

# **INTER-AMERICAN COURT OF HUMAN RIGHTS**

## **BLAKE CASE**

### **INTERPRETATION OF JUDGMENT ON REPARATIONS (ARTICLE 67 AMERICAN CONVENTION ON HUMAN RIGHTS)**

#### **JUDGMENT OF OCTOBER 1, 1999**

In the Blake case,

the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court"), composed of the following judges:

Antônio A. Cançado Trindade, President  
Máximo Pacheco-Gómez, Vice-President  
Hernán Salgado-Pesantes, Judge  
Oliver Jackman, Judge  
Alirio Abreu-Burelli, Judge  
Sergio García-Ramírez, Judge  
Carlos Vicente de Roux-Rengifo, Judge and  
Alfonso Novales-Aguirre, Judge *ad hoc*,

also present,

Manuel E. Ventura-Robles, Secretary and  
Renzo Pomi, Deputy Secretary

in accordance with Article 67 of the American Convention on Human Rights (hereinafter "the Convention" or "the Inter-American Convention") and Articles 29.2 and 58 of the Rules of Procedure of the

Court (hereinafter "the Rules of Procedure") decides on the request for interpretation of the judgment pronounced by the Court on January 22, 1999, in the Blake case (hereinafter "the judgment on reparations"), presented by the State of Guatemala (hereinafter "the State" or "Guatemala") on April 21, 1999.

## **I**

### **COMPETENCE AND COMPOSITION OF THE COURT**

1. In accordance with Article 67 of the Convention, the Court is competent to interpret its judgments and, when considering the request for interpretation, it shall be composed, whenever possible, of the same judges who delivered the respective judgment (Article 58.3 of the Rules of Procedure). On this occasion, the Court is composed of the judges who delivered the judgment on reparations, the interpretation of which has been requested by Guatemala.

## **II**

### **INTRODUCTION OF THE REQUEST FOR INTERPRETATION**

2. On April 21, 1999, the State presented a request for interpretation of the judgment on reparations, in accordance with Article 67 of the American Convention.

3. In a note of April 23, 1999, the Secretariat of the Court (hereinafter "the Secretariat"), forwarded copies of the request for interpretation to the next of kin of Nicholas Blake and to the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") and, in accordance with the instructions of the President of the Court (hereinafter "the President"), invited them to present their comments by May 21, 1999, at the latest.

4. On May 21, 1999, the Commission presented its written comments on the request for interpretation. The same day, the next of kin of Nicholas Blake presented their comments.

### **III SUBJECT OF THE REQUEST**

5. In the request for interpretation, the State declared that "[f]rom the literal transcription of the relevant parts of [the judgment on merits and the judgment on reparations], it is determined that the judgment on reparations contains an assessment of economic compensation that is totally distinct from the one indicated in the judgment on merits", because the latter establishes that Guatemala should compensate the victim's next of kin for expenses "incurred in their representations to the Guatemalan authorities in connection with this process", while the judgment on reparations orders payment of expenses of an extrajudicial nature and the reimbursement of expenses incurred in processing the case before the inter-American human rights system.

6. In the relevant ruling of the judgment on merits the Courts resolved unanimously to,

[...]

4. declare[.] that the State of Guatemala [i]s obliged to pay a fair compensation to the relatives of Mr. Nicholas Chapman Blake and reimburse them for the expenses incurred in their representations to the Guatemalan authorities in connection with this process;

7. In the relevant ruling of the judgment on reparations, the Court decided unanimously,

[...]

2. To order the State of Guatemala to pay:

a) US\$151,000.00 (one hundred and fifty-one thousand United States dollars) or the equivalent in Guatemalan currency, to the injured parties, Richard Blake, Mary Blake, Richard Blake Jr. and Samuel Blake, for reparations distributed as indicated in paragraphs 58, 50 and 49 of this judgment;..

[...]

iii. US\$16,000.00 (sixteen thousand United States dollars) for expenses of an extrajudicial nature.

b) And also, US\$10,000.00 (ten thousand United States dollars) or the equivalent in Guatemalan currency to the injured parties, Richard Blake, Mary Blake, Richard Blake Jr. and Samuel Blake, to reimburse the expenses they incurred in processing the case before the inter-American system for the protection of human rights, as established in paragraph 70 of this judgment.

[...]

8. After examining Guatemala's presentation, the Court concludes that the request seeks the interpretation of two points in the judgment on reparations in relation to the judgment on merits.

9. The first issue refers to determining whether the compensation ordered by the Court under the heading "expenses of an extrajudicial nature" (judgment on reparations), may be considered within the concept of "expenses incurred in their representations to the Guatemalan authorities in connection with this process" (judgment on merits) (*supra* 6).

10. A second aspect of the request for interpretation refers to the Court's ruling that the injured parties should be paid US\$10,000.00 (ten thousand United States dollars) to "reimburse expenses they incurred in processing the case before the inter-American system for the protection of human rights". In this respect, the State's request inquires whether the Commission and the Court can be included in the "category of Guatemalan authorities".

11. Having determined the aspects of the judgment on reparations on which the State has requested its interpretation, the Court will now proceed to consider admissibility.

#### IV ADMISSIBILITY

12. As a condition of the admissibility of a request for interpretation of judgment, Article 67 of the Convention requires that it should be presented "within ninety days from the date of notification of the judgment". In the instant case, the Court has verified that the judgment on reparations was notified to the State on January 25, 1999. Therefore, the request for interpretation of April 21, 1999, was presented within the time limit (*supra* 2 ).

13. With regard to the comments presented by the Commission and by the next of kin of Nicholas Blake, they were also presented within the appropriate period and, therefore, the Court considers that it is admissible to examine them.

14. It now corresponds to the Court to verify whether the request for interpretation complies with the regulatory requirements. In this respect, Article 58.1 of the Rules of Procedure establishes that

[t]he request for interpretation, referred to in Article 67 of the Convention, may be made in connection with judgments on the merits or on reparations and shall be filed with the Secretariat. It shall state with precision the issues relating to the meaning or scope of the judgment of which the interpretation is requested.

According to the provision in the Convention that this Article refers to, the Court is authorized to interpret its judgments should there be a disagreement as to their *meaning* or *scope*.

15. As mentioned above (*supra* 5), the State alleges that its request for interpretation is founded on discrepancies between the judgment on merits delivered by the Court on January 24, 1998, and the judgment on reparations delivered on January 22, 1999, since "[f]rom the literal transcription of the relevant parts of both judgments, it is determined that the judgment on reparations contains an assessment of economic compensation that is totally distinct from the one indicated in the judgment on merits".

16. Regarding the request filed by the State, the Inter-American Commission indicated that it is "indisputable that the 'expenses of an extrajudicial nature' that the [...] Court ordered to be paid are included among the expenses incurred by the next of kin of [the] victim 'in their representations to the Guatemalan authorities'. As the Court has already mentioned in the judgment on reparations "such expenses are of an extrajudicial nature since, as has been proved, the next of kin of Nicholas Blake did not have recourse to the domestic tribunals"<sup>1</sup>. The Commission added that the Court was clear when it stated the reasons that justified the payment of the expenses in this case, and cited paragraphs 42 to 50, 69 and 70, among others, of the judgment on reparations. Moreover, it indicated that this reimbursement was included in the concept of "fair compensation".

17. The next of kin of Nicholas Blake stated that there was no imprecision in the judgment on reparations, which, in their opinion, specifically incorporated the terms of the Convention. They therefore requested the Court to declare the request inadmissible.

18. The Court has stated that

[the] interpretation of a judgment implies not only the precision of the text of the rulings of the judgment, but also the determination of the scope, meaning and intention of the ruling, according to the relevant considerations. This has been the criterion of international jurisprudence (Eur. Court H. R., *Ringeisen case* (*Interpretation of the Judgment of 22 June 1972*), judgment of 23 June 1973, Series A, Vol. 16)<sup>2</sup>.

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1 *Blake case, Reparations* (Article 63.1 of the Inter-American Convention on Human Rights), Judgment of January 22, 1999. Series C No. 48, para. 49.

2 *Velásquez Rodríguez case, Interpretation of the Judgment on Compensatory Damages* (Article 67 of the Inter-American Convention on Human Rights), Judgment of August 17, 1990. Series C No. 9, para. 26 and *Godines Cruz case, Interpretation of the Judgment on Compensatory Damages* (Article 67 of the Inter-American Convention on Human Rights), Judgment of August 17, 1990. Series C No. 10, para. 26.

19. Likewise, the jurisprudence of the European Court of Human Rights has established that the subject matter of the interpretation of a judgment cannot modify obligatory aspects of the judgment<sup>3</sup>.

20. With regard to the request for interpretation, the Court considers that its findings in a previous case are applicable, in the sense

that the transparency of this Tribunal's proceedings is enhanced by clarification, when it so deems appropriate, of the content and scope of its Judgments, thereby dissipating any doubts about them and that they may not be challenged by merely formal considerations<sup>4</sup>.

21. In its brief, the State affirms that, according to Article 31.1 of the Vienna Convention on the Law of Treaties, the general rule is that "the terms should be interpreted according to their ordinary meaning". The Court observes that the article mentioned by Guatemala does not establish a sole criterion for interpretation because, fundamentally, treaties should be interpreted "in good faith and in accordance with the ordinary meaning to be given to the terms of the treaty in their context and in the light of its object and purpose".

22. In view of the foregoing, the Court considers that, even when the scope and meaning of the provisions of the judgment on reparations are clear, it is useful to explain the points raised by the State in order to eliminate any doubts regarding the payment of expenses of an extrajudicial nature and the reimbursement of the expenses incurred in processing the case before the inter-American system for the protection of human rights.

3 Eur. Court H. R., *Alenet de Ribemont v. France Case (Interpretation of the Judgment of 7 August 1996)* and Eur. Court H. R., *Hentrich v. France Case (Interpretation of the Judgment of 3 July 1997)*, Reports on Judgments and Decisions 1997-IV.

4 *El Amparo case, Request for Interpretation of the Judgment on Reparations of September 14, 1996*, Order of the Court of April 16, 1997, p. 123, first 'considering' clause.

**V****THE PAYMENT OF EXPENSES OF AN EXTRAJUDICIAL NATURE AND THE REIMBURSEMENT OF EXPENSES INCURRED BEFORE THE INTER-AMERICAN SYSTEM**

23. The Court proceeds to examine clauses a.iii. and b) of the second ruling of the judgment on reparations which ordered payment of reparations for extrajudicial expenses and reimbursement of expenses incurred in processing the case before the inter-American system (*supra* 7).

24. In its request for interpretation, the State referred to the fourth ruling of the judgment on merits and to the second ruling, clauses a.iii. and b), of the judgment on reparations. On these points, the State alleged that there are "absolute" discrepancies between them, because the judgment on merits ordered Guatemala to reimburse "the expenses incurred in their representations to the Guatemalan authorities in connection with this process" while the judgment on reparations ordered the State to pay for extrajudicial expenses and to reimburse the expenses incurred in processing the case before the inter-American system. In the ordinary sense, the phrase "expenses in representations to the Guatemalan authorities" does not include "expenses of an extrajudicial nature" or "expenses incurred in processing the case before the inter-American system for the protection of human rights". The State concludes that neither the Commission nor the Court may be considered "Guatemalan authorities".

25. With regard to the first issue raised by the State, in relation to the payment of US\$16,000.00 (sixteen thousand United States dollars) to the next of kin of Nicholas Blake for "expenses of an extrajudicial nature", the Court clarifies that when it ordered this payment, it referred to expenses incurred by the victim's next of kin in their personal representations to the Guatemalan authorities, in particular, military and administrative Executive authorities, in the process to investigate the whereabouts of Nicholas Blake. Accordingly, there is no contradiction in this respect between the judgments on merits and on reparations.

26. With regard to the second issue on the reimbursement of the expenses incurred in processing the case before the inter-American sys-



tem, the Court clarifies that Article 23 of its current Rules of Procedure recognizes *locus standi* to the victims, their next of kin or their representatives, and this condition allows them to submit their own arguments and evidence independently during the reparations stage and their right to reimbursement of representation-related expenses to be recognized.

27. This Court has said that "[i]n practice, the legal assistance provided to the victim does not begin with the reparations phase; instead, it begins with the proceedings before the domestic courts and continues throughout each phase of the proceedings under the inter-American system for the protection of human rights, in other words, in the proceedings conducted before the Commission and before the Court [...]"<sup>5</sup>. In its recent jurisprudence, since the entry into force of the current Rules of Procedure, the Court has recognizes that costs

are one element to be considered under the concept of reparations to which Article 63.1 of the Convention refers since they are a natural consequence of the effort made by the victim, his or her beneficiaries, or representatives to obtain a court settlement recognizing the violation committed and establishing its legal consequences<sup>6</sup>.

28. In its judgment of January 22, 1999, the Court ordered the reimbursement of the expenses of processing the case before the institutions of the inter-American human rights system, by declaring the admissibility

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5 *Garrido y Baigorria case, Reparations* (Article 63.1 of the Inter-American Convention on Human Rights), Judgment of August 27, 1998. Series C No. 39, para. 81.

6 Cfr. *Garrido y Baigorria case, Reparations*, *supra* note 5, para. 79; *Loayza Tamayo case, Reparations* (Article 63.1 of the Inter-American Convention on Human Rights), Judgment of November 27, 1998. Series C No. 42, para. 176; *Suárez Rosero case, Interpretation of the Judgment on Reparations* (Article 67 of the Inter-American Convention on Human Rights), Judgment of May 29, 1999. Series C No. 51, para. 40 and *Loayza Tamayo case, Interpretation of the Judgment on Reparations* (Article 67 of the Inter-American Convention on Human Rights), Judgment of June 3, 1999. Series C No. 53, para. 24.

of the corresponding petition, which the victim's next of kin or representatives presented to the Court, during the reparations phase.

29. This compensation could only be ordered in the judgment on reparations, as effectively occurred. Consequently, the judgment on merits could omit all reference to this, without the victim's next of kin losing the right to reimbursement of their expenses related to representation before the inter-American system.

30. For the foregoing reasons, the Court considers that the contradiction alleged by the State between the provisions of the judgments on merits (of January 24, 1998) and on reparations (of January 22, 1999) does not exist, and that the compensation ordered in the first of these decisions for "expenses in representations to the Guatemalan authorities" does not exclude the possibility of the Court ordering the payment claimed by the victims' next of kin for both "expenses of an extrajudicial nature" and the "reimbursement of expenses incurred in processing the case before the inter-American system for the protection of human rights", as it did in the judgment on reparations.

## VI

31. For the aforesaid reasons,

### **THE COURT**

#### **DECIDES:**


unanimously,

1. To declare admissible the request for interpretation of the judgment of January 22, 1999, in the Blake case, presented by the State of Guatemala.

2. To declare that, according to the terms of the judgment on reparations of January 22, 1999, the State of Guatemala should pay to the

injured parties, Richard Blake, Mary Blake, Richard Blake Jr. and Samuel Blake, the amounts ordered by the Court in the second ruling, clauses a.iii. and b), of the said judgment, for expenses of an extrajudicial nature and for the reimbursement of expenses incurred in processing the case before the inter-American system for the protection of human rights.

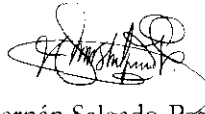
Done, in Spanish and English, the Spanish text being authentic, at the seat of the Court in San José, Costa Rica, on the first day of October 1999.



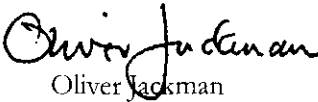
Antônio A. Cançado Trindade  
President



Máximo Pacheco-Gómez



Hernán Salgado-Pesantes



Oliver Jackman



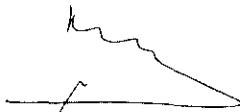
Alirio Abreu-Burelli



Sergio García-Ramírez



Carlos Vicente de Roux-Rengifo




Alfonso Novales-Aguirre  
Judge *ad hoc*



Manuel E. Ventura-Robles  
Secretary

So ordered,

A handwritten signature in black ink, appearing to read "Manuel E. Ventura-Robles". The signature is stylized with a large, sweeping initial "M" and a long, horizontal flourish extending to the right.

Manuel E. Ventura-Robles  
Secretary

A handwritten signature in black ink, appearing to read "Antônio A. Cançado Trindade". The signature is written in a cursive style with a prominent initial "A" and a long, sweeping flourish.

Antônio A. Cançado Trindade  
President