INTER-AMERICAN COURT OF HUMAN RIGHTS

DEL CARACAZO CASE

JUDGMENT OF 11 NOVEMBER 1999

In the Caracazo case,

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

Antônio A. Cançado Trindade, President;
Máximo Pacheco-Gómez, Vice-President;
Hernán Salgado-Pesantes, Judge;
Oliver Jackman, Judge; and
Carlos Vicente de Roux-Rengifo, Judge;

also present:

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

pursuant to Articles 55 and 57 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), delivers the following judgment in the instant case, submitted by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") against the Republic of Venezuela (hereinafter "Venezuela" or "the State").

* The Judges Alirio Abreu Burelli and Sergio García Ramírez informed the Court that, owing to circumstances beyond their control, they were unable to attend the public hearing on November 10, 1999, the final deliberations and the signature of this judgment.

I
INTRODUCTION OF THE CASE

1. On June 7, 1999, the Commission submitted the application in this case to the Court, invoking Articles 50 and 51 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Articles 32 *et seq.* of the Rules of Procedure. The Commission presented the application so that the Court might decide if Venezuela had violated Articles 4.1 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8.1 (Right to a Fair Trial), 25.1 and 25.2.a. (Right to Judicial Protection) and 27.3 (Suspension of Guarantees) in relation to Articles 1.1 (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention, owing to events that occurred during the months of February and March 1989, in Caracas, Venezuela.

Consequently, it requested the Court to declare that Venezuela had violated:

> a) the right to life of the following persons: Miguel Angel Aguilera La Rosa, Armando Antonio Castellanos Canelones, Luis Manuel Colmenares, Juan José Garrido Blanco, Daniel Guevara Ramos, Gustavo Pedro Guía Laya, Mercedes Hernández Gonzáles, Crisanto Mederos, Francisco Antonio Moncada Gutiérrez, Héctor Ortega Zapata, Richard José Páez Páez, Carlos Elías Ojeda Parra, José del Carmen Pirela León, José Vicente Pérez Rivas, Jorge Daniel Quintana, Wolfgang Waldemar Quintana Vivas, Yurima Milagros Ramos Mendoza, Iván Rey, Rubén Javier Rojas Campos, Esteban Luciano Rosillo García, Leobardo Antonio Salas Guillén, Tirso Cruz Tezara Álvarez, José Miguel Liscano Betancourt, Juan Acasio Mena Bello, Benito del Carmen Aldana Bastidas, Jesús Calixto Blanco, Boris Eduardo Bolívar Marcano, Jesús Alberto Cartaya, Julio César Freites, Héctor Lugo Cabriles, José Ramón Montenegro, Elsa Ramírez Caminero, Sabas Reyes Gómez, Fidel Romero Castro, Alís Flores Torres, Roberto Valbuena Borjas and José Valero Suárez;

b) the right to personal liberty of the following persons: Luis Manuel Colmenares, Boris Eduardo Bolívar Marcano, José Ramón Montenegro, Juan Acasio Mena Bello and José Miguel Liscano Betancourt;

c) the right to humane treatment of the following persons: Gregoria Matilde Castillo, Henry Herrera Hurtado and Noraima Sosa Ríos;

d) the right to a fair trial and judicial protection of the 44 victims in this case, because their next of kin and lawyers were not heard with due guarantees and within a reasonable time by a competent tribunal, since access to the case files was restricted for over ten years. The victims and their next of kin did not have access to a simple, prompt and effective recourse against the actions that violated their fundamental rights.

e) Article 27.3 (Suspension of Guarantees), because it did not comply with the obligation to inform the other States Parties to the Convention, through the Secretary General of the Organization of American States, that it had suspended constitutional guarantees during the events of February and March 1989; and

f) the obligation to respect the human rights and guarantees imposed by Article 1.1 of the Convention and the undertaking to adopt measures under domestic law established in Article 2 of the Convention.

Furthermore, the Commission requested the Court to order Venezuela:

a) to conduct an investigation in order to identify, prosecute and criminally punish those responsible for the extrajudicial execution of 35 persons, the disappearance of two persons and the injuries to three during the events of February and March 1989. Likewise, to investigate the facts relating to Jesús Cedeño, Abelardo Antonio Pérez, Andrés Eloy Suárez Sánchez and Jesús Rafael Villalobos in which the State is not directly responsible;

b) to adopt the necessary measures so that the next of kin of the persons who died, disappeared or were permanently injured during the events of February and March 1989 may receive adequate reparation, including full satisfaction for the human rights violations established in this case, together with a fair compensation for patrimonial and non-patrimonial damages, including pain and suffering;

c) to conduct an investigation in order to identify, prosecute and order the disciplinary, administrative and criminal punishment of those responsible for the unlawful burial of corpses in mass graves in the La Peste sector of the Southern General Cemetery; to continue the process of exhuming corpses halted since 1991; to identify the remaining 65 corpses, determine the cause of death by autopsies and inform the respective next of kin so that they may be buried;

d) to hand over the remains of the victims to the next of kin immediately, in those cases where, although aware of the deaths, the State has still not done this;

e) to inform the Venezuelan population of the official list of the 276 persons who died during the above-mentioned events, with their first and last names, and also the circumstances of death. Furthermore, to conduct an investigation in order to identify, prosecute and order the disciplinary, administrative and criminal punishment of the State agents who were involved in the death of those 276 persons. To pay the next of kin a fair compensation for patrimonial and non-patrimonial damages, including pain and suffering, when the participation of State agents has been proved;

f) to immediately lift the restricted nature of the proceedings in the cases that are pending, in both the ordinary and the military jurisdictions. The courts should locate the victims' next of kin – in coordination with non-governmental human rights organizations – so that they may contribute additional information to clarify the facts; and

g) to pay the costs and reimburse the expenses incurred by the representatives of the victims in litigating this case at the national and the international level.

II
FACTS

2. In Section III of its application, the Commission presented the facts that originated this case, and said that:

a. on February 16, 1989, the then President of Venezuela, Carlos Andrés Pérez, announced a series of structural adjustment measures to refinance the external debt through the International Monetary Fund that were implemented on February 27 that year;

b. on February 27, 1989, an undetermined number of persons from the poorer sectors of the population began a series of disturbances in Guarenas, State of Miranda, owing to the increase in urban transport rates and the failure of the Executive to grant a preferential rate to students. These disturbances then extended "to other parts of the metropolitan area of Caracas, and Caricuao, La Guaira, Maracay, Valencia, Barquisimeto, Guayana, Mérida, Maracaibo, and zones adjacent to the transportation terminal";

c. the disturbances consisted mainly in burning urban transportation vehicles and looting and destroying commercial properties; these events caused extensive damage to public and private property;

d. on February 27, 1989, a sector of the Metropolitan Police was on strike, and consequently did not intervene promptly to control the disturbances. According to declarations of the then President of the Republic, published in the newspaper *El Nacional* of June 10, 1990, "at the beginning, there was no organized body to prevent or deal with what was happening"; in the same declaration he also said that "upon returning from Barquisimeto, when passing through the area of Caracas near the Presidential Palace

called El Silencio, [he saw] the shattered shop windows; arriving at Miraflores, he called the Minister of Defense and ordered him to mobilize the troops";

e. the armed forces were entrusted with controlling the situation, and, to this end, about nine thousand soldiers were brought in from the interior of the country; these were young men of 17 and 18 years of age, recruited in February 1989. From statements made by senior Army officers, former Ministers of State and the former President of the Republic, it is clear that the armed forces were not prepared to assume control of public order and the young men who were sent were a danger to the life and physical integrity of the population, owing to their youth and inexperience. Similarly, it is evident that these young soldiers were equipped with assault weapons (7.62-mm light automatic rifles) to control the civilian population, and AMX-13 armored vehicles. The officers used 9-mm heavy-duty guns.

f. on February 28, 1989, the Executive issued Decree No. 49, ordering the suspension of the following guarantees established in the Venezuelan Constitution: individual freedom (Article 60.1, 2, 6 and 10); right to immunity of domicile (Article 62); freedom of movement (Article 64); freedom of expression (Article 66); right of assembly (Article 71) and right to take part in peaceful manifestations (Article 115). According to the Commission, the constitutional guarantees were reestablished on March 22, 1989;

g. during the 23 days that the suspension of guarantees lasted and, in particular, as of March 1, 1989, the Venezuelan armed forces were in control of the territory and the population; moreover, at first they imposed a curfew that obliged people to remain in their homes between 6 p.m. and 6 a.m.

h. during the state of emergency, the State security bodies, together with the Metropolitan Police, the National Guard and the Army, carried out a series of operations to repress acts of violence;

i. according to official figures, the events of February and March 1989 left a balance of 276 dead, numerous injured, several disappeared and heavy material losses. However, this list was invalidated by the subsequent appearance of mass graves;

j. as of February 28, 1989, a secret military plan entitled "Avila" was imposed on the civilian population. This plan was conceived during the 1960s when, according to the former Minister of Defense, Ítalo del Valle Alliegro, there were illegal armed groups in Venezuela. In his words, this plan "was executed, despite the length of time [that had elapsed] without implementing it"; however, "it had to be revised and updated in view of the new circumstances";

k. two non-governmental organizations that carried out investigations *in situ*, as well as international experts, agreed that most of the deaths were due to indiscriminate firing by agents of the Venezuelan State, while others resulted from extrajudicial executions. They also agreed that the members of the armed forces opened fire against crowds and against homes, which caused the death of many children and innocent people who were not taking part in criminal acts;

l. the victims included seven children and five women. Of the 44 cases, 18 occurred on March 1, 1989, or later although the events had ceased as of February 28 that year when, according to Venezuelan Government reports, the situation was completely controlled; 11 victims were killed in their homes, five of these during curfew hours, and the other seven cases were typical of extrajudicial executions. Regarding the circumstances of death, 14 of the victims died as a result of head injuries caused by firearms, three of them received bullets in the neck, 14 in the thorax or abdomen, and five were shot in the back. Another four victims disappeared in the area controlled by the Army and the Metropolitan Police and, to date, there has been no information on their whereabouts. Furthermore, 32 of these cases were pending before military tribunals or were heard by military tribunals (although some of them also being processed under civil jurisdiction) and in none of the

cases has there been a judgment that identifies those responsible and establishes the corresponding penalties.

m. in the cases that are the subject of this application, there was a common pattern of behavior characterized by the disproportionate use of the armed forces in the poorer residential districts. This behavior included hiding and destroying evidence as well as the use of institutional mechanisms that have ensured the impunity of the acts;

n. in the days following the events, the State, through the Executive, ordered that an undetermined number of corpses should be buried in mass graves in the sector known as "La Peste I and II of the Southern General Cemetery of Caracas in order to 'comply with specific health-related instructions'";

o. at the time the application was presented - nine years after the exhumations were carried out - investigations remain at the summary proceedings stage which was secret; "this means that, ten years after the events occurred, the victims' next of kin have not been able to gain access to the file papers or ascertain whether the tribunal hearing the case has issued an interlocutory order". When the victims' next of kin were informed of the burial, they immediately approached the competent national authorities in order to seek and claim the corpses. At first, state officials publicly denied the existence of mass graves, but the victims' next of kin presented a series of proofs to the Venezuelan domestic jurisdictional bodies that established the existence of mass graves in the Southern General Cemetery.

p. on November 5, 1990, the Tenth Criminal Court of First Instance of the Judicial District of the Metropolitan Area of Caracas conducted a judicial inspection in the Southern Cemetery to determine alleged irregularities in how the corpses buried in mass graves had been registered and, in the corresponding official record, it "certified that the victims of the events of 27/2/89, buried in the North 6 sector ("la Peste"), are not recorded in the registers..."; and

q. on November 28, 1990, the public was informed that the first remains had appeared in plot number 6 North of the Southern Cemetery General in Caracas. 130 corpses were exhumed; of these only 68 corresponded to persons whose date of death was February and March 1989. On May 30, 1991, the Committee of the next of kin of the victims of the events of February and March 1989 (hereinafter "COFAVIC"), filed a claim before the Tenth Criminal Court of First Instance, owing to a fire in the area of the mass graves.

III
COMPETENCE OF THE COURT

3. The Court is competent to hear this case. Venezuela is a State Party to the American Convention since August 9, 1977, and recognized the obligatory jurisdiction of the Court on June 24, 1981.

IV
PROCEEDINGS BEFORE THE COMMISSION

4. As a result of a complaint presented on March 28, 1995, the Commission began processing the case and requested pertinent information from Venezuela, in a note of March 29, 1995.

5. In a note of June 5, 1995, the State requested the Commission to allow it more time to respond to the request for information; the request was accepted on June 13, 1995.

6. In a note of August 16, 1995, the State replied to the Commission by transmitting a preliminary report on the case in which it mentioned, among other matters, that "in view of the complexity of this case, and also the number of claimants, the National Government [would] continue providing complementary information subsequently, as it advances in the investigation of each individual case".

7. In a note of August 18, 1995, the Commission forwarded the State's reply to the petitioners. In a note of September 11 that year, the

petitioners requested an extension in order to respond to the observations of Venezuela, and the Commission granted it.

8. On August 24, 1995, the State provided the Commission with additional information on the case, consisting in a copy of the 1990 Report of the Prosecutor General of the Republic of Venezuela and two communications from the former Prosecutor General of December 20, 1989, and January 31, 1990. According to the Commission "the additional information provided by the Venezuelan Government was received by the Executive Secretariat of the Commission on 18 September, 1995". This information was forwarded to the petitioners on September 20, 1995.

9. On August 12, 1996, the petitioners requested a public hearing with the Commission during its 93rd session. In a note of September 6, 1996, the Commission informed the parties that a public hearing would be held on October 7, 1996.

10. In a note of October 22, 1996, the Commission made itself available to the parties in order to seek a friendly settlement to the case. This procedure was unsuccessful.

11. On March 4, 1997, a second public hearing was held during the 95th session of the Commission. At that time, Yris Medina Cova, wife of Wolfang Waldemar Quintana, who died on March 2, 1989, gave evidence. Moreover, Liliana Ortega, Director of COFAVIC, Ariel Dulitzky and Viviana Krsticevic of the Center for Justice and International Law (hereinafter "CEJIL"), and Héctor Faúndez Ledesma appeared as representatives of the victims. Francisco Paparoni and Raúl Arrieta attended for the State.

12. On September 1, 1997, and on May 29, 1998, the petitioners transmitted additional information to the Commission, which was forwarded to the State. Venezuela did not make observations on it.

13. On October 1, 1998, the Commission, during its 100th session, adopted Report 83/98 and forwarded it to the State on December 7, 1998, with the request that it should adopt the corresponding recommen-

dations within two months. In this report, the Commission recommended that the State:

> 477. ...[C]onduct an exhaustive investigation to identify, prosecute and punish those responsible for the deaths of Miguel Angel Aguilera La Rosa, Armando Antonio Castellanos Canelones, Luis Manuel Colmenares, Juan José Garrido Blanco, Daniel Guevara Ramos, Gustavo Pedro Guía Laya, Mercedes Hernández Gonzáles, Crisanto Mederos, Francisco Antonio Moncada Gutiérrez, Héctor Ortega Zapata, Richard José Páez Páez, Carlos Elías Ojeda Parra, José del Carmen Pirela León, José Vicente Pérez Rivas, Jorge Daniel Quintana, Wolfgang Waldemar Quintana Vivas, Yurima Milagros Ramos Mendoza, Iván Rey, Rubén Javier Rojas Campos, Esteban Luciano Rosillo García, Leobaldo Antonio Salas Guillén, Tirso Cruz Tezara Álvarez, Benito del Carmen Aldana Bastidas, Jesús Calixto Blanco, Boris Eduardo Bolívar Marcano, Jesús Alberto Cartaya, Julio César Freites, Héctor Lugo Cabriles, José Ramón Montenegro, Elsa Ramírez Caminero, Sabas Reyes Gómez, Fidel Romero Castro, Alís Flores Torres, Roberto Valbuena Borjas, José Valero Suárez and Jesús Cedeño. The State should also pay fair compensation to the next of kin of the above-mentioned victims for patrimonial and non-patrimonial damages, including pain and suffering.
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> 478. ...[C]onduct an exhaustive investigation to locate Abelardo Antonio Pérez, Andrés Eloy Suárez Sánchez, José Miguel Liscano Betancourt, Juan Acasio Mena Bello, and Jesús Rafael Villalobos, who to date are considered to be disappeared persons. Should the death of any of these persons be determined, the State should identify and punish those responsible for this criminal act. Furthermore, if any of these persons has died as a consequence of direct actions of State agents, their next of kin should be paid fair compensation for patrimonial and non-patrimonial damages, including pain and suffering.
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> 479. ...[C]onduct an exhaustive investigation to identify, prosecute and punish those responsible for the injuries caused to

Gregoria Matilde Castillo, Henry Eduardo Herrera Hurtado and Noraima Sosa Ríos, who suffered violations to their physical integrity during the events of February 27, 1989. The State should pay these persons fair compensation for patrimonial and non-patrimonial damages, including pain and suffering.

480. Conduct an exhaustive investigation to identify, prosecute and order the disciplinary, administrative and criminal punishment of those responsible for the unlawful burial of corpses in mass graves in the La Peste sector of the Southern General Cemetery. In this respect, the State should continue immediately with the process of exhuming the corpses that was halted in 1991. Likewise, it should identify the remaining 65 corpses, determine the causes of death by means of official autopsies and inform the respective next of kin so that they may proceed to bury their dead.

481. Immediately hand over to the next of kin the remains of the victims in those cases where, although being aware of the deaths, the State has still not done this.

482. Inform the Venezuelan people of the official list with the first and last names of the 276 people who died during the events of February and March 1989, and also the specific circumstances in which they died. Furthermore, the State should carry out an exhaustive investigation in order to identify, prosecute and punish the individual State agents who were involved in the deaths of these 276 persons. Once the participation of State agents has been proved, the next of kin of the victims should be paid fair compensation for the patrimonial and non-patrimonial damages, including pain and suffering.

483. Immediately lift the restricted nature of the proceedings of the 44 cases that are pending in both the ordinary and the military jurisdictions, since this impedes the victims' next of kin and their lawyers from having real access to remedies under domestic law. In this regard, the respective courts of justice should locate the next of kin of the victims – in coordination with non-governmental

human rights organizations – so that they may contribute additional information to clarify the facts.

484. Provide greater material and human resources to the Central Morgue of Caracas in order to avoid situations such as those encountered on February 27, 1989. Likewise, the State should reorganize and modernize the Department of Identification and Foreigners.

485. Provide the Institute of Forensic Medicine with the necessary human and material resources to enable it to operate effectively and promptly.

486. Introduce a comprehensive training process in human rights for the various security organs of the Venezuelan State, through seminars, courses, etc.; it should include issues relating to the suspension of constitutional guarantees and rights that may not be suspended

487. Ratify the Inter-American Convention on the Forced Disappearance of Persons, an international instrument that the Venezuelan State signed on June 10, 1994, during the twenty-fourth regular session of the General Assembly of the Organization of American States.

Furthermore, the Commission resolved:

1. To forward this report to the State of Venezuela - which is not authorized to publish it – pursuant to Article 50 of the American Convention on Human Rights.

2. To grant the State of Venezuela a period of two months from the date this report is transmitted to comply with the recommendations contained in paragraphs 477, 478, 479, 480, 481, 482, 483, 484, 485, 486 and 487 and to inform the Inter-American Commission on Human Rights of the measures adopted to resolve the various situations violated, all this pursuant to Article 50.3 of the American Convention.

3. To notify the petitioners of the adoption of a report in this case, under Article 50 of the American Convention on Human Rights.

14. In a note of October 12, 1998, Venezuela requested a hearing before the Commission, which was not granted because the Commission had already adopted a decision in the case.

15. In a note of February 12, 1999, the State requested "an extension of sixty more days to the two months granted by the Commission in order to inform the new Government of the report issued by the Commission and, consequently, to ascertain its instructions for complying with the recommendations that the Commission had formulate[d] to the State in its report". In a note of February 23, 1999, the Commission acknowledged receipt of this request and stated that it would consider the request for an extension, as long as the State agreed to interrupt the period established in Article 51.1 of the Convention.

16. On February 24, 1999, Venezuela expressed its agreement with the terms proposed by the Commission and indicated that it accepted that as of "March 7, 1999, the period established in Article 51.1 of the Convention [should be] interrupted, and that the extension of two months requested by the State of Venezuela in order to comply with the recommendations in the Commission's report [should be] calculated from that date". Accordingly, in a note of March 2, 1999, the Commission informed the State that the two additional months would expire on May 7, 1999, and that the period established in Article 51.1 of the Convention would expire on June 7, 1999.

17. In a note of March 9, 1999, the President of Venezuela, Hugo Chávez Frías, addressed the Chairman of the Commission and mentioned, *inter alia*, that "he [had] instructed the State's Agent [...] to negotiate the best terms possible, so that, with the participation of the Commission, an honorable, full and satisfactory solution could be reached with the next of kin of the victims who had suffered the excesses of any police official or the State security forces".

18. In a note of March 24, 1999, the Commission acknowledged receipt of the above-mentioned note and advised that "it [would] proceed

to forward the position of the illustrious Government of Venezuela to the petitioners in case 11,455, in order to explore the possibility of a friendly settlement based on respect for the human rights enshrined in the American Convention". On April 7, 1999, the Commission forwarded the note to the petitioners.

19. On May 7, 1999, in reply to the State's note of March 9, 1999, the petitioners stated, *inter alia*, that "the seriousness of the facts denounced in the present case does not allow a friendly settlement, in a way that is compatible with the Convention" and "respectfully request[ed] the Commission that, in accordance with its competence, it should decide once and for all and without acceding to new delaying tactics by the Venezuelan State whether or not this case should be referred to the Inter-American Court...".

20. On the same May 7, 1999, following a meeting between the parties that did not achieve a settlement of the case, the Commission, during its 103rd special session, decided to refer the case to the Court.

21. In a note of May 23, 1999, Venezuela presented a document with annexes in which it "formally notifie[d] the Commission that the State of Venezuela had complied with the recommendations contained in its report" No. 83/98. The same day, the Secretariat of the Commission sent this document by courier to the members of the Commission for the corresponding analysis. On June 3, 1999, the Chairman of the Commission, Robert K. Goldman, and the Executive Secretary, Jorge E. Taiana, communicated with the First Vice Chairman, Hélio Bicudo, the Second Vice Chairman, Claudio Grossman, and Jean Joseph Exumé and Alvaro Tirado Mejía, members of the Commission, to request their opinion on the document.

22. The Commission acknowledged the willingness expressed by Venezuela through its representative, but considered that the document presented by the State did not constitute appropriate compliance with the recommendations of the Commission and, consequently, it unanimously decided to confirm that this case would be referred to the Court.

V
PROCEEDINGS BEFORE THE COURT

23. The application in this case was submitted to the Court on June 7, 1999.

24. The Commission appointed Hélio Bicudo and Oscar Luján Fappiano as Delegates; Hernando Valencia Villa, Deputy Executive Secretary of the Commission, and Milton Castillo Rodríguez, principal expert of the Secretariat as lawyers; and Liliana Ortega Mendoza and Héctor Faúndez Ledesma, in representation of COFAVIC, Viviana Krsticevic and María Claudia Pulido, in representation of CEJIL, and José Miguel Vivanco in representation of Human Rights Watch/Americas as assistants. In accordance with the provisions of Article 22.2 of the Rules of Procedure, the Commission advised that the assistants represented the victims' next of kin.

25. On June 17, 1999, the Secretariat of the Court (hereinafter "the Secretariat"), following the instructions of the President of the Court (hereinafter "the President"), pursuant to the provisions of Article 33 and 34 of the Rules of Procedure, requested the Commission to correct some deficiencies observed during the preliminary examination of the application within a period of 20 days. On June 22 and 28, 1999, the Commission corrected the deficiencies in the application and forwarded copies of the evidence requested.

26. On June 30, 1999, the Commission forwarded twenty photographs related to the events of February and March 1989 in Venezuela and indicated that they formed part of the documentary evidence of the application.

27. In a note of July 5, 1999, the Secretariat notified the State of the application and its annexes, after the President had examined them. It also informed the State that it had one month to appoint an Agent and a Deputy Agent, two months to submit preliminary exceptions and four months to reply to the application.

28. On August 11, 1999, the State appointed Raúl Arrieta Cuevas as its Agent and Ambassador Noel García Gómez as Deputy Agent.

29. On August 26, 1999, the Secretariat forwarded to the State all the documentation contained in annex 35 of the application, regarding the powers of attorney granted by the alleged victims or their next of kin.

30. On August 26, 1999, Venezuela requested the Court to

> invite the parties to a formal hearing, during the next session so that, at that time, the State's Agent c[ould] inform the Court about the way in which the State [was] executing the Commission's recommendations and, thus, seek an honorable, full and satisfactory solution to the case, with the active participation of the Inter-American Court and, in particular, an agreement with the next of kin of the victims of the events in question.

Furthermore, it attached a brief of May 24, 1999, presented by the State to the Commission, which provided information on compliance with the recommendations made in Report No. 83/98.

31. On August 27, 1999, the President issued an order in which he summoned the parties to a public hearing to be held at the seat of the Court on September 22, 1999.

32. On September 2, 1999, the Commission requested the Court to

> [p]ostpone the public hearing in this case because the 104th session of the IACHR would be held in Washington D.C. from September 21 to October 8, 1999, and its First Vice Chairman, Hélio Bicudo [...] ha[d] to chair several hearings on subsequent dates, so that it would be impossible for him to attend the public hearing in this case. Moreover, the President of the Republic of Venezuela [had requested] a hearing before the IACHR [...which] would take place at 9 a.m. on September 22, 1999.

33. On September 6, 1999, the State informed the Court that "it agree[d] that the hearing should be postponed ...". Moreover, it requested an extension of 60 days in order to present the brief replying to the application. On September 7, 1999, following the President's instructions, the Secretariat granted the State until January 12, 2000, to reply to the application.

34. On September 9, 1999, the President resolved to annul his order of August 27, 1999, and to summon the representatives of the State and the Commission to a public hearing to be held at the seat of the Court during its 46th regular session.

35. On October 13, 1999, the President summoned Venezuela and the Inter-American Commission to a public hearing to be held at the seat of the Court on November 10, 1999.

36. On November 10, 1999, a public hearing on the instant case was held.

There appeared before the Court

for the State of Venezuela:

Raúl Arrieta Cuevas, Agent; and
Noel García Gómez, Deputy Agent;

for the Inter-American Commission:

Oscar Luján Fappiano, Delegate;
Milton Castillo Rodríguez, Lawyer;
Liliana Ortega Mendoza, Assistant; and
María Claudia Pulido, Assistant.

VI
ACQUIESCENCE

37. In the public hearing of November 10, 1999, Venezuela acknowledged the facts described by the Commission in Section III of the application, which are summarized in paragraph 2 of this judgment.

Venezuela also accepted the legal consequences that derive from the facts mentioned (*supra,* paragraph 2) and fully acknowledged its international responsibility in the instant case.

During this hearing, the State presented 79 documents with information relating to the case.

38. Article 52.2 of the Rules of Procedure provides that

> [i]f the respondent informs the Court of its acquiescence in the claims of the party that has brought the case, the Court shall decide, after hearing the opinions of the latter and the representatives of the victims or their next of kin, whether such acquiescence and its juridical effects are acceptable. In that event, the Court shall determine the appropriate reparations and indemnities.

39. During the public hearing, the State's Agent declared

> [...] that the State of Venezuela failed to comply with the American Convention as regards the protection of human rights and, as the Supreme Court [of Justice of Venezuela] itself has stated, there was an abnormal delay and an unjustifiable denial of justice in determining the circumstances, the facts, the persons who died and those responsible.
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> [... that] it offer[ed] to deliver to the Court the judgments of the Supreme Court which clearly illustrated the State's willingness to comply with the Commission's recommendations in the report that it had issued in this case and, to this end, to make all the reparations that not only international legislation but also the Convention and

> domestic legislation [require]. To this end, the Supreme Court has taken over the hearing of all the cases, both those that are before the ordinary criminal jurisdiction and those that are before military justice. It has separated the files according to the name of the victims and has been pronouncing a series of decisions ordering the reinitiation of all activities aimed at clarifying the facts and punishing the guilty parties. Moreover, the Supreme Court has gone further and has ordered the Judiciary Council and the Ministry of Defense to open the necessary proceedings to establish the responsibility of the judges and prosecutors of the Office of the Attorney-General, who are responsible for the abnormal delay mentioned by the Supreme Court of Justice.
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> [...] that as a consequence of its non-compliance with the Convention, [the] State acknowledges the right of the victims' next of kin to receive fair compensation for the damages caused and, in consequence, it only [...] remains to request the Court to open the proceeding and order [...] reparations and compensation in accordance with its own jurisprudence, and in each case, according to the responsibility that the State shall determine.

Lastly, it added that "[t]he State has decided not to contest the facts and, accordingly, acknowledges their consequences, which are reparation and compensation".

40. Accordingly, the Delegate of the Inter-American Commission stated that, in the Commission's opinion, the State's declarations

> are the acknowledgement of the facts and the claim that the Commission has set forth in the application [...] and the acknowledgement of the State's responsibility. Consequently, the Commission considers that the Government of Venezuela has acquiesced to all parts of the application and, accordingly, requests this Court to declare it so.

41. Based on the statements of the parties during the public hearing of November 10, 1999, and in view of Venezuela's acknowledgement of the

facts and responsibility, the Court considers that the dispute between the State and the Commission has ceased in regard to the facts that originated the instant case (*Cfr. Benavides Cevallos case,* Judgment of June 19, 1998. Series C No. 38, para. 42; *Garrido y Baigorria case,* Judgment of February 2, 1996. Series C No. 26, para. 27; *El Amparo case,* Judgment of January 18, 1995. Series C No. 19, para. 20 and *Aloeboetoe et al case,* Judgment of December 4, 1991. Series C No. 11, para. 23).

42. Consequently, the Court considers that the facts referred to in paragraph 2 of this judgment have been proved. The Court also concludes that, as the State has expressly acknowledged, it has incurred in international responsibility for violations of the rights protected by Articles 4.1 (Right to Life), 5 (Right to Humane Treatment), 7 (Right to Personal Liberty), 8.1 (Right to a Fair Trial), 25.1 and 25.2.a. (Right to Judicial Protection) and 27.3 (Suspension of Guarantees), in accordance with Articles 1.1 (Obligation to Respect Rights) and Article 2 (Domestic Legal Effects) of the American Convention, to the detriment of the persons cited in paragraph 1 of this judgment, under the terms established in this judgment.

43. The Court acknowledges Venezuela's acquiescence as a positive contribution to this proceeding and to the effectiveness of the principles that inspire the American Convention on Human Rights.

44. In view of Venezuela's acknowledgement of responsibility, it is in order to begin the phase of reparations and costs (*Cfr. Aloeboetoe et al case, supra* 41, para. 23; *El Amparo case, supra* 41, para. 21 and *Garrido y Baigorria case, supra* 41, para. 30), when the Court will examine the Commission's claims corresponding to that phase.

VII

Therefore,

THE COURT,

DECIDES:

unanimously,

1. To take note of the acknowledgement by the State of Venezuela of the facts mentioned in the application and declare that the dispute about these has ceased.

2. To take note, also, of the acknowledgement of responsibility by the State of Venezuela and, in accordance with the terms of this acknowledgement, declare that the State violated the rights protected by Articles 4.1, 5, 7, 8.1, 25.1, 25.2.a., and 27.3, in relation to Articles 1.1 and 2 of the American Convention on Human Rights, of the persons cited in paragraph 1 of this judgment, and in the terms established herein.

3. To take note, also, of the declaration of the State of Venezuela, with regard to the investigations initiated in order to identify, prosecute and punish those responsible for the facts mentioned in the application, and urge the State to continue them.

4. To initiate the procedure on reparations and costs and authorize the President to adopt the necessary procedural measures.

Done in Spanish and English, the Spanish text being authentic, in San José, Costa Rica, on November 11, 1999.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez

Hernán Salgado-Pesántes

Oliver Jackman

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary