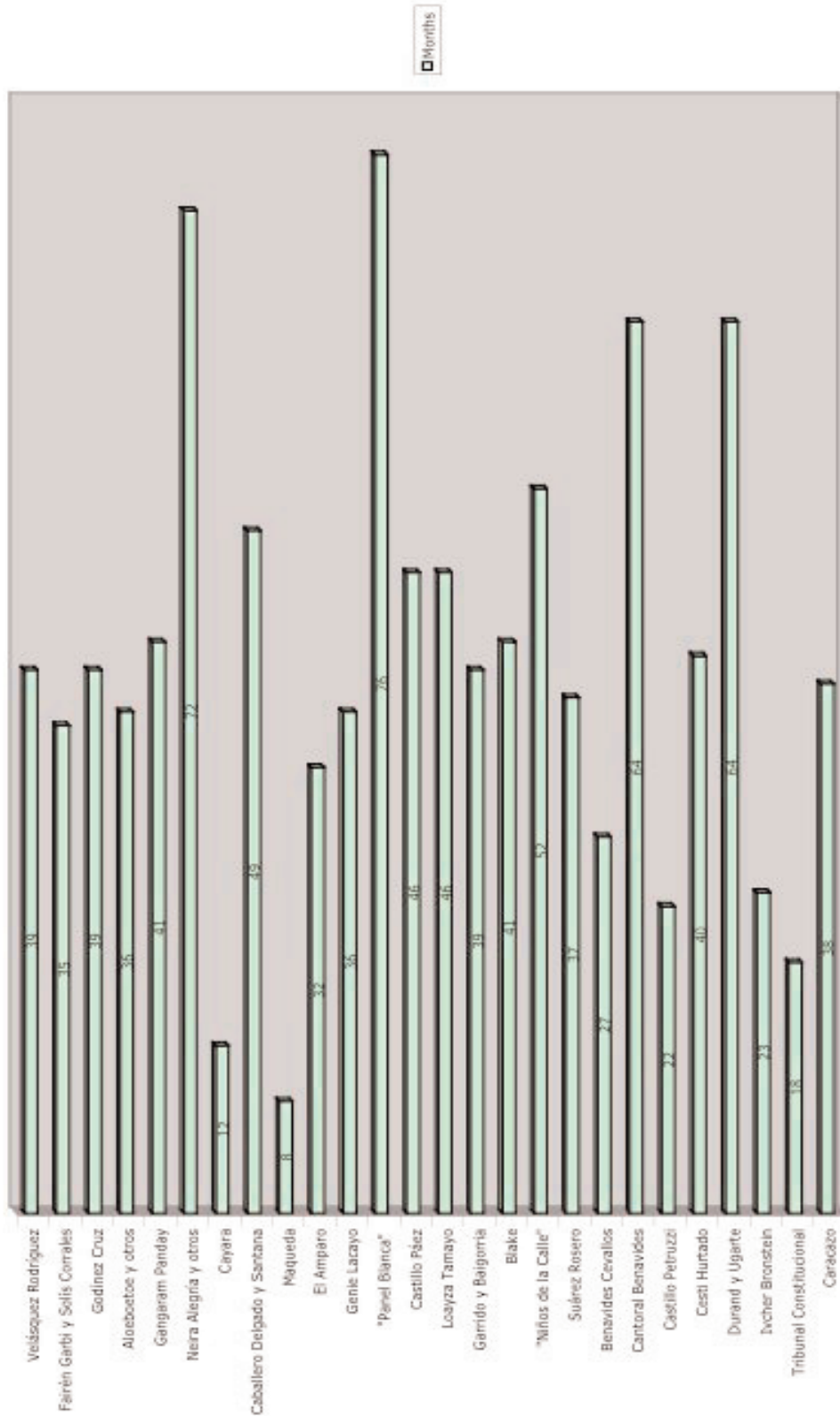
The following 3 figures illustrate the principal activities of the Inter-American Court of Human Rights, and its actual situation:

**Average time of the contentious cases before the Inter-American Court of Human Rights**

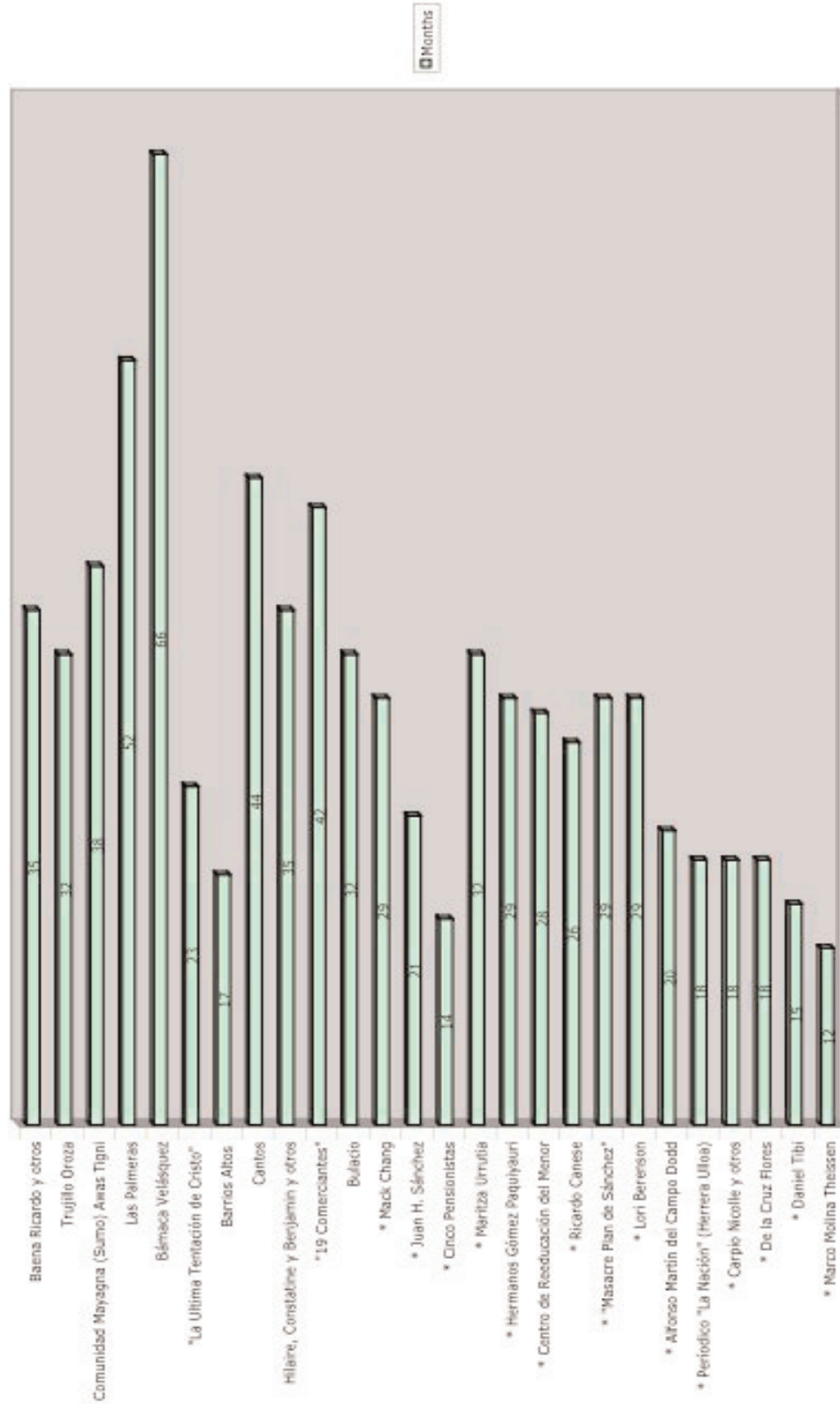


\* The average time of the proceedings before the Inter-American Court of Human Rights has been calculated since the submission of the application before the Tribunal, until the date the reparations judgment is issued.

**Total time of the cases solved by the Court  
Chart No. 1**



**Total time of the cases solved by the Court  
Chart No. 2**



\* Contentious cases processed with the Rules of Procedure of the year 2000.

## THE ORGANIZATION OF AMERICAN STATES

The Organization of American States (OAS) is the world's oldest regional organization, dating back to the First International Conference of American States, held in Washington, D.C., from October 1889 to April 1890. During that meeting, it was resolved to create the International American Conference. The Charter of the OAS was adopted in Bogota in 1948 and it entered into force in December 1951. The Charter was subsequently amended by the Protocol of Buenos Aires, signed in 1967, which entered into force in February 1970, by the Protocol of *Cartagena de Indias*, signed in 1985, which entered into force in November 1988, by the Protocol of Managua adopted in 1993, which entered into force on January 29, 1996, and by the Protocol of Washington, signed in 1992, which entered into force on September 25, 1997. Currently, the OAS has 35 Member States. Furthermore, the Organization has granted Permanent Observer status to more than 44 States and the European Union.

The basic purposes of the OAS are as follows: to strengthen the peace and security of the continent; to promote and consolidate representative democracy with due respect for the principle of non-intervention; to prevent the possible causes of difficulties and to ensure the peaceful settlement of disputes that may arise among its members; to provide for the common action of the Member States in the event of aggression; to seek the solution of political, juridical and economic problems that may arise among them; to promote, by cooperative action, their economic, social and cultural development, and to achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the Member States.

The OAS accomplishes its purposes through the following organs: the General Assembly; the Meeting of Consultation of Ministers of Foreign Affairs; the Councils (the Permanent Council and the Inter-American Council for Integral Development; the Inter-American Juridical Committee; the Inter-American Commission on Human Rights; the General Secretariat; the Specialized Conferences; the Specialized Organizations, and other entities established by the General Assembly.

The General Assembly holds regular sessions once a year. In special circumstances, it meets in special sessions. The Meeting of Consultation is convened in order to consider matters of an urgent nature and of common interest and to serve as the Organ of Consultation for implementation of the Inter-American Treaty of Reciprocal Assistance (Rio Treaty), which is the principal instrument for common action in the event of aggression. The Permanent Council examines matters referred to it by the General Assembly or the Meeting of Consultation and executes the decisions of both these organs when implementation has not been assigned to any other entity; it monitors the maintenance of friendly relations among the Member States as well as the observance of the rules that govern the operation of the General Secretariat; it also acts provisionally as the Organ of Consultation for implementation of the Rio Treaty. The General Secretariat is the central, permanent organ of the OAS. The headquarters of both the Permanent Council and the General Secretariat is in Washington, D.C.

MEMBER STATES: Antigua and Barbuda, Argentina, Bahamas (Commonwealth of the), Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica (Commonwealth of), Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Surinam, Trinidad and Tobago, United States, Uruguay and Venezuela.