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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 or when, although a judge is a national of the respondent State, he excuses himself from hearing the case, 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 2005:

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 2005:

Ernesto Rey Cantor	Gutierrez Soler case (Colombia)
Jaime Enrique Granados Peña	Ituango case (Colombia)
Javier de Belaunde López de Romaña	Acevedo Jaramillo <i>et al.</i> case (Peru)
Juan Carlos Esguerra Portocarrero	“Pueblo Bello Massacre” case (Colombia)
Alejandro Sánchez Garrido	Raxcacó Reyes case (Guatemala)
Hernán Salgado Pesantes	Acosta Calderón case (Ecuador)
Arturo Herrador Sandoval	Fermín Ramírez case (Guatemala)
Gustavo Zafra Roldán	“Mapiripán Massacre” case (Colombia)
Ramón Fogel Pedroso	Yakye Axa Indigenous Community case (Paraguay)
Alejandro Montiel Argüello	Serrano Cruz Sisters case (El Salvador)
Alejandro Montiel Argüello	YATAMA case (Nicaragua)
Jorge Santistevan de Noriega	García Asto and Ramírez Rojas case (Peru)

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.

The status of ratifications of and accessions to the Convention can be found at the end of this report.

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 2005 budget of the Court was US\$1,391,300.00 (one million three hundred and ninety-one thousand three hundred United States dollars).

At its thirty-fifth regular session held in Fort Lauderdale, Florida, United States, from June 5 to 7, 2005, the General Assembly of the Organization of American States adopted the Court's budget for 2006 in the amount of 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-sixth Regular Session of the Court

The Court held its sixty-sixth Regular Session from February 28 to March 15, 2005,¹ 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: Alejandro Montiel Argüello, appointed by the State of El Salvador for the *Serrano Cruz Sisters* case, and by the State of Nicaragua for the *YATAMA* case; Ramón Fogel Pedroso, appointed by the State of Paraguay for the *Yakye Axa Indigenous Community* case; Gustavo Zafra Roldán, appointed by the State of Colombia for the "*Mapiripán Massacre*" case; and Ernesto Rey Cantor, appointed by the State of Colombia for the *Gutiérrez Soler* case. Also present were the Secretary of the Court Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica). During this session, the Court considered the following matters

1. James *et al.* case (Trinidad and Tobago): Provisional Measures. On February 28, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to lift the provisional measures ordered by the Court in favor of Anthony Jonson on May 27, 1999, and to call upon the State to maintain all necessary measures to protect the lives and personal integrity of Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan.

¹ The European Union was the main source of financing for the sixty-sixth Regular Session.

2. The Serrano Cruz Sisters case (El Salvador): Merits, Reparations and Costs. On March 1, 2005, the Court issued judgment on merits, reparations and merits in this case deciding that the State of El Salvador had violated the rights embodied in Articles 8(1) (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Ernestina and Erlinda Serrano Cruz and their next of kin, and also Article 5 (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the next of kin of Ernestina and Erlinda Serrano Cruz.

Also, in the third operative paragraph of the judgment, the Court decided “[n]ot [to] rule on the alleged violations of the rights of the family, the right to a name, and the rights of the child, embodied in Articles 17, 18 and 19 of the American Convention on Human Rights, respectively. Also, in the fourth operative paragraph, the Court’s judgment decided “not [...to] rule on the alleged violation of the right to life embodied in Article 4 of the American Convention on Human Rights, in relation to Article 1(1) thereof, to the detriment of Ernestina and Erlinda Serrano Cruz.”

With regard to reparations, the Court decided that the State of El Salvador should: carry out an effective investigation into the reported facts in this case, identify and punish those responsible and conduct a genuine search for the victims; eliminate all the obstacles and mechanisms *de facto* and *de jure*, which prevent compliance with these obligations in this case, so that it uses all possible measures, either through the criminal proceedings or by adopting other appropriate measures; and publicize the result of the criminal proceedings. The Court also decided a series of measures that the State should adopt in order to determine the whereabouts of Ernestina and Erlinda Serrano Cruz, and also that it should organize a public act acknowledging responsibility and in reparation to the victims and their next of kin, and publish specific part of the Court’s judgment in the official gazette and in another widely-distributed national newspaper.

It also decided that the State should designate a day dedicated to the children who disappeared during the internal armed conflict for different reasons, and provide free of charge, the medical and psychological treatment required by the next of kin of the victims and by Ernestina and Erlinda Serrano Cruz, should they be found alive. The Court also established the compensation that the State should pay for the pecuniary damage caused to the victims and their next of kin and established the amounts that the State should pay for the costs and expenses generated in the domestic sphere and in the international proceedings before the inter-American system for the protection of human rights.

Judge Cançado Trindade informed the Court of his dissenting opinion on the third and fourth operative paragraphs, Judge Ventura Robles informed the Court of his dissenting opinion on the third operative paragraph, and Judge *ad hoc* Montiel Argüello informed the Court of his dissenting opinion.

3. Liliana Ortega et al. case (Venezuela): Provisional Measures. On March 1, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to lift the provisional measures ordered by the Court in favor of Yris Medina Cova and Carmen Alicia Mendoza in its order of November 27, 2002; it reiterated its orders of February 21, 2003, December 2, 2003, and May 4, 2004, and it called upon the State to maintain and adopt the necessary measures to protect the lives and personal integrity of Liliana Ortega, Hilda Páez (Gilda Páez), Maritza Romero, Aura Liscano (Lizcano) and Alicia de González.

4. Huilca Tecse case (Peru): *Merits, Reparations and Costs.* On March 3, 2005, the Court issued judgment on merits, reparations and merits in this case and decided to admit the acquiescence submitted by the State of Peru and to partially endorse the agreement on the methods and times for complying with the agreement on reparations signed by the State and the representatives of the victim and his next of kin. The Court decided that the dispute regarding the facts, which had given rise to this case, had ceased and that, according to the terms of the State's acquiescence, the latter had violated the rights embodied in Articles 4(1) (Right to Life) and 16 (Freedom of Association) 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 Pedro Huilca Tecse; it had also violated the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Judicial Protection) 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 the following next of kin of Pedro Huilca Tecse: Martha Flores Gutiérrez, the victim's companion; his children, Pedro Humberto Huilca Gutiérrez, Flor de María Huilca Gutiérrez, Katuska Tatiana Huilca Gutiérrez, José Carlos Huilca Flores and Indira Isabel Huilca Flores, and also Julio César Escobar Flores.

With regard to reparations, taking into consideration the agreement on methods and times for complying with the reparations signed by the State and the representatives, the Court ordered, among other matters, that the Peruvian State should: conduct an effective investigation into the facts of the case in order to identify, prosecute and punish the masterminds and perpetrators of the extrajudicial execution of Pedro Huilca Tecse, the result of this procedure to be published; organize a public act acknowledging its responsibility in relation to the instant case, make a public apology to the victim's next of kin, and publish specific excerpts from the Court judgment in the official gazette and in another widely-distributed national newspaper. It also decided that the State should establish a course on human rights and labor law to be called the "*Cátedra Pedro Huilca*"; recall and praise the work of Pedro Huilca Tecse in favor of the trade union movement in Peru during the official celebrations of May 1 (Labor Day); erect a bust in his memory, and provide psychological care and treatment to the victim's next of kin. Lastly the Court decided that the State must pay compensation for non-pecuniary damage to the next of kin of the victim, and also to Martha Flores Gutiérrez for pecuniary damage.

5. Yakyé Axa Indigenous Community case (Paraguay): *Merits, and Possible Reparations and Costs.* On March 4 and 5, 2005, the Court held a public hearing, during which it heard the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-American Commission on Human Rights and the representatives of the alleged victims, and also the arguments of the parties on the merits and possible reparations and costs in relation to this case.

6. "Mapiripán Massacre" case (Colombia): *Preliminary Objections and Acknowledgement of Responsibility.* On March 7 and 8, 2005, the Court held a public hearing, in order to hear the statements of the witnesses and the reports of the expert witnesses proposed by the representatives of the next of kin of the alleged victims, the Inter-American Commission on Human Rights and the State of Colombia, and also their arguments on the preliminary objections and possible merits, reparations and costs in this case. However, at the onset of the public hearing, the Colombian State acknowledged its international responsibility for the violation of Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), and 7(1) and 7(2) (Right to Personal Liberty) of the American Convention, "regarding the facts that occurred in Mapiripán in July 1997" and withdrew

the first preliminary objection concerning the “undue application of Articles 50 and 51 of the American Convention”.

Consequently, on March 7, 2005, the Court issued judgment on the preliminary objections and the acknowledgement of responsibility made by the Colombian State and decided: that the dispute concerning the preliminary objection concerning “the undue application of Articles 50 and 51 of the American Convention” had ceased and to admit, for all pertinent effects, the State’s withdrawal of this first objection and its acknowledgement of international responsibility. The Court also decided to reject the second preliminary objection concerning the exhaustion of domestic remedies and to continue hearing the case in relation to the consequences of the State’s acknowledgement of responsibility regarding the facts that had occurred and that were not encompassed by this acknowledgement of responsibility; the alleged violations of Articles 1(1) (Obligation to Respect Rights), 8(1) (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention; and the alleged violations of Articles 19 (Rights of the Child) and 22 (Freedom of Movement and Residence) of this instrument, alleged by the representatives, and also possible reparations and costs.

Consequently, the Court continued holding the public hearing, but limited to the aspects described in the fourth operative paragraph of the said judgment, and heard the statements of the witnesses and an expert witness who had been summoned and the oral arguments of the Inter-American Commission, the representatives of the alleged victims and their next of kin, and the State.

7. YATAMA case (Nicaragua): *Preliminary Objections and Possible Merits, Reparations and Costs.* On March 9 and 10, 2005, during a public hearing, the Court heard the statements of the witnesses and the reports of the expert witnesses proposed by the representatives of the alleged victims, the Inter-American Commission on Human Rights and the State of Nicaragua, as well as the arguments of the parties on the preliminary objections and possible merits, reparations and costs in this case.

8. Gutiérrez Soler case (Colombia): *Preliminary Objections and Possible Merits, Reparations and Costs.* On March 10 and 11, 2005, the Court held a public hearing to hear the statements of the witnesses and the reports of the expert witnesses proposed by the representatives of the alleged victim and by the Inter-American Commission on Human Rights, as well as the arguments of the representatives, the Commission and the State of Colombia on the preliminary objections and possible merits, reparations and costs. However, at the onset of the public hearing, the Colombian State acknowledged its international responsibility for the human rights violations committed in this case and withdrew all the preliminary objections it had filed.

Consequently, on March 10, 2005, the Court issued an order in which it admitted the withdrawal of all the preliminary objections filed by the State and the acknowledgement of international responsibility made by the State, and decided to continue holding the public hearing convened in the President’s order of February 1, 2005, but to restrict its purpose to reparations and costs.

The Court therefore continued to hold the public hearing, but only in relation to reparations and costs and heard the statements of the witnesses and expert witnesses who had been convened and the arguments of the Inter-American Commission, the representatives of the victim and the State.

Provisional Measures. On March 11, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to call upon the State to adopt the necessary measures to: (a) protect the lives, personal integrity and personal liberty of Ricardo Gutiérrez Soler and his family, composed of: his mother, María Elena Soler de Gutiérrez; his children, Luisa Fernanda Gutiérrez Reyes, Paula Camila Gutiérrez Reyes, Leonardo Gutiérrez Rubiano, Leydi Caterin Gutiérrez Peña, Sulma Tatiana Gutiérrez Rubiano, Ricardo Alberto Gutiérrez Rubiano and Carlos Andrés Gutiérrez Rubiano; and Yaqueline Reyes; and (b) to protect the lives, personal integrity and personal liberty of Wilson Gutiérrez Soler and his son, Kevin Daniel Gutiérrez Niño, should they return to Colombia.

9. Caesar case (Trinidad and Tobago): *Merits, Reparations and Costs.* On March 11, 2005, the Court issued judgment on merits, reparations and merits in this case and decided that the State of Trinidad and Tobago had violated the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof; Article 2 (Domestic Legal Effects) of the American Convention, in relation to Article 5(1) and 5(2) (Right to Humane Treatment) thereof; and Article 25 (Judicial Protection) of the Convention, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof; all to the detriment of Winston Caesar. The Court also decided that the State had not violated the right embodied in Article 8(1) (Right to a Fair Trial) of the American Convention.

With regard to reparations, the Court decided, among other matters, that the State of Trinidad and Tobago must: pay compensation for non-pecuniary damage to Winston Caesar; provide adequate free medical and psychological care to Mr. Caesar; and adopt legislative or other measures to annul the Corporal Punishment Act, and to amend Section 6 of the Constitution. The Court also decided that the State must adopt the necessary measures to ensure that detention conditions in its prisons were in keeping with the respective international human rights standards.

Judges García Ramírez, Jackman, Cançado Trindade and Ventura Robles informed the Court of their separate opinions, which accompany the judgment.

10. Bámaca Velásquez case (Guatemala): *Provisional Measures.* On March 11, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to call upon the State to maintain the necessary measures to protect the lives and personal integrity of the following persons: Santiago Cabrera López, Alfonso Cabrera Viagres, María Victoria López, Blanca Cabrera, Carmenlinda Cabrera, Teresa Aguilar Cabrera, Olga Maldonado, Carlos Alfonso Cabrera, José León Bámaca Hernández, Egidia Gebia Bámaca Velásquez, Josefina Bámaca Velásquez, Alberta Velásquez, Rudy López Velásquez and other members of the Bámaca Velásquez family who live permanently in Guatemala: Emerita Mendoza, Wendy Pérez Álvarez, Sulni Madeli Pérez Álvarez, José Oswaldo Pérez Álvarez, Jacobo Álvarez, José Pioquinto Álvarez, Alez Javier Álvarez, Germán Aníbal de la Roca Mendoza, Kevin Otoniel de la Roca Mendoza, Blanca Noelia Meléndez, Aron Álvarez Mendoza and his family and other members of the family of Otoniel de la Roca Mendoza who live permanently in Guatemala.

11. Fermín Ramírez case (Guatemala): *Provisional Measures.* On March 12, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to ratify all the terms of the President's order on urgent measures of December 21, 2004, and call upon the State to adopt, forthwith, all necessary measures to protect the live and

personal integrity of Fermín Ramírez, so as not to obstruct the processing of his case before the inter-American system for the protection of human rights.

12. Case of the Communities of the Jiguamiandó and the Curbaradó (Colombia): *Provisional Measures.* On March 14, 2005, 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 provisional measures, and the State of Colombia on the provisional measures ordered by the Court in this case.

On March 15, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to reiterate to the State that it must adopt the provisional measures ordered by the Court in favor of all the members of the Jiguamiandó Community Council and the Curbaradó families, and any other measures necessary to comply strictly and immediately with the Court's orders and to provide effective protection for the lives and personal integrity of all the members of the Jiguamiandó Community Council and the Curbaradó families, in the terms of the Court's orders of March 6, 2003, and November 17, 2004.

It also decided to call upon the State: to implement all necessary measures to ensure the protection and safety of the beneficiaries of the measures; to ensure and implement the necessary conditions for the members of the Jiguamiandó the Curbaradó Communities, who have been forced to move, to return to their homes or to the "humanitarian refuge zones" established for these Communities; to grant special protection to the "humanitarian refuge zones"; to implement the necessary technical measures to establish continuous protection and monitoring measures in the "humanitarian refuge zones"; to investigate the facts that gave rise to the adoption and maintenance of the provisional measures, to identify those responsible and impose the corresponding sanctions and, in particular, to investigate the alleged participation of law enforcement personnel in the threats and acts of violence that were allegedly perpetrated against the members of the Jiguamiandó and the Curbaradó Communities, and the facts relating to the murder of Pedro Murillo.

13. Case of the Peace Community of San José de Apartadó (Colombia): *Provisional Measures.* On March 14, 2005, 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 provisional measures, and the State of Colombia on the provisional measures ordered by the Court in this case.

On March 15, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to reiterate to the State that it must adopt the provisional measures ordered by the Court in favor of all the members of the Peace Community of San José de Apartadó and all necessary measures to comply strictly and immediately with the orders of the Court to provide effective protection for the lives and personal integrity of all the members of the Peace Community of San José de Apartadó, in the terms of the order of the President of the Court of October 9, 2000, and the orders of the Court of November 24, 2000, June 18, 2002, and November 17, 2004.

It also decided to call upon the State: to implement all necessary steps to ensure the protection and safety of the beneficiaries of the measures and to allow them to continue living in their usual place of residence, without any type of coercion or threat; to ensure and implement effectively the necessary conditions for the members of the Community who have been forced

to move to other regions of the country to return to their homes; to guarantee effectively the necessary safety conditions on the road between San José de Apartadó and Apartadó, in the Apartadó transport terminal, and in the place known as Tierra Amarilla; to implement, in agreement with the beneficiaries or their representatives, the technical measures to establish adequate continuous protection and monitoring mechanisms; to investigate the facts that gave rise to the adoption and maintenance of the provisional measures, to identify and sanction those responsible and, in particular, to investigate the participation of law enforcement personnel in the threats and acts of violence that were allegedly perpetrated against the members of the Peace Community of San José de Apartadó, and the facts related to the deaths of Luis Eduardo Guerra Guerra, Bellanira Areiza Guzmán, Alfonso Bolívar Tuberquía, Sandra Milena Muñoz, Alejandro Pérez Cuiles, and the children, Deiner Andrés Guerra Tuberquía, Natalia Andrea Tuberquía Muñoz and Santiago Tuberquía Muñoz.

14. Yean and Bosico Children case (Dominican Republic): *Preliminary objections and possible merits, reparations and costs.* On March 14 and 15, 2005, the Court held a public hearing during which it heard the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-American Commission on Human Rights, the representatives of the alleged victims and their next of kin, and the State of the Dominican Republic, as well as the arguments on the preliminary objections and possible merits, reparations and costs in this case.

15. Compliance with Judgments: During this session, the Court issued orders on compliance with judgment in the following cases: Loayza Tamayo (Peru) and Bámaca Velásquez (Guatemala).

B. Twenty-sixth Special Session of the Court

From May 9 to 13, 2005,² the Court held its twenty-sixth Special Session in Asunción, Paraguay, 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). Also present were the Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica). This was the first time that the Court had convened outside its seat to hold public hearings and consider contentious cases, requests for advisory opinions and provisional measures. The Special Session was inaugurated by an act held in the auditorium of the Supreme Court of Justice of Paraguay attended, among others, by members of the supreme powers of the Republic of Paraguay and diplomats accredited to the Paraguayan Government. During the session, the Court considered the following matters:

1. Palamara Iribarne case (Chile): *Merits and Possible Reparations and Costs.* On May 9, 2005, the Court held a public hearing, in which it heard the statement of a witness and the report of an expert witness proposed by the representatives of the alleged victim and the Inter-American Commission on Human Rights, as well as the arguments of the parties on the merits and possible reparations and costs in this case.

² The European Union was the main source of financing for the twenty-sixth Special Session.

2. García Asto and Ramírez Rojas case (Peru): *Merits and Possible Reparations and Costs.* On May 10, 2005, the Court held a public hearing, during which it heard the statements of the witnesses proposed by the Inter-American Commission on Human Rights, and also the arguments of the parties on the merits and possible reparations and costs in this case.

3. Request for advisory opinion: On May 10, 2005, the Court examined and deliberated on a request for an advisory opinion presented by the State of Costa Rica on December 10, 2004. The purpose of this request was “to determine the compatibility of article 9(e) of the Legislative Assembly Personnel Act (Act No. 4556 of May 8, 1970) and of article 13 of the Constitutional Jurisdiction Act (Act No. 7135 of October 19, 1989) with the American Convention on Human Rights and other human rights instruments.” The same day, the Court issued an order in which it decided not to consider the request for an advisory opinion presented by the State of Costa Rica, because a response could result in an indirect ruling, via advisory opinion, on litigious matters that had not yet been decided in the domestic sphere, or submitted to the consideration of the Commission or the Court, and this would run counter to the purpose and meaning of the advisory functions invested in the Court by Article 64(2) of the American Convention.

4. Mendoza Prisons case (Argentina): *Provisional Measures.* On May 11, 2005, the Court held a public hearing, during which it heard the arguments of the Inter-American Commission, the representatives of the beneficiaries of the provisional measures, and the State of Argentina on the status of implementation of the provisional measures ordered by the Court in this case.

During this public hearing, having listened to the parties’ arguments and positions, the President of the Court invited the Commission, the representatives and the State to present a joint proposal to ensure that the provisional measures were extremely specific, since they were in agreement regarding their assessment of the situation and their appraisal of the facts and the extraordinary seriousness of the latter.

The same day, the representatives of the beneficiaries, the Commission and the State signed an official document in which they expressed their agreement to maintain the provisional measures in force and agreed “to submit to the consideration of the Inter-American Court [...] a series of measures so that the Court could consider the possibility of making the order of November 22, 2004, more specific, in order to ensure the lives and physical integrity of the beneficiaries of that order.”

5. Sarayaku Indigenous People case (Ecuador): *Provisional Measures.* On May 11, 2005, 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 provisional measures, and the State of Ecuador on the status of the implementation of the provisional measures ordered by the Court in this case.

6. Other activities: On May 12, 2005, the judges of the Inter-American Court of Human Rights held a working meeting with the judges of the Supreme Court of Justice of Paraguay and a cooperation agreement between the two courts was subsequently signed. This was followed by a seminar offered by the judges of the Inter-American Court of Human Rights to judicial officials accompanied, among others, by Justice Víctor Nuñez and the President of the Supreme Court of Justice, Dr. Antonio Fretes, who gave a welcome address. The same day an inter-institutional cooperation agreement was signed between the Inter-American Court and the Judiciary Council

of the Republic of Paraguay. Later, the judges of the Inter-American Court of Human Rights separated into groups of two in order to offer seminars in the Universidad Nacional Autónoma, the Universidad Americana, and the Universidad Católica. Cooperation agreements were signed with the Universidad Nacional Autónoma and the Universidad Americana. The Court had already signed a similar cooperation agreement with the Universidad Católica.

On May 13, the judges and secretaries of the Court were received by the Presidents of the Senate and the Chamber of Deputies, accompanied by the leaders of all the parties represented in both chambers. During the activity, the President of the Court gave an address in which he referred to the establishment and evolution of the inter-American system for the protection of human rights, as well as the current and future challenges faced by the system. Following this activity, the judges and secretaries of the Court were received by the Paraguayan Minister of Foreign Affairs, Leila Rachid de Cowles; and then proceeded to the Government Palace where the President of the Republic, Dr. Oscar Nicanor Duarte Frutos, spoke with the judges of the Court accompanied by the secretary and the deputy secretary. Subsequently, the judges and secretaries of the Court visited the MERCOSUR Permanent Review Tribunal and held a working meeting with its President, Dr. José Antonio Moreno Ruffinelli, and other tribunal officials.

C. Sixty-seventh Regular Session of the Court

The Court held its sixty-seventh Regular Session from June 13 to 30, 2005,³ at its seat in San José, 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: Alejandro Montiel Argüello, appointed by the State of Nicaragua for the *YATAMA* case; Ramón Fogel Pedroso, appointed by the State of Paraguay for the *Yakye Axa Indigenous Community* case; Arturo Herrador Sandoval, appointed by the State of Guatemala for the *Fermín Ramírez* case; and Hernán Salgado Pesantes, appointed by the State of Ecuador for the *Acosta Calderón* case. Also present were the Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica). During this session, the Court considered the following matters:

1. López Álvarez case (Honduras): Provisional Measures. On June 13, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to call upon the State to adopt forthwith the necessary measures to protect the lives and personal integrity of Alfredo López Álvarez, Teresa Reyes Reyes and Gregoria Flores Martínez, who would appear as witnesses before the Inter-American Court of Human Rights at the public hearing on the López Álvarez case to be held starting on June 28, 2005.

2. Plan de Sánchez Massacre case (Salvador Jerónimo *et al.*) (Guatemala): Provisional Measures. On June 14, 2005, the Court issued an order on Provisional measures in this case in which it decided to lift the provisional measures ordered by the Inter-American Court in its order of September 8, 2004, in favor of Salvador Jerónimo Sánchez, Prudencia Cajbon, Faustina Tojom, Juan Manuel Jerónimo and Buenaventura Jerónimo.

³ The European Union was the main source of financing for the sixty-seventh Regular Session.

3. Blake case (Guatemala): Provisional Measures. On June 14, 2005, the Court issued an order on provisional measures in this case in which it decided lift and consider concluded the provisional measures ordered by the Inter-American Court in its orders of September 22, 1995, April 18, 1997, August 18, 2000, June 2, 2001, June 6, 2003, and November 17, 2004, in favor of Floridalma Rosalina López Molina, Víctor Hansel Morales López, Edgar Ibal Martínez López and Sylvia Patricia Martínez López.

4. Liliana Ortega et al. case (Venezuela): Provisional Measures. On June 14, 2005, the Court issued an order on provisional measures in this case in which it decided, *inter alia*, to call upon the State to maintain all necessary measures to protect the lives and personal integrity of Liliana Ortega, Hilda Páez (Gilda Páez), Maritza Romero, Aura Liscano (Lizcano) and Alicia de González, required in its order of November 27, 2002, and reiterated in its orders of February 21, 2003, December 2, 2003, May 4, 2004, and March 1, 2005, and also to reiterate to the State that it should allow the beneficiaries or their representatives to take part in planning and implementing the protection measures and, in general, keep them informed on progress in their execution.

5. Case of Boyce and Joseph (Barbados): Provisional Measures. On June 14, 2005, the Court issued an order on provisional measures in this case, in which it decided, *inter alia*, to ratify the orders of the President on urgent measures of February 11, 2005 and of May 20, 2005, in which the State was required to expand the provisional measures ordered to protect the lives and integrity of Frederick Atkins and Michael Huggins; and to require the State to inform the Court about the compliance with such measures.

6. Moiwana case (Suriname): Preliminary Objections, Merits, Reparations and Costs. On June 15, 2005, the Court issued judgment on preliminary objections, merits, reparations and costs in this case. It decided to reject the preliminary objections filed by the State and declared that the State of Suriname had violated the rights embodied in Articles 5(1) (Right to Humane Treatment); 22 (Freedom of Movement and Residence); 21 (Right to Property); 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 the members of the Moiwana community.

With regard to reparations, among other matters, the Court decided that the State should: investigate the facts of the case and identify, prosecute and punish those responsible; recover the remains of the members of the Moiwana community who had died during the events of November 29, 1986, and deliver them to the surviving members of the Moiwana community; adopt the legislative, administrative and any other measures necessary to ensure the right to property of the members of the Moiwana community with regard to their traditional territories, from which they had been expelled, and ensure the use and enjoyment of these lands, measures that should include the creation of an effective mechanism to delimit, demarcate and provide title to these traditional territories; ensure the safety of the members of the Moiwana community who decided to return to the village of Moiwana; establish a community development fund; organize an act to make a public apology and acknowledge international responsibility; build a monument and place it in an appropriate public place; and pay compensation for pecuniary and non-pecuniary damages to the members of the Moiwana community, as well as expenses.

Judge Cançado Trindade and Judge Medina Quiroga informed the Court of their concurring opinions. Judge García Ramírez endorsed the opinion of Judge Medina Quiroga. These opinions accompany the judgment.

7. Yakye Axa Indigenous Community case (Paraguay): Merits, Reparations and Costs.

On June 17, 200, the Court issued judgment on merits, reparations and merits in this case and decided that the State of Paraguay had violated the rights embodied in Articles 8 (Right to a Fair Trial), 25 (Judicial Protection) and 21 (Right to Property) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of the members of the Yakye Axa indigenous community. It also declared that the State had violated the right embodied in Article 4(1) (Right to Life) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the members of this community. Lastly, the Court declared that it had insufficient probative elements to prove the violation of the right embodied in Article 4(1) (Right to Life) of the American Convention on Human Rights, to the detriment of sixteen members of the community who allegedly died owing to the physical conditions in which they lived.

With regard to reparations, among other matters, the Court decided that the Paraguayan State should: identify the traditional territory of the members of the Yakye Axa indigenous community and grant it to them without cost; provide the basic goods and services necessary for subsistence while the community was without land; establish a fund exclusively for acquiring this land; establish a community development fund and program; adopt the legislative, administrative and any other measures necessary to guarantee the effective enjoyment of the right to property of the members of the indigenous community; organize a public event to acknowledge its responsibility; publish specific parts of the Court's judgment in the official gazette and in another widely-distributed national newspaper and finance their broadcasting by radio; and pay compensation for pecuniary damage, costs and expenses.

Judge Alirio Abreu Burelli informed the Court of his partially dissenting opinion, Judges Antônio A. Cançado Trindade and Manuel E. Ventura Robles informed the Court of their joint dissenting opinion, and Judge *ad hoc* Ramón Fogel Pedroso informed the Court of his partially concurring and partially dissenting opinion. These opinions accompany the judgment.

8. Sarayaku Indigenous People case (Ecuador): Provisional Measures. On June 17, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to reiterate to the State that it should maintain the measures adopted in favor of all the members of the Sarayaku Indigenous People in the terms of the Court's order of July 6, 2004, and that it should order, forthwith, any necessary measures:

- a) To comply strictly and immediately with the measures ordered by the Inter-American Court to protect effectively the lives, personal integrity and freedom of movement of all the members of the Sarayaku Indigenous People;
- b) To enable the members of the Sarayaku Indigenous People to carry out their activities and use the natural resources that exist in the territory where they are settled; specifically, the State must adopt those measures tending to avoid immediate and irreparable damage to their lives and personal integrity as a result of the activities of third parties who live near the community or who exploit the natural resources within the community. In particular, the State must remove the explosive material placed in the territory where the Sarayaku Indigenous People are settled, if this has not already been done;

- c) To ensure the protection and safety of the beneficiaries of these measures, without any type of coercion or threat;
- d) To ensure the freedom of movement of the members of the Sarayaku Indigenous People, especially on the Borbonaza River;
- e) To maintain the airstrip located on the land where the Sarayaku Indigenous People are settled to ensure that this means of transport is not suspended;
- f) To investigate the facts that gave rise to the adoption and maintenance of these provisional measures, and the threats and acts of intimidation against some of the members of the Sarayaku Indigenous People, especially Marlon Santi, in order to identify those responsible and impose the corresponding sanctions, in keeping with the parameters established in the American Convention;
- g) To continue allowing the beneficiaries of the provisional measures or their representatives to take part in planning and implementing these measures, so as to identify those that are most appropriate for the protection and safety of the members of the Sarayaku Indigenous People and, in general, to keep them informed about progress in the adoption of the measures ordered by the Inter-American Court; and
- h) To inform the neighboring indigenous communities about the meaning and scope of the provisional measures for both the State and third parties, in order to promote a climate of peaceful coexistence.

Judge Antônio A. Cançado Trindade informed the Court of his concurring opinion, which accompanies the order.

9. Mendoza Prisons case (Argentina): Provisional Measures. On June 18, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to reiterate to the State that it must maintain the provisional measures adopted in the terms of the Court's order of November 22, 2004, and that it should order, forthwith, any necessary measures to provide effective protection for the lives and integrity of all those persons deprived of their liberty in the Mendoza Provincial Prison and in the Gustavo André Unit, in Lavalle, as well as anyone inside the prisons. The Court also decided that the State must adopt the measures contained in the agreement signed on May 11, 2005, by the Inter-American Commission, the representatives of the beneficiaries of the measures, and the State.

Judges Sergio García Ramírez and Antônio A. Cançado Trindade informed the Court of their concurring opinions, which accompany the order.

10. Fermín Ramírez case (Guatemala): Merits, Reparations and Costs. On June 20, 2005, the Court issued judgment on merits, reparations and costs in this case and decided that the State of Guatemala had violated the rights embodied in the following articles of the American Convention on Human Rights: 8(2)(b) and 8(2)(c) (Right to a Fair Trial), in relation to Article 1(1) (Obligation to Respect Rights); 9 (Freedom from Ex Post Facto Laws), in relation to Article 2 (Domestic Legal Effects); 4(6) (Right to apply for a pardon or commutation of sentence), in relation to Articles 1(1) (Obligation to Respect Rights); 9 (Freedom from Ex Post Facto Laws) and

2 (Domestic Legal Effects); and 5(1) and 5(2) (Right to Humane Treatment), in relation to Article 1(1) (Obligation to Respect Rights); all to the detriment of Fermín Ramírez. It also declared that the State had not violated the right embodied in Article 25 (Judicial Protection) of the American Convention, to the detriment of Fermín Ramírez.

With regard to reparations, the Court ordered the Guatemalan State: to hold a new trial for Fermín Ramírez, within a reasonable time, that satisfied the requirements of due legal process, with full guarantees of a hearing and a defense for the accused and, should he be found guilty of the crime of murder, which was classified as a crime when the facts he is accused of occurred, the penal laws in force at that time should be applied, excluding the reference to “dangerousness”; to annul the part of article 132 of the Guatemalan Penal Code that refers to the “dangerousness” of the accused, adapting it to the American Convention, as stipulated in its Article 2 (Domestic Legal Effects), in order to ensure respect for freedom from ex post facto laws, embodied in Article 9 thereof; to abstain from executing Fermín Ramírez, whatever the result of the trial; to adopt the necessary legislative and administrative measures to establish a procedure ensuring that any person condemned to death has the right to apply for a pardon or commutation of sentence with rules that establish the authority empowered to grant this, and the respective procedure and steps (and the death penalty should not be carried out while the decision is pending on the pardon or commutation applied for); to provide Fermín Ramírez with appropriate treatment, including medication; to adopt the necessary measures to adapt prison conditions to international human rights norms; and to reimburse expenses.

Judge Sergio García Ramírez and Judge *ad hoc* Arturo Herrador Sandoval informed the Court of their separate opinions, which accompany the judgment.

11. YATAMA case (Nicaragua): *Preliminary Objections, Merits, Reparations and Costs.* On June 23, 2005, the Court issued judgment on the preliminary objections, merits, reparations and costs in this case. It decided to reject the five objections filed by the State of Nicaragua and declared that the State had violated, to the detriment of the candidates proposed by YATAMA to take part in the 2000 municipal elections, the rights embodied in Article 8(1) (Right to a Fair Trial), in relation to Article 1(1) (Obligation to Respect Rights); and Articles 25(1) (Judicial Protection), 23 (Right to Participate in Government) and 24 (Right to Equal Protection), in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention on Human Rights.

With regard to reparations, the Court ordered the Nicaraguan State: to publish the entire judgment on the State’s official website and specific parts of it in the official gazette and in another widely-distributed national newspaper; to broadcast certain parts of the judgment on a radio station with wide coverage on the Atlantic Coast and in the Spanish, Miskito, Sumo, Rama and English languages; to adopt the necessary legislative measures to establish a simple, prompt and effective judicial recourse that permits any decisions of the Supreme Electoral Council that affect human rights, such as the right to participate in Government, to be monitored, and to repeal the norms that prevent filing this recourse; to reform Electoral Act No. 331 of 2000, in order to regulate clearly the consequences of failing to comply with the requirements for participating in the elections, the procedures that the Supreme Electoral Council must observe when deciding on non-compliance, and the right of those persons whose participation is affected by a decision of the State; to reform the regulation of the requirements established in Electoral Law No. 331 of 2000 that have been declared in violation of the American Convention on Human Rights, and to adopt the necessary measures to allow the members of the indigenous and ethnic communities

to take part in the electoral processes effectively and taking into consideration their traditions, practice and customs. The Court also decided the compensation that the State must pay for pecuniary and non-pecuniary damage and also the amount that it must reimburse for costs and expenses in the domestic sphere and in the international proceedings before the inter-American system for the protection of human rights.

Judge *ad hoc* Montiel Argüello informed the Court of his dissenting opinion and Judges García Ramírez, Jackman, Cançado Trindade and García-Sayán informed the Court of their separate opinions. These opinions accompany the judgment.

12. Lori Berenson case (Peru): *Interpretation of the Judgment on Merits, Reparations and Costs.* On June 23, 2005, the Court issued judgment on the request for interpretation of the judgment on merits, reparations and costs in this case and decided to reject as inadmissible the request for interpretation of this judgment of November 25, 2004, filed by the representatives of the victim and her next of kin, and to continue monitoring compliance with it.

13. Acosta Calderón case (Ecuador): *Merits, Reparations and Costs.* On June 24, 2005, the Court issued judgment on merits, reparations and merits in this case and decided that the State of Ecuador had violated the rights embodied in Articles 7(1), 7(3), 7(5) and 7(6) (Right to Personal Liberty); 25 (Judicial Protection); and 8(1), 8(2), 8(2)(b), 8(2)(d) and 8(2)(e) (Right to a Fair Trial) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Rigoberto Acosta Calderón; and that it had failed to comply with the obligation established in Article 2 (Domestic Legal Effects) of the Convention, in relation to Article 7(5) (Right to Personal Liberty) thereof, also to the detriment of Rigoberto Acosta Calderón.

With regard to reparations, among other matters, the Court ordered the State of Ecuador: to publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper; to eliminate the criminal record of Rigoberto Acosta Calderón from the public records; and to pay compensation for pecuniary and non-pecuniary damage to Mr. Acosta Calderón, and reimburse costs and expense.

Judges Cançado Trindade and Ventura Robles informed the Court of their separate opinions, which accompany the judgment.

14. Request for advisory opinion presented by the Inter-American Commission on Human Rights: On June 24, 2005, the Court issued an order on the request for an advisory opinion presented by the Inter-American Commission on Human Rights on April 20, 2004, concerning the interpretation of Articles 1(1) (Obligation to Respect Rights), 2 (Domestic Legal Effects), 4 (Right to Life), 5 (Right to Humane Treatment), 8 (Right to a Fair Trial), 25 (Judicial Protection) and 44 of the American Convention on Human Rights, in light of the provisions of Article 29 (Restrictions regarding Interpretation) of the Convention, and of the corresponding protections under the American Declaration of the Rights and Duties of Man, for the Court to issue an opinion on whether it was in keeping with these provisions when "States adopted legislative and other measures that denied those condemned to death access to judicial recourses or other effective recourses to contest the punishment imposed, based on grounds such as [the obligatory nature of the death penalty,] delays, the conditions under which the person was detained, or the fact that the person had a petition pending before the inter-American human rights system." In the order, the Court decided not to respond to the request because it had already established its point of view on the points outlined therein.

15. “Mapiripán Massacre” case (Colombia): *Provisional Measures*. On June 27, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to ratify the President’s order on urgent measures of February 4, 2005; to call upon the State to adopt forthwith the necessary measures to protect the lives and personal integrity of the following persons and their next of kin: Carmen Johana Jaramillo Giraldo, Esther Pinzón López, Sara Paola Pinzón López, María Teresa Pinzón López, Yur Mary Herrera Contreras, Zully Herrera Contreras, Maryuri Caicedo Contreras, Nadia Marina Valencia Sanmiguel, Yinda Adriana Valencia Sanmiguel, Johana Marina Valencia Sanmiguel, Gustavo Caicedo Contreras, Rusbel Asdrúbal Martínez Contreras, Roland Andrés Valencia Sanmiguel, Ronald Mayiber Valencia Sanmiguel, Luis Guillermo Pérez, Nory Giraldo de Jaramillo, Marina San Miguel Duarte, Viviana Barrera Cruz, Luz Mery Pinzón López and Mariela Contreras Cruz; and to call upon the State to investigate the facts that gave rise to the adoption of these provisional measures and, if applicable, identify those responsible and impose the corresponding sanctions.

16. Pilar Noriega García *et al.* case (Mexico): *Provisional Measures*. On June 29, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to call upon the State: to maintain the necessary measures to protect the lives and personal integrity of Pilar Noriega García, Bárbara Zamora López, Leonel Rivero Rodríguez, Eusebio Ochoa López and Irene Alicia Plácido Evangelista, and of Carmen, Jesús, Luz María, Eusebio, Guadalupe, Ismael, Elia, Estela, Roberto, Juan Carlos, Ignacio and Agustín, all Ochoa y Plácido; to expand, forthwith, the provisional measures ordered to protect the lives and personal integrity of the next of kin of Leonel Rivero Rodríguez; and to investigate the facts that gave rise to the expansion of the said provisional measures, in order to identify those responsible and impose the corresponding sanctions.

17. Blanco Romero *et al.* case (Venezuela): *Merits and Possible Reparations and Costs*. On June 27 and 28, 2005, the Court held a public hearing, during which it heard the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-American Commission on Human Rights and the representatives of the alleged victims, and also the arguments of the Commission, the representatives of the alleged victims, and the State of Venezuela, on the merits and possible reparations and costs in this case. Towards the end of the public hearing, the Venezuelan State acknowledged its international responsibility for the human rights violations committed in this case. Consequently, on June 28, 2005, the Court issued an order in which it decided to admit the State’s acknowledgement of international responsibility, to consider that the dispute concerning the facts had ceased, and to continue processing the case.

18. López Alvarez case (Honduras): *Merits and Possible Reparations and Costs*. On June 28 and 29, 2005, the Court held a public hearing, in which it heard the statements of three witnesses and an expert witness proposed by the Inter-American Commission on Human Rights and by the representatives of the alleged victim and the next of kin. The Court also heard the final oral arguments on merits and possible reparations and costs of the Inter-American Commission, the representatives, and the State in this case.

19. Eloisa Barrios *et al.* case (Venezuela): *Provisional Measures*. On June 29, 2005, 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 provisional measures, and the State of Venezuela concerning the provisional measures ordered in favor of Eloisa Barrios and others in this case.

The same day, the Court issued an order on provisional measures in this case in which, among other matters, it decided: to reiterate the decisions contained in its order of November 23, 2004, concerning the measures that should be adopted to protect effectively the lives and personal integrity of Eloisa Barrios, Inés Barrios, Beatriz Barrios and Carolina García and of Pablo Solórzano, Caudy Barrios, Oscar Barrios, Jorge Barrios and Juan Barrios, and to call upon the State to ensure that the measures of protection were not provided by the police units that, according to the beneficiaries, were involved in the reported facts.

It also decided to call upon the State: to expand, forthwith, all necessary measures to protect the life and personal integrity of Maritza Barrios; to provide the necessary permanent surveillance measures to provide security to the homes of Maritza Barrios and Juan Barrios; to ensure and implement effectively the necessary conditions for the members of the Barrios family, who have been forced to move to other parts of the country, to return to their homes; to continue and conclude as soon as possible, the investigation into the facts that gave rise to the adoption and maintenance of these provisional measures, in order to identify those responsible and impose the corresponding sanctions, including the investigation into the facts that have occurred since the Inter-American Court issued the order of November 23, 2004; and to conclude, as soon as possible, the investigation into the facts related to the death of the child, Rigoberto Barrios, in order to identify and sanction those responsible, and also to investigate the alleged participation of law enforcement personnel in this act. Regarding the death of the child, Rigoberto Barrios, it expressed its concern that this had occurred while the provisional measures were in force and also with regard to the circumstances.

20. Compliance with Judgment: During this session, the Court issued an order on compliance with judgment in the “Street Children” case (Villagrán Morales et al.) v. Guatemala.

21. General order on compliance with judgments: On June 29, 2005, the Court issued a general order on compliance with judgment in which it decided not to continue requiring the States to present information on compliance with the respective judgments, once the Court had decided that Articles 65 of the American Convention on Human Rights and 30 of the Court’s Statute were applicable in cases of non-compliance with judgments, and had included the relevant information in its Annual Report for the consideration of the General Assembly of the Organization of American States. If the respective State did not subsequently provide the Court with evidence that it had complied with the pending operative paragraphs of the judgment, the Court would continue to include information on this non-compliance each year submitting its Annual Report to the General Assembly. This order was notified to the General Assembly of the Organization of American States, the President of the Permanent Council of the Organization of American States, the Secretary General of the Organization of American States, the Member States of the Organization of American States, the Inter-American Commission on Human Rights, and the agents of the States and the victims or their representatives in cases being monitored for compliance with judgment by the Inter-American Court.

22. Agreement on translations: On June 22, 2005, the Court issued an order in which agreed to suspend the translation of all its decisions issued since January 1, 2005, until it has sufficient financial resources to do it, and consequently divulge such decisions in the language in which they were made.

D. Sixty-eighth Regular Session of the Court

The Court held its sixty-eighth Regular Session from September 7 to 24, 2005⁴ at its seat in San José, 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 Manuel E. Ventura Robles (Costa Rica) and Judge Diego García-Sayán (Peru). Judge Cecilia Medina Quiroga (Chile) did not take part in this regular session owing to circumstances beyond her control. The following judges *ad hoc* also participated in the session: Ernesto Rey Cantor, appointed by the State of Colombia for the *Gutiérrez Soler* case; Gustavo Zafra Roldán, appointed by the State of Colombia for the “*Mapiripán Massacre*” case; Alejandro Sánchez Garrido, appointed by the State of Guatemala for the *Raxcacó Reyes* case; Alejandro Montiel Argüello, appointed by the State of El Salvador for the *Serrano Cruz Sisters* case; Juan Carlos Esguerra Portocarrero, appointed by the State of Colombia for the “*Pueblo Bello Massacre*” case; Javier de Belaunde López de Romaña, appointed by the State of Peru for the *Acevedo Jaramillo et al.* case; and Jaime Enrique Granados Peña, appointed by the State of Colombia for the *Ituango* case. Also present were the Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica). During this session the Court considered the following matters among others:

1. Yean and Bosico case (Dominican Republic): Preliminary Objections, Merits, Reparations and Costs. On September 8, 2005, the Court issued judgment on preliminary objections, merits, reparations and costs in this case. It decided to reject the three preliminary objections filed by the State, and declared that the State of the Dominican Republic had violated the rights embodied in Articles 3 (Right to Juridical Personality), 18 (Right to a Name), 20 (Right to Nationality) and 24 (Right to Equal Protection) of the American Convention on Human Rights, in relation to Article 19 (Rights of the Child) and also in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the children, Dilcia Yean and Violeta Bosico. The Court also declared that the State had violated the right embodied in Article 5 (Right to Humane Treatment), in relation to Article 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of Leonidas Oliven Yean, Tiramén Bosico Cofi and Teresa Tucent Mena.

With regard to reparations, among other matters, the Court ordered the State: to publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper; to organize a public act to acknowledge its international responsibility and apologize to the victims, Dilcia Yean and Violeta Bosico, and to Leonidas Oliven Yean, Tiramén Bosico Cofi and Teresa Tucent Mena, with the participation of State authorities, the victims and their next of kin, and the latter’s representatives, to be broadcast in the media (radio, press and television); to adopt, as part of its domestic laws, the legislative, administrative and any other measures necessary to regulate the procedure and requirements for acquiring Dominican nationality in the case of the late registration of a birth (a procedure which should be simple, accessible and reasonable), and also, to establish an effective recourse if the request is denied; to pay compensation for non-pecuniary damage as well as the costs and expenses generated in the domestic sphere and at the international level before the inter-American system for the protection of human rights.

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

4 The European Union was the main source of financing for the sixty-eighth Regular Session.

2. Serrano Cruz Sisters case (El Salvador): *Request for Interpretation of the Judgment on Merits, Reparations and Costs.* On September 9, 2005, the Court issued judgment on the request for interpretation of judgment submitted by the State in this case. The Court decided to reject as inadmissible, the request regarding “the reasons that led the Court to establish the amounts the State must pay for compensation” and the State’s “concern about the scope of the measures ordered by the Court in compensation for non-pecuniary damage to María Victoria Cruz Franco, because when the judgment was delivered, she was deceased.” However, it decided to clarify the meaning and scope of the provisions of paragraph 211 and the twentieth operative paragraph of the judgment on merits, reparations and costs, which established that the payment of the compensation corresponding to the mother of Ernestina and Erlinda Serrano Cruz for non-pecuniary damage “shall be delivered to her children in equal parts.”

Judge *ad hoc* Montiel Argüello informed the Court of his concurring opinion, which accompanies the judgment.

3. Fermín Ramírez case (Guatemala): *Provisional Measures.* On September 9, 2005, the Court issued an order in which it decided to lift the provisional measures ordered in favor of Fermín Ramírez in its order of March 12, 2005, as the State’s obligations to establish provisional measures had been replaced by the decisions contained in the judgment on merits, reparations and costs delivered by the Court on June 20, 2005.

4. Gutiérrez Soler case (Colombia): *Merits, Reparations and Costs.* On September 12, 2005, the Court issued judgment on merits, reparations and merits in this case and decided to reaffirm its order of March 10, 2005, which admitted the State’s acknowledgement of international responsibility and declared that the State of Colombia had violated the right embodied in Article 5(1) (Right to Humane Treatment) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Wilson Gutiérrez Soler, Kevin Daniel Gutiérrez Niño, María Elena Soler de Gutiérrez, Álvaro Gutiérrez Hernández (deceased), Ricardo Gutiérrez Soler, Yaqueline Reyes, Luisa Fernanda Gutiérrez Reyes, Paula Camila Gutiérrez Reyes, Leonardo Gutiérrez Rubiano, Leydi Caterin Gutiérrez Peña, Sulma Tatiana Gutiérrez Rubiano, Ricardo Alberto Gutiérrez Rubiano and Carlos Andrés Gutiérrez Pubiano. The Court also declared that the State had violated the rights embodied in Articles 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 (Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Wilson Gutiérrez Soler. In addition, the Court declared that the State had failed to comply with the obligations established in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Wilson Gutiérrez Soler.

With regard to reparations, among other matters, the Court ordered the Colombian State: to comply with the measures ordered in relation to its obligation to investigate the reported facts, and identify, prosecute and punish those responsible; to provide free psychological and psychiatric treatment to María Elena Soler de Gutiérrez, Ricardo Gutiérrez Soler, Yaqueline Reyes, Luisa Fernanda Gutiérrez Reyes, Paula Camila Gutiérrez Reyes, Leonardo Gutiérrez Rubiano, Leydi Caterin Gutiérrez Peña, Sulma Tatiana Gutiérrez Rubiano, Ricardo Alberto Gutiérrez Rubiano and Carlos Andrés Gutiérrez Pubiano; to deliver the amount established in the judgment to Wilson Gutiérrez Soler to cover the expenses of his medical and psychological treatment and the psychological treatment for his son, Kevin Daniel Gutiérrez Niño; to publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper; to implement training

courses for public servants in the military criminal justice system and law enforcement personnel, which examined the case law of the inter-American system for the protection of human rights; to adopt a training program that took into consideration the international norms established in the Istanbul Protocol; to adopt all necessary measures to strengthen existing control mechanisms in State detention centers; to pay compensation for pecuniary and non-pecuniary damage, and also for costs and expenses; and to pay special attention to safeguarding the lives, integrity and safety of Wilson and Ricardo Gutiérrez Soler and their next of kin, granting them the necessary protection against anyone, bearing in mind the circumstances of this case, in accordance with the provisional measures ordered by this Court on March 11, 2005.

Judges García Ramírez, Jackman and Cançado Trindade informed the Court of their separate opinions, which accompany the judgment.

5. Luisiana Ríos *et al.* case (Radio Caracas Televisión–RCTV) (Venezuela): Provisional Measures. On September 12, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to reiterate to the State that it should adopt all necessary measures to protect the lives and personal integrity 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 three last-named persons; to safeguard and protect the lives, personal integrity and freedom of expression of all the journalists, management and other personnel of Radio Caracas Televisión (RCTV), as well as those who are in its offices or who are linked to RCTV journalistic activities; and to provide protection around the perimeter of the offices of Radio Caracas Televisión (RCTV). The Court also called upon the State to present a report on the provisional measures it had ordered by October 28, 2005, at the latest, since it had failed to submit five bimonthly reports to the Court.

6. “Mapiripán Massacre” case (Colombia): Merits, Reparations and Costs. On September 15, 2005, the Court issued judgment on merits, reparations and merits in this case and decided that the State of Colombia had violated the rights embodied in Articles 4(1) (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), and 7(1) and 7(2) (Right to Personal Liberty), in relation to Article 1(1) (Obligation to Respect Rights) of the American Convention on Human Rights, to the detriment of a certain number of victims – which, according to the State amounted to “approximately 49” - of whom, the following have been individualized: José Rolan Valencia, Sinaí Blanco Santamaría, Antonio María Barrera Calle, Álvaro Tovar Muñoz, Jaime Pinzón, Raúl Morales, Edwin Morales, Manuel Arévalo, Hugo Fernando Martínez Contreras, Diego Armando Martínez Contreras, Omar Patiño Vaca, Eliécer Martínez Vaca, Gustavo Caicedo Rodríguez, Enrique Pinzón López, Luis Eduardo Pinzón López, Jorge Pinzón López, José Alberto Pinzón López, Jaime Riaño Colorado and Uriel Garzón and Ana Beiba Ramírez. The Court also declared that the State had violated Article 22(1) (Freedom of Movement and Residence) in relation to Articles 4(1) (Right to Life), 5(1) (Right to Humane Treatment), 19 (Rights of the Child) and 1(1) (Obligation to Respect Rights) of the American Convention on Human Rights, to the detriment of Mariela Contreras Cruz, Rusbel Asdrúbal Martínez Contreras, Maryuri and Gustavo Caicedo Contreras, Zuli Herrera Contreras, Nory Giraldo de Jaramillo, Carmen Johanna Jaramillo Giraldo, Marina Sanmiguel Duarte, Nadia Mariana, Yinda Adriana, Johanna Marina, Roland Andrés and Ronald Mayiber, Valencia Sanmiguel, Teresa López de Pinzón and Luz Mery Pinzón López; and Articles 8(1) (Right to a Fair Trial), 25 (Judicial Protection), and 5(1) and 5(2) (Right to Humane Treatment), in relation to Article 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of the next of kin of the victims. The Court also declared that the State had violated Article 19 (Rights of the Child), in relation to Articles 4(1) (Right to Life), 5(1) (Right to Humane Treatment) and 1(1) (Obligation

to Respect Rights) of the American Convention, to the detriment of Hugo Fernando and Diego Armando Martínez Contreras, Carmen Johanna Jaramillo Giraldo, Gustavo Caicedo Contreras, Maryuri Caicedo Contreras, Rusbel Asdrúbal Martínez Contreras and the Valencia Sanmiguel siblings: Nadia Mariana, Yinda Adriana, Johanna Marina, Roland Andrés and Ronald Mayiber, and the same article, in relation to Articles 4(1) (Right to Life), 22(1) (Freedom of Movement and Residence) and 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of those who were children when they were displaced from Mapiripán, and who were individualized in the judgment: Carmen Johanna Jaramillo Giraldo, Gustavo Caicedo Contreras, Maryuri Caicedo Contreras, Rusbel Asdrúbal Martínez Contreras and the Valencia Sanmiguel siblings: Nadia Mariana, Yinda Adriana, Johanna Marina, Roland Andrés and Ronald Mayiber.

With regard to reparations, the Court ordered the Colombian State: to conduct the necessary procedures to activate and complete, within a reasonable time, the investigation to determine the masterminds and perpetrators of the massacre, and also the persons whose collaboration and acquiescence made it possible; to carry out immediately the necessary procedures to individualize and identify, within a reasonable time, the victims who were executed and disappeared, and their next of kin; to establish an official mechanism that will operate for two years, and in which the victims in this case or their representatives participate, to carry out the functions indicated in the judgment; to provide all the next of kin of the victims who were executed or disappeared with appropriate medical care, including medication; to carry out the necessary actions to guarantee safe conditions for the next of kin of the victims, as well as the other former inhabitants of Mapiripán who were displaced to return to Mapiripán, if they so wish; to build an appropriate, dignified monument to recall the Mapiripán massacre; to organize permanent human rights and international humanitarian law education programs for the Colombian armed forces of all ranks; to publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper, and to pay compensation for pecuniary and non-pecuniary damage, and for costs and expenses.

Judge Cançado Trindade and Judge *ad hoc* Zafra Roldán informed the Court of their separate opinions, which accompany the judgment.

7. Raxcacó Reyes case (Guatemala): Merits, Reparations and Costs. On September 15, 2005, the Court issued judgment on merits, reparations and merits in this case and decided that the State of Guatemala had violated the rights embodied in Articles 4(1), 4(2) and 4(6) (Right to Life) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof; and Articles 5(1) and 5(2) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Raxcacó Reyes. It also declared that it had not been proved that the State had violated the right embodied in Article 25 (Right to Judicial Protection) of the American Convention on Human Rights to the detriment of Raxcacó Reyes.

With regard to reparations, among other matters, the Court ordered the Guatemalan Government: to modify article 201 of the Penal Code in force, so as to classify various specific types of crimes in order to establish the different forms of kidnapping and abduction, based on the characteristics, the gravity of the facts and the circumstances of the crime, and to provide different punishments proportionate to the crime, and also to grant judges the power to individualize punishments in keeping with the facts and the author, within the maximum and minimum range of penalties in each criminal judgment, and that this modification should not expand the list of crimes carrying the death penalty established prior to ratification of

the American Convention; to abstain from applying the death penalty and executing those convicted of the crime of kidnapping or abduction, until these modifications have been made; to adopt a procedure guaranteeing that all those condemned to death have the right to apply for and, if appropriate, to obtain a pardon, in accordance with rules that establish the authority empowered to grant this and the respective grounds and procedures (in these cases sentences must not be executed while the decision on the requested pardon or commutation is pending); to annul the punishment imposed on Raxcacó Reyes in the judgment of the Sixth Court for Sentencing Crimes, Drug-Trafficking and Crimes against the Environment within a reasonable time and to decide another punishment, without the need for new proceedings, which must not be the death penalty; also, to ensure that the new punishment is proportionate to the nature and seriousness of the crime prosecuted, and takes into account any aggravating or attenuating circumstances that may relate to the case, so that, before delivering judgment, the parties must be granted the opportunity to exercise their right to a hearing; to adopt the necessary measures so that prison conditions are adapted to the respective international standards; to provide Raxcacó Reyes with adequate medical and psychological treatment, including medication; to adopt the necessary measures so that Raxcacó Reyes receives periodic visits from Olga Isabel Vicente; to adopt the educational, employment or other measures necessary for the rehabilitation of Raxcacó Reyes once he has served his sentence; to publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper, and to reimburse expenses.

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

8. “Pueblo Bello Massacre” case (Colombia): *Preliminary Objections and Possible Merits, Reparations and Costs.* On September 19 and 20, 2005, the Court held a public hearing and heard the statements of the witnesses proposed by the Inter-American Commission, the representatives of the next of kin of the alleged victims, and the State of Colombia, as well as the arguments of the parties on the preliminary objections and possible merits, reparations and costs in this case.

9. Acevedo Jaramillo et al. case (SITRAMUN) (Peru): *Preliminary Objections and Possible Merits, Reparations and Costs.* On September 20 and 21, 2005, the Court held a public hearing, during which it heard the statements of three witnesses proposed by the person acting jointly for the representatives of the alleged victims and the State of Peru, and also the arguments of the parties on the preliminary objections and possible merits, reparations and costs in this case.

10. López Alvarez et al. case (Honduras): *Provisional Measures.* On September 21, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to reiterate the measures determined in the order adopted by the Court on June 13, 2005, that the State should implement the necessary measure to protect the lives and personal integrity of Alfredo López Álvarez, Teresa Reyes Reyes and Gregoria Flores Martínez. It also decided to call upon the State: to expand the necessary measures to protect the lives and personal integrity of the mother and the daughters of Gregoria Flores Martínez; and to ensure and implement effectively the necessary conditions for Gregoria Flores Martínez, who had been forced to move, to return safely to her home, and to investigate the facts that gave rise to the adoption and maintenance of the provisional measures, to identify those responsible and impose the corresponding sanctions.

11. Urso Branco Prison case (Brazil): Provisional Measures. On September 21, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided call upon the State: to adopt forthwith all necessary measures to protect effectively the lives and personal integrity of all those imprisoned in the Urso Branco Prison, as well as any person who enters the prison, including visitors and security agents who work there; to adapt the conditions of this prison to the respective international norms for the protection of human rights; and to forward to the Court an updated list of all those detained in the prison detailing the names of those who have been liberated, those who have entered the prison, the number and name of the prisoners who are serving sentences and of those who are detained without a conviction, and whether the convicted prisoners and those who have not been convicted are located in different sections. The Court also requested the State to submit its eleventh report on compliance with the measures by November 6, 2005, at the latest, bearing in mind that the deadline for the presentation of this report had expired, and that this report should refer to the serious situations and facts described by the applicants in their brief of July 8, 2005.

12. Ramírez Hinojosa *et al.* case (Peru): Provisional Measures. On September 21, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to ratify all the terms of the order of the President of the Court of July 22, 2005, and, therefore, to call upon the State to maintain any measures it had adopted and to adopt, forthwith, any measures necessary to protect the lives and personal integrity of Luis Alberto Ramírez Hinojosa, his wife Susana Silvia Rivera Prado, and his three daughters: Yolanda Susana Ramírez Rivera, Karen Rose Ramírez Rivera and Lucero Consuelo Ramírez Rivera, and of his lawyer, Carlos Rivera Paz, and to this end the State should take into consideration the gravity of the situation and the specific danger.

13. Eloisa Barrios *et al.* case (Venezuela): Provisional Measures. On September 22, 2005, the Court issued an order on provisional measures in this case in which, among other matters, it decided to reiterate the measures ordered in the orders of the Court of November 23, 2004, and June 29, 2005, in favor of the beneficiaries of the provisional measures; and to reiterate to the State that it should maintain the measures it had adopted and order, immediately, any others necessary to provide effective protection to the lives and personal integrity of Eloisa Barrios, Inés Barrios, Beatriz Barrios, Carolina García, Pablo Solórzano, Caudy Barrios, Oscar Barrios, Jorge Barrios and Juan Barrios, and to expand, forthwith, the measures necessary to protect the lives and personal integrity of the following persons: Roni Barrios, Roniex Barrios and Luis Alberto Barrios; Yelitza Lugo Pelaes, Arianna Nazaret Barrios and Oriana Zabaret Barrios; Víctor Cabrera Barrios, Beatriz Cabrera Barrios, Luimari Guzmán Barrios and Luiseydi Guzmán Barrios; Wilmer José Barrios, Génesis Andreina Barrios, Víctor Tomas Barrios and Geilin Alexandra Barrios; Elvira Barrios, Darelvis Barrios, Elvis Sarais Barrios, Cirilo Robert Barrios and Lorena Barrios. It also decided to call upon the State to provide the necessary permanent surveillance measures to safeguard the home of Orismar Carolina Alzul García and to ensure and implement effectively the necessary conditions for the members of the Barrios family, who have been forced to move to other parts of the country, to return to their homes.

Judge Cançado Trindade informed the Court of his concurring opinion, which accompanies the order.

14. Ituango case (Colombia): Preliminary Objection and Possible Merits, Reparations and Costs. On September 22 and 23, 2005, the Court held a public hearing, during which it heard the statements of the witnesses and the reports of the expert witnesses proposed by the Inter-

American Commission on Human Rights, the representatives of the alleged victims, and the Colombian State, as well as the arguments of the parties on the preliminary objection and possible merits, reparations and costs in this case.

15. Compliance with Judgments: During this session the Court issued orders on compliance with judgment in the following cases: Juan Humberto Sánchez (Honduras), Trujillo Oroza (Bolivia), Myrna Mack Chang (Guatemala), Herrera Ulloa (Costa Rica), Barrios Altos (Peru), Maritza Urrutia (Guatemala), Ivcher Bronstein (Peru) and the “Five Pensioners” (Peru).

E. Sixty-ninth Regular Session of the Court

The American Court of Human Rights held its sixty-ninth Regular Session in San José, Costa Rica from November 17 to December 2, 2005,⁵ with the following members: 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 following Judge *ad hoc* also took part in the session: Jorge Santistevan de Noriega, appointed by the State of Peru for the *García Asto and Ramírez Rojas* case. Also present were the Secretary of the Court, Pablo Saavedra Alessandri (Chile) and the Deputy Secretary, Emilia Segares Rodríguez (Costa Rica). During this session, the Court considered the following matters:

1. Palamara Iribarne case (Chile): Merits, Reparations and Costs On November 22, 2005, the Court issued judgment on merits, reparations and merits in this case and declared that the State of Chile had violated the rights embodied in Articles 13 (Freedom of Thought and Expression), 7(1), 7(2), 7(3), 7(4) and 7(5) (Personal Liberty), 8(1), 8(2), 8(2)(b), 8(2)(c), 8(2)(d), 8(2)(f), 8(2)(g), 5 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, to the detriment of Humberto Antonio Palamara Iribarne, in relation to the general obligations to respect and ensure the rights and freedoms and to adopt domestic legislative measures established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof. The Court also declared that the State had violated the right embodied in Article 21(1) and 21(2) (Right to Property) of the American Convention, to the detriment of Humberto Antonio Palamara Iribarne, in relation to Article 1(1) (Obligation to Respect Rights) thereof. Furthermore, the Court declared that Chile had failed to comply with the general obligations to respect and ensure the rights and freedoms and to adopt domestic legislative measures established in Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the Convention, as established in the judgment.

With regard to reparations, the Court ordered the State: to allow Humberto Antonio Palamara Iribarne to publish his book and to return all the material of which he was deprived; to publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper, and also to publish the entire judgment on the State's official website; to annul Mr. Palamara Iribarne's convictions; to adopt the necessary measures to abrogate and modify any domestic norms that are incompatible with international standards on freedom of thought and expression; to adapt domestic laws to international standards on the military criminal justice system, so that if the existence of a military criminal jurisdiction is considered necessary, it is limited to hearing offenses committed during the course of duty by soldiers in active service,

⁵ The European Union was the main source of financing for the sixty-ninth Regular Session.

thus establishing legal limits to the material and personal jurisdiction of military courts so that a civilian may never be submitted to the jurisdiction of a military criminal court; to ensure due process of law in the military criminal jurisdiction and judicial protection as regards the actions of the military authorities. The Court also established the compensation that the State must pay Mr. Palamara Iribarne for pecuniary and non-pecuniary damage, and the amount it should reimburse for costs and expenses.

Judge García Ramírez and Judge Cançado Trindade informed the Court of their separate opinions, which accompany the judgment.

2. Gómez Palomino case (Peru): *Merits, Reparations and Costs.* On November 22, 2005, the Court issued judgment on merits, reparations and merits in this case and decided to admit the State of Peru's acknowledgement of international responsibility. The Court also declared that the State had violated the rights embodied in Articles 4 (Right to Life), 5(1) and 5(2) (Right to Humane Treatment), and 7(1), 7(2), 7(3), 7(4), 7(5) and 7(6) (Right to Personal Liberty) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santiago Gómez Palomino; 8(1) (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Santiago Gómez Palomino and his next of kin: Victoria Margarita Palomino Buitrón, Esmila Liliana Conislla Cárdenas, María Dolores Gómez Palomino, Luzmila Sotelo Palomino, Emiliano Palomino Buitrón, Mercedes Palomino Buitrón, Mónica Palomino Buitrón, Rosa Palomino Buitrón and Margarita Palomino Buitrón, and the child, Ana María Gómez Guevara; and Article 5 (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Victoria Margarita Palomino Buitrón, Esmila Liliana Conislla Cárdenas, María Dolores Gómez Palomino, Luzmila Sotelo Palomino, Emiliano Palomino Buitrón, Mercedes Palomino Buitrón, Mónica Palomino Buitrón, Rosa Palomino Buitrón and Margarita Palomino Buitrón, and the child, Ana María Gómez Guevara. The Court also declared that the State had failed to comply with the obligation established in Article 2 (Domestic Legal Effects) of the American Convention on Human Rights, to duly ensure the rights to life, personal liberty and personal integrity of Santiago Gómez Palomino and Article 1(b) of the Inter-American Convention on Forced Disappearance of Persons.

With regard to reparations, among other matters, the Court ordered the State of Peru: to investigate the reported facts and also to identify, prosecute and punish those responsible; to carry out the necessary actions to locate the remains of Santiago Gómez Palomino and deliver them to his next of kin, and to facilitate the required conditions for the transfer and interment of these remains in the place of their choosing; to publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper; to provide medical and psychological care to the next of kin of Mr. Gómez Palomino, without any cost, through its specialized health institutions; to implement the educational programs established in the judgment; to adopt the necessary measures to reform its penal laws in order to make them compatible with international standards on the forced disappearance of persons; to pay compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses.

Judges García Ramírez, Cançado Trindade and Medina Quiroga informed the Court of their concurring opinions, which accompany the judgment.

3. Pilar Noriega García *et al.* case (Mexico): *Provisional Measures.* On November 24, 2005, the Court issued an order on provisional measures in this case in which, among other

matters, it decided that the State of Mexico should: maintain the necessary measure to protect the lives and personal integrity of Pilar Noriega García, Bárbara Zamora López, Leonel Rivero Rodríguez, María de los Ángeles Espinosa Sánchez, Augusto César Sandino Rivero Espinosa, Luisa Amanda Rivero Espinosa, María Katherina Rivero Espinosa, Eusebio Ochoa López and Irene Alicia Plácido Evangelista, and of Carmen, Jesús, Luz María, Eusebio, Guadalupe, Ismael, Elia, Estela, Roberto, Juan Carlos, Ignacio and Agustín, all Ochoa y Plácido; continue investigating the facts that gave rise to the said provisional measures in order to identify those responsible and impose the corresponding sanctions; and allow the beneficiaries or their representative to take part in the planning and implementation of the protection measures and, in general, keep them informed about the evolution of the measures. In particular, the Court urged the beneficiaries or their representative and the State to collaborate, as they have on repeated occasions, to determine the required protection jointly.

4. *García Asto and Ramírez Rojas case (Peru): Preliminary Objection, Merits, Reparations and Costs.* On November 25, 2005, the Court delivered judgment on the preliminary objection, merit, reparations and costs in this case and decided to admit the State of Peru's acknowledgement of the facts prior to September 2000. The Court also declared that the State had violated the rights embodied in Articles 5(1) and 5(2) (Right to Humane Treatment), 7(1), 7(2), 7(3), 7(5) and 7(6) (Right to Personal Liberty), 8(1), 8(2), 8(2)(f) and 8(5) (Right to a Fair Trial), 9 (Freedom from Ex Post Facto Laws and Retroactivity) and 25 (Judicial Protection) of the American Convention on Human Rights, to the detriment of Wilson García Asto and Urcesino Ramírez Rojas; and 8(2)(c) (Right to a Fair Trial) of the Convention, to the detriment of Wilson García Asto, all in relation to Article 1(1) (Obligation to Respect Rights) thereof. The Court also declared that the State had violated the right embodied in Article 5(1) (Right to Humane Treatment) of the Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Napoleón García Tuesta, Celia Asto Urbano, Elisa García Asto, Gustavo García, María Alejandra Rojas, Marcos Ramírez Álvarez and Santa, Pedro, Filomena, Julio, Obdulia, Marcelino and Adela, all Ramírez Rojas.

With regard to reparations, among other matters, the Court decided that the Peruvian State must: provide free medical and psychological care to Wilson García Asto; grant Wilson García Asto and Urcesino Ramírez Rojas the possibility of obtaining professional and ongoing training, by providing them with grants; pay compensation to Wilson García Asto and Urcesino Ramírez Rojas for pecuniary damage, costs and expenses, and also to Wilson García Asto, Urcesino Ramírez Rojas, Napoleón García Tuesta, Celia Asto Urbano, Elisa García Asto, Gustavo García, María Alejandra Rojas, Marcos Ramírez Álvarez and Santa, Pedro, Filomena, Julio, Obdulia, Marcelino and Adela, all Ramírez Rojas, for non-pecuniary damage; and publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper.

Judge Medina Quiroga and Judge *ad hoc* Santistevan de Noriega informed the Court of their dissenting and partially dissenting opinions, respectively, which accompany the judgment.

5. *Castañeda Gutman case (Mexico): Provisional Measures.* On November 25, 2005, the Court issued an order on the request for provisional measures presented by the Inter-American Commission on Human Rights in this case in which it decided to reject this request in favor of Jorge Castañeda Gutman as inadmissible.

Judges Antônio A. Cançado Trindade and Manuel E. Ventura Robles informed the Court of their joint separate opinion, which accompanies the order.

6. Blanco Romero *et al.* case (Venezuela): Merits, Reparations and Costs. On November 28, 2005, the Court issued judgment on merits, reparations and costs in this case and decided to confirm its order of June 28, 2005, in which it admitted the acknowledgement of international responsibility made by the State of Venezuela. The Court also declared 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(1), 7(2), 7(3), 7(4), 7(5) and 7(6) (Right to Personal Liberty), 8(1) (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, and had also failed to comply with the obligations established in Articles 1, 5, 6, 7 and 8 of the Inter-American Convention to Prevent and Punish Torture, and Articles 1(a) and 1(b), 10 and 11 of the Inter-American Convention on Forced Disappearance of Persons, to the detriment of Oscar José Blanco Romero, Roberto Javier Hernández Paz and José Francisco Rivas Fernández. The Court also declared that the State had violated the rights embodied in Articles 5(1) (Right to Humane Treatment), 8(1) (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof and had failed to comply with the obligation established in Article 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of the next of kin of Oscar José Blanco Romero, Roberto Javier Hernández Paz and José Francisco Rivas Fernández, as follows: Alejandra Josefina Iriarte de Blanco, Gisela Romero, Aleoscar Russeth Blanco Iriarte, Oscar Alejandro José Blanco Iriarte, Orailis del Valle Blanco, Edwar José Blanco, Teodora Paz de Hernández, Roberto Aniceto Hernández, Nélide Marina Hernández Paz, Aida Benirgia Hernández Paz, Mirna Esperanza Hernández Paz, Aleidy Maritza Hernández Paz, Brizania Hernández Paz, Reina Alejandra Antune Paz, Ramón Alberto Paz, Carlos Paz, Nélide Josefina Fernández Pelicie, Francisco Jeremías Rivas, Eneida Josefina Rivas Fernández, Yelitza Isabel Rivas Fernández, Luis Ernesto Rivas Fernández, Rubén Alexis Rivas Fernández, Miguel Enrique Galindo Fernández and José Daniel Rivas Martínez. Lastly, the Court declared that the State had violated Article 8(2) (Right to a Fair Trial) of the American Convention on Human Rights, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Alejandra Josefina Iriarte de Blanco.

With regard to reparations, among other matters, the Court decided that the Venezuelan State must: conduct investigations and effective and impartial judicial proceedings in relation to the three forced disappearances that occurred in this case, which lead to clarification of the facts and punishment of those responsible; adopt the necessary measure to find Oscar José Blanco Romero, Roberto Javier Hernández Paz and José Francisco Rivas Fernández as soon as possible and, if they are dead when they are traced, deliver their remains to their next of kin, so that they can be buried appropriately, in which case the State must facilitate the transferral of the remains to the place chosen by the next of kin and provide them with a decent burial without any cost to the next of kin; publish specific parts of the judgment in the official gazette and in another widely-distributed national newspaper; adopt any legislative or other measures necessary to ensure that, in Venezuela, a petition for *habeas corpus* can be processed effectively in situations of forced disappearance; adopt the necessary measures to reform the penal laws to make them compatible with international standards on the protection of the individual in relation to the forced disappearance of persons; implement a program for members of the Armed Forces and the Sectoral Directorate General of the Intelligence and Prevention Services of training courses on human rights principles and protection norms, in particular the prohibition of forced disappearance, torture and the disproportionate use of force, taking into account the case law of the inter-American system for the protection of human rights, in order to prevent the recurrence of facts such as those of this case; adopt the necessary measures to facilitate the departure from Venezuela of the child, Aleoscar Russeth Blanco Iriarte; and pay the next of kin of Oscar José

Blanco Romero, Roberto Javier Hernández Paz and José Francisco Rivas Fernández compensation for pecuniary and non-pecuniary damage and for costs and expenses, to be delivered to Alejandra Josefina Iriarte de Blanco, Teodora Paz de Hernández and Nélide Josefina Fernández Pelicie.

Judge García Ramírez and Judge Cançado Trindade informed the Court of their concurring and separate opinions, respectively, which accompany the judgment.

7. Advisory Opinion OC-19: On November 28, 2005, the Court issued Advisory Opinion OC-19/05 *Control of Legality in the Exercise of the Functions of the Inter-American Commission on Human Rights (Arts. 41 and 44 to 51 of the American Convention on Human Rights)*, which had been requested by the State of Venezuela. In this Advisory Opinion, the Court emitted the opinion that the Inter-American Commission on Human Rights, as an organ of the inter-American human rights system, had full autonomy and independence in the exercise of its mandate in accordance with the American Convention on Human Rights, and that it acted with the legal framework of the Convention in exercising its functions in relation to the procedure of processing individual petitions established in Articles 44 to 51 thereof, and also in the exercise of its other functions for the promotion and protection of human rights embodied in Article 41. The Court also considered that, in the exercise of its own functions, it controls the legality of the Commission's actions concerning the processing of matters submitted to it, in accordance with the American Convention and other inter-American instruments for the protection of human rights.

8. Case of the Children and Adolescents Deprived of Liberty in the “Complexo do Tatuapé” of FEBEM (Brazil): Provisional Measures. On November 17, 2005, the Court issued an order in this case, calling upon the State to adopt, forthwith, all necessary measures to protect the lives and personal integrity of all the children and adolescents interned in the FEBEM “Complexo do Tatuapé,” and also of any person inside this complex. It also decided to convene the Inter-American Commission on Human Rights, the representatives of the beneficiaries of these provisional measures and the State of Brazil, to a public hearing to be held at the seat of the Court on November 29, 2005.

The Court held a public hearing on that date, during which it heard the arguments of the Inter-American Commission on Human Rights, the representatives of the beneficiaries of the provisional measures, and the State of Brazil on the provisional measures requested in this case.

On November 30, 2005, the Court issued another order on provisional measures in this case in which, among other matters, it decided that the State of Brazil should: adopt all necessary measures to protect the lives and personal integrity of all the children and adolescents interned in the FEBEM “Complexo do Tatuapé,” and also all those inside the complex; and, specifically, that it should prevent outbursts of violence, guarantee the safety of the interns, maintain the order and discipline of the complex, and prevent the young interns from being subjected to cruel, inhuman or degrading treatment. The Court also decided that the State must adopt the necessary measures to reduce overcrowding in the “Complexo do Tatuapé,” confiscate any arms in the possession of the youths, separate the interns in keeping with the relevant international standards and bearing in mind the best interests of the child; provide the necessary medical care to the interns, and periodically monitor the detention conditions and the physical and emotional conditions of the children detainees.

Judges García Ramírez and Cançado Trindade informed the Court of their concurring opinions, which accompany the order.

9. Ximenes Lopes case (Brazil): Preliminary Objection and Possible Merits, Reparations and Costs. On November 30 and December 1, 2005, the Court held a public hearing during which it heard the statements of the witnesses and the expert witness proposed by the Inter-American Commission on Human Rights, the representatives of the alleged victim and the next of kin, and the State of Brazil, and also the arguments of the parties on the preliminary objection and the possible merits, reparations and costs in this case. During the first part of the public hearing, the parties referred only to the preliminary objection on non-exhaustion of domestic remedies filed by the State.

On November 30, 2005, the Court delivered judgment on the preliminary objection filed in this case and decided to reject the preliminary objection on non-exhaustion of domestic remedies filed by the State of Brazil and to continue with the public hearing and the other procedural mechanisms relating to merits, and possible reparations and costs in this case.

Judge Cançado Trindade informed the Court of his concurring opinion, which accompanies the judgment.

10. Compliance with Judgments: During this session, the Court issued orders on compliance with judgment in the following cases: Baena Ricardo *et al.* (Panama), Cantos (Argentina) and the Gómez Paquiyaury Brothers (Peru).

F. MONITORING COMPLIANCE WITH JUDGMENTS AND 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 that reflect the degree of compliance with judgment: Loayza Tamayo *v.* Peru, **Bámaca Velásquez** *v.* Guatemala, **the "Street Children" (Villagrán Morales et al.)** *v.* Guatemala, **Maritza Urrutia** *v.* Guatemala, **Ivcher Bronstein** *v.* Peru,



Juan Humberto Sánchez *v.* Honduras, **Trujillo Oroza** *v.* Bolivia, **Mack Chang** *v.* Guatemala, **Herrera Ulloa** *v.* Costa Rica, **the “Five Pensioners”** *v.* Peru, **Barrios Altos** *v.* Peru, **Baena Ricardo et al.** *v.* Panama, **the Gómez Paquiyauri Brothers** *v.* Peru and **Cantos** *v.* Argentina.

B. Provisional measures

The Court issued a series of orders in the following cases that reflect the degree of compliance with and implementation of the provisional measures it had ordered: **Bámaca Velásquez** with respect to Guatemala, the **Communities of the Jiguamiandó and the Curbaradó** with respect to Colombia, **the Peace Community of San José de Apartadó** with respect to Colombia, **Eloisa Barrios et al.** with respect to Venezuela, **James et al.** with respect to Trinidad and Tobago, **Liliana Ortega et al.** with respect to Venezuela, **Luisiana Ríos et al.** with respect to Venezuela, **the Mendoza Prisons** with respect to Argentina, and **the Sarayaku Indigenous People** with respect to Ecuador.

The Court also decided that the provisional measures ordered in the following cases should be lifted: **Blake**, **Fermín Ramírez**, and **the Plan de Sánchez Massacre**, all with respect to Guatemala.

The Court observes with concern that, in seven cases, the State has only complied partially with the provisional measures of protection it ordered, because individuals have died for whom the Court ordered measures to ensure the protection of their lives and personal integrity. The provisional measures referred to are: the Peace Community of San José de Apartadó with respect to Colombia, the Urso Branco Prison with respect to Brazil, the Communities of the Jiguamiandó and the Curbaradó with respect to Colombia, the Kankuamo Indigenous People with respect to Colombia, **Eloísa Barrios et al.** with respect to Venezuela, the Mendoza Prisons with respect to Argentina, and the Children and Adolescents Deprived of Liberty in “Complexó do Tatuapé” of FEBEM with respect to Brazil.

G. SUBMISSION OF NEW CONTENTIOUS CASES

During 2005, the following cases were submitted to the Court’s consideration:

1. Case of **Nogueira de Carvalho v. Brazil**

On January 13, 2005, in accordance with 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 Nogueira de Carvalho case (No. 12,058). The application relates to the alleged responsibility of the State “in the [alleged] acts and omissions in the investigation into the murder of the lawyer, Francisco Gilson Nogueira de Carvalho, human rights defender, and also to the [alleged] lack of adequate reparation in favor of Jaurídice Nogueira de Carvalho and Geraldo Cruz de Carvalho, Mr. Nogueira de Carvalho’s mother and father.”

In the application, the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Jaurídice Nogueira de Carvalho and Geraldo Cruz de Carvalho.

Consequently, the Commission requested the Court to order the State to adopt the measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

2. Case of *Servellón García et al. v. Honduras*

On February 2, 2005, in accordance with 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 Honduras concerning the *Servellón García et al.* case (No. 12,331). The application related to the alleged illegal detention, torture and subsequent extrajudicial execution of Marco Antonio Servellón García, Rony Alexis Betancourt Vásquez, Diomedes Obed García and Orlando Álvarez Ríos allegedly carried out by State agents in Tegucigalpa, Honduras, from September 15 to 17, 1995.

In the application, the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 7 (Right to Personal Liberty), 5 (Right to Humane Treatment), 4 (Right to Life), 8 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Marco Antonio Servellón García, Rony Alexis Betancourth Vásquez, Diomedes Obed García and Orlando Álvarez Ríos; Article 19 (Rights of the Child) of the American Convention, in relation to the rights embodied in Articles 5(5) (Right to Humane Treatment) and 7(5) (Right to Personal Liberty) thereof, in relation to the obligation established in Article 1(1) (Obligation to Respect Rights) of the Convention, to the detriment of the children, Marco Antonio Servellón García and Rony Alexis Betancourth Vásquez; and Articles 8 (Right to a Fair Trial), 25 (Judicial Protection) and 5 (Right to Humane Treatment) 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 the alleged victims.

Consequently, the Commission requested the Court to order the State to adopt the measures of reparation indicated in the application in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

3. Case of the *Sawhoyamaxa Indigenous Community v. Paraguay*

On February 3, 2005, in accordance with 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 Paraguay with regard to the Sawhoyamaxa Indigenous Community of the Enxet People and its members (No. 12,419). The application concerned the alleged responsibility of the State "for [allegedly] failing to ensure the ancestral rights of the Indigenous Community, because, since 1991, the Community's territorial claim was being processed and had not yet been resolved satisfactorily. [The Commission alleges] that, in consequence, not only has the Community been unable to accede to the ownership and possession of its land, but also, owing to its characteristics, it is highly vulnerable as regards food, health and sanitation, and this constitutes a continuing threat to the survival of the members of the Community and to its integrity."

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), 21 (Right to Property), 8 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof.

Consequently, the Commission requested the Court to order the State to adopt the measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

4. Case of the “Dismissed Congressional Employees” v. Peru

On February 4, 2005, in accordance with Articles 51 and 61 of the American Convention, the Inter-American Commission filed an application against the State of Peru in the case of the “Dismissed Congressional Employees” (No. 11,830). The application concerned the alleged responsibility of the State “for the [alleged] dismissal of a group of 257 employees from the National Congress of the Republic of Peru [...], who [allegedly] formed part of a group of 1,117 employees who were [allegedly] dismissed by congressional resolutions of December 31, 1992.” The facts of this application occurred in the general context of the rupture of the institutional system in Peru, as of 1992, which was of a notorious and public nature.

In the application, the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 8(1) (Right to a Fair Trial) and 25(1) (Judicial Protection) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof, to the detriment of these employees.

Consequently, the Commission requested the Court to order the State to adopt the measures of reparation indicated in the application, in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

5. Case of Baldeón García v. Peru

On February 11, 2005, the Inter-American Commission on Human Rights, in accordance with Articles 51 and 61 of the American Convention on Human Rights, filed an application against the State of Peru in the Bernabé Baldeón García case (No. 11,767). The application concerned the alleged illegal detention, cruel, inhuman and degrading treatment, and extrajudicial execution of an indigenous agricultural worker, of 68 years of age, Bernabé Baldeón García, allegedly carried out by members of the Peruvian Armed Forces on September 25 or 26, 1990, in the Department of Ayacucho, Peru.

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 Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of Bernabé Baldeón García. 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 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the victim’s next of kin: Guadalupe Yllaconza Ramírez de Baldeón (wife) and Crispín, Fidela, Roberto, Segundina, Miguelita, Perseveranda, Vicente and Sabina Baldeón Yllaconza (children).

Consequently, the Commission requested the Court to order the State to adopt the measure of reparation indicated in the application, in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

6. Case of *Montero Aranguren et al. v. Venezuela*

On February 24, 2005, in accordance with 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, with regard to the *Montero Aranguren* case (No. 11,699). The application concerned "the [alleged] failure to prevent acts of violence and intervene in emergency situations at the Police Station [and Judicial Detention Center of Las Flores de Catia, in Caracas, during the events that took place from November 27 to 29, 1992]; the [alleged] excessive use of force; the [alleged] extrajudicial execution of several detainees; the [alleged] inhuman detention conditions that led to the violence and lack of security at the Police Station at the time of the facts; the [alleged] lack of a prompt and complete investigation; the [alleged] denial of justice to the detriment of the [alleged] victims and their next of kin; and the [alleged] absence of penitentiary policies adapted to international standards."

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), 8 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) thereof.

Consequently, the Commission requested the Court to order the State to adopt the measure of reparation indicated in the application, in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

7. Case of *Vargas Areco v. Paraguay*

On March 27, 2005, in accordance with Articles 51 and 61 of the American Convention on Human Rights, the Inter-American Commission on Human Rights filed an application against Paraguay in the *Vargas Areco* case (No. 12,300) and on April 22, 2005, it presented an amendment to it. The application concerned the alleged responsibility of the State "for failing to investigate, prosecute and punish those responsible for the violations committed against [the minor, Gerardo Vargas Areco,] effectively and promptly," owing to his alleged "murder [...] on December 30, 1989, when he was performing his obligatory military service with the Paraguayan Army".

In the application, the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) thereof, to the detriment of the alleged victim's next of kin: Pedro Vargas, father; De Belén Areco, mother, and Juan, María Elisa, Patricio, Daniel, Doralicia, Mario, María Magdalena, Sebastián and Jorge Ramón, all Vargas Areco, the alleged victim's siblings.

Consequently, the Commission requested the Court to order the State to adopt the measure of reparation indicated in the application, in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

8. Case of *Goiburú et al. v. Paraguay*

On June 8, 2005, in accordance with Articles 51 and 61 of the American Convention, the Inter-American Commission filed an application against the State of Paraguay, with regard to the

Goiburú *et al.* case (Nos. 11,560, 11,665 and 11,667). The application concerned the alleged illegal detention, torture and forced disappearance of Agustín Goiburú, Carlos José Mancuello Bareiro and the brothers, Rodolfo Feliciano and Benjamín de Jesús Ramírez Villalba, allegedly committed by Paraguay's agents as of 1974 and 1977, and the partial impunity of these facts, since not all those responsible have been sanctioned. The Commission alleged that the "forced disappearance of [the said] persons is a continued violation [...] that still persists, because the State has not traced the whereabouts of the [alleged] victims, and has not found their remains. In addition, it has not criminally sanctioned those responsible for the violations committed against them, or provided adequate reparation for their next of kin."

In the application the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 7 (Right to Personal Liberty) and 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 these individuals. It also requested the Court to declare that the rights embodied in Articles 8 (Right to a Fair Trial), 25 (Judicial Protection) and 5 (Right to Humane Treatment) of the American Convention, had been violated, in relation to the obligation established in Article 1(1) thereof, to the detriment of the alleged victims and their next of kin.

Consequently, the Commission requested the Court to order the State to adopt the measure of reparation indicated in the application, in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

9. Case of Claude Reyes *et al.* v. Chile

On July 8, 2005, in accordance with 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, with regard to the Claude Reyes *et al.* case (No. 12,108). The application concerned events that occurred between May and July 1998 and refer to the State's alleged refusal to provide Marcel Claude Reyes, Sebastián Cox Urrejola and Arturo Longton Guerrero with all the information they had requested from the Foreign Investments Committee with regard to the forestry corporation, Trillium, and the River Condor Project, without "providing a valid justification in accordance with Chilean laws," and also that the State allegedly "did not grant [them] an effective judicial recourse to contest a violation of the right of access to information" and "did not guarantee [them ...] the rights of access to information and to judicial protection, and had no mechanisms that guaranteed the right of access to public information."

In the application the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 13 (Freedom of Thought and Expression), 25 (Judicial Protection), 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects) of the American Convention on Human Rights, to the detriment of Marcel Claude Reyes, Sebastián Cox Urrejola and Arturo Longton Guerrero.

Consequently, the Commission requested the Court to order the State to adopt the measure of reparation indicated in the application in accordance with Article 63(1) (Obligation to Repair) of the American Convention and, "when the representatives of the [alleged] victims had been heard, to reimburse the duly substantiated costs and expenses."

10. Case of Luis Almonacid Arellano v. Chile

On July 11, 2005, in accordance with 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, in the Luis Almonacid Arellano case (No. 12,057). The application concerned the alleged failure to investigate and sanction those responsible for the extrajudicial execution of Alfredo Almonacid Arellano, following the application of Decree Law No. 2,192, the Amnesty Act, adopted by Chile in 1978, and also the alleged failure to make adequate reparation to his next of kin: Elvira Del Rosario Gómez Olivares, Alfredo Almonacid Gómez, José Luis Almonacid Gómez and Alexis Almonacid Gómez.

In the application, the Commission requested the Court to declare that the State was responsible for the violation of the rights embodied in Articles 8 (Right to a Fair Trial) and 25 (Judicial Protection) of the American Convention on Human Rights, in relation to Articles 1(1) (Obligation to Respect Rights) and 2 (Domestic Legal Effects).

Consequently, the Commission requested the Court to order the State to adopt the measure of reparation indicated in the application, in accordance with Article 63(1) (Obligation to Repair) of the American Convention.

H. NEW PROVISIONAL MEASURES

During 2005, the following requests for provisional measures were submitted to the Court:

1. Provisional measures in the “Mapiripán Massacre” case (Colombia)

On February 4, 2005, in accordance with Articles 63(2) of the American Convention and 25 of the Court’s Rules of Procedure, the representatives of the alleged victims and their next of kin in this case filed a request for provisional measures with regard to the State of Colombia, to protect the lives and personal integrity of all the witnesses convened by the President of the Court in the order of January 28, 2005, to make a sworn statement before a notary public (affidavit) or to appear at the public hearing before the Court, as well as of all their next of kin; to agree on the security measures with the persons protected and their representatives, and to initiate the respective criminal and administrative investigations in relation to the facts that gave rise to this request and inform the Court of their status.

The same day, the President of the Court issued an order for urgent measures, in which he decided that the State must: adopt, forthwith, the necessary measures to protect the lives and personal integrity of the following persons and their next of kin: Carmen Johana Jaramillo Giraldo, Esther Pinzón López, Sara Paola Pinzón López, María Teresa Pinzón López, Yur Mary Herrera Contreras, Zully Herrera Contreras, Maryuri Caicedo Contreras, Nadia Marina Valencia Sanmiguel, Yinda Adriana Valencia Sanmiguel, Johana Marina Valencia Sanmiguel, Gustavo Caicedo Contreras, Rusbel Asdrúbal Martínez Contreras, Roland Andrés Valencia Sanmiguel, Ronald Mayiber Valencia Sanmiguel, Luis Guillermo Pérez, Nory Giraldo de Jaramillo, Marina San Miguel Duarte, Viviana Barrera Cruz, Luz Mery Pinzón López and Mariela Contreras Cruz; 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 June 27, 2005, the Court issued an order for provisional measures in which, among other matters, it decided to ratify the order for urgent measures adopted by the President of the Court in this case and that the State must: adopt, forthwith, the necessary measures to protect the lives and personal integrity of the persons indicated in the said order for urgent measures and investigate the facts that gave rise to the adoption of the provisional measures and, if applicable identify those responsible and impose the corresponding sanctions.

2. Provisional measures in the Gutiérrez Soler case (Colombia)

On March 11, 2005, the representatives of the alleged victim presented their final arguments during the public hearing convened in the Gutiérrez Soler case against the State of Colombia, in which, in accordance with Articles 63(2) of the American Convention and 25 of the Court's Rules of Procedure, they requested the adoption of immediate provisional measures in favor of the Gutiérrez Soler family, in order to protect it from the aggression, harassment and threats endured as a result of the facts of the case.

The same day, the Court issued an order on provisional measures in which, among other matters, it decided call upon the State to adopt the necessary measures to: (a) protect the life, personal integrity and personal liberty of Ricardo Gutiérrez Soler and his family, consisting of: his mother, María Elena Soler de Gutiérrez; his children, Luisa Fernanda Gutiérrez Reyes, Paula Camila Gutiérrez Reyes, Leonardo Gutiérrez Rubiano, Leydi Caterin Gutiérrez Peña, Sulma Tatiana Gutiérrez Rubiano, Ricardo Alberto Gutiérrez Rubiano and Carlos Andrés Gutiérrez Rubiano; and Yaqueline Reyes, and (b) to protect the life, personal integrity and personal liberty of Wilson Gutiérrez Soler and his son, Kevin Daniel Gutiérrez Niño, if they returned to Colombia.

3. Provisional measures in the Ivcher Bronstein case (Peru)

On March 30, 2005, in accordance with Articles 63(2) of the American Convention on Human Rights and 25 of the Court's Rules of Procedure, Baruch Ivcher Bronstein, filed a request for provisional measures with regard to the State of Peru "to protect [his] life, that of [his] immediate family, including his wife, Noemy Even de Ivcher and [his] daughters Dafina, Michal and Hadaz Ivcher Even[,] and also to protect [his] personal safety and [his] other rights that should be protected and were severely threatened." The State, the Commission and Ivcher Bronstein presented additional information in relation to this request, including information in relation to the measures that the State had already adopted in this regard. The Ivcher Bronstein case is at the stage of monitoring compliance with the judgment delivered by the Court on February 6, 2001.

4. Provisional measures in the López Álvarez case (Honduras)

On May 30, 2005, the representatives of the alleged victim and his next of kin informed the Court that "a man, who was subsequently identified as [...] a security guard[,... had] fired into a vehicle [parked in a gasoline station, in which Gregoria] Flores [General Coordinator of the Organización Fraternal Negra Hondureña (OFRANEH) was sitting, injuring her right arm]." She had been proposed as a witness in the López Álvarez case. They requested that "this situation should be appraised in order to decide whether it was necessary to take measures to guarantee the safety of the witnesses, expert witnesses and members of OFRANEH involved in the case."

On June 13, 2005, the Court issued an order on provisional measures in which, among other matters, it decided that the State should: adopt, forthwith, the necessary measures to

protect the lives and personal integrity of Alfredo López Álvarez, Teresa Reyes Reyes and Gregoria Flores Martínez, who would be appearing as witnesses before the Inter-American Court of Human Rights at the public hearing to be held starting on June 28, 2005, in the López Álvarez case.

5. Provisional measures in the Ramírez Hinostrroza *et al.* case (Peru)

On July 22, 2005, in accordance with Articles 63(2) of the American Convention on Human Rights, 25 of the Court's Rules of Procedure and 74 of the Commission's Rules of Procedure, the Inter-American Commission on Human Rights filed a request for provisional measures with regard to the State of Peru, for the Court to adopt the necessary measure to protect the lives and personal integrity of Luis Alberto Ramírez Hinostrroza, his family, and his lawyer, Carlos Rivera Paz.

The same day, the President of the Court issued an order on urgent measures and, among other matters, decided: to call upon the State to adopt forthwith all necessary measures to protect the right to lives and personal integrity of Luis Alberto Ramírez Hinostrroza, his wife and daughters, and Carlos Rivera Paz, and, in this respect, to take into account the gravity of the situation and the specific danger.

On September 21, 2005, the Court issued an order on provisional measures in which, among other matters, it decided ratify the order for urgent measures adopted by the President of the Court in this case and to call upon the State to maintain any measures it had already adopted and to adopt, forthwith, the necessary measures to comply with the operative paragraphs of the said order as regards the protection of the lives and personal integrity of Luis Alberto Ramírez Hinostrroza, his wife Susana Silvia Rivera Prado, his three daughters: Yolanda Susana Ramírez Rivera, Karen Rose Ramírez Rivera and Lucero Consuelo Ramírez Rivera, and Carlos Rivera Paz, his lawyer, and, in this respect, to take into account the gravity of the situation and the specific danger.

6. Provisional measures in the case of the Children and Adolescents Deprived of liberty in the "Complexo do Tatuapé" of FEBEM (Brazil)

On November 8, 2005, in accordance with Articles 63(2) of the American Convention on Human Rights, 25 of the Court's Rules of Procedure and 74 of the Commission's Rules of Procedure, the Inter-American Commission on Human Rights filed a request for provisional measures with regard to the State of Brazil, for the State to protect the lives and personal integrity of the children deprived of liberty in the "Complexo do Tatuapé" of the Fundação Estadual do Bem-Estar do Menor de São Paulo (FEBEM). The Commission stated that the children detained in the complex had been subjected to increasing dangers during recent months, as illustrated by a series of uprisings, allegations of torture, deaths and injuries that had occurred during 2005.

On December 21, 2004, the Inter-American Commission had issued precautionary measures in favor of the children and adolescents interned in the "Complexo do Tatuapé." However, the Commission alleged that these precautionary measures had not resulted in the required protection, since, following the said measures, several incidences of violence had occurred and reports persisted on the inhuman detention conditions. Consequently, the Commission requested the Court: (a) to adopt, forthwith, all necessary security and control measures to preserve the lives and personal integrity of the children and adolescents interned in the FEBEM "Complexo do Tatuapé" and anyone who might be interned in this detention center in the future; (b) to adopt, forthwith, all necessary measures to prevent the interns from being subjected

to torture or physical punishment; (c) to adopt immediate measures to separate the young people whose cases were being processed from those who had been convicted, in compliance with the conditions required by the relevant international standards; (d) to conduct a genuine, complete and prompt investigation into the acts of violence that had occurred inside the FEBEM “Complejo do Tatuapé” ; to identify those responsible and impose the corresponding sanctions, as a mechanism to prevent the occurrence of renewed acts of violence; (e) to guarantee the periodic monitoring of detention conditions and the physical condition of the young interns, by an independent body, and to ensure that the reports prepared by this body were forwarded to the Court, and (f) to adapt the facilities of the FEBEM “Complejo do Tatuapé”, within a reasonable time frame, to ensure the minimum conditions of hygiene, space and decency necessary for housing children and adolescents.

On November 17, 2005, the Court issued an order in this case calling upon the State to adopt immediately the necessary measures to protect the lives and personal integrity of all the children and adolescents interned in the FEBEM “Complejo do Tatuapé,” as well as all those inside the complex. It also decided to convene the Inter-American Commission on Human Rights, the representatives of the beneficiaries of these provisional measures, and the State of Brazil to a public hearing to be held at the seat of the Court on November 29, 2005.

On November 30, 2005, the Court issued a new order on provisional measures in which, among other matters, it decided that the State of Brazil must: adopt all necessary measures to protect the lives and personal integrity of all the children and adolescents interned in the FEBEM “Complejo do Tatuapé,” as well as all those inside the complex; specifically to prevent the outbursts of violence, to ensure the safety of the interns, to maintain order and discipline in this center, and to prevent the young interns being subjected to cruel, inhuman and degrading treatment. The Court also decided that the State must adopt the necessary measures to reduce overcrowding in the “Complejo do Tatuapé,” confiscate the arms in the possession of the youths, separate the interns, in keeping with the relevant international standards and, considering the best interests of the child, provide the necessary medical care to the child interns and periodically monitor the detention conditions and the physical and emotional condition of the children detained there.

7. Provisional measures in the Castañeda Gutman case (Mexico)

On November 15, 2005, in accordance with Articles 63(2) of the American Convention on Human Rights, 25 of the Court’s Rules of Procedure and 74 of the Commission’s Rules of Procedure, the Inter-American Commission on Human Rights filed a request for provisional measures with regard to the State of Mexico concerning Jorge Castañeda Gutman, for the State to adopt the necessary actions to ensure the registration of his candidacy for the Presidency of the Republic while the Inter-American Commission decided on the admissibility and merits of the petition presented by Mr. Castañeda on the violation of several of the rights protected by the American Convention, including the right to participate in government and the right to equal protection.

On October 17, 2005, the Inter-American Commission issued precautionary measures in favor of Mr. Castañeda Gutman. However, the Commission alleged that these precautionary measures had not resulted in the necessary protection. Consequently, the Commission requested the Court to order the State: (a) to adopt, forthwith, all necessary measures to allow the registration of the candidacy of Jorge Castañeda Gutman for the Presidency of the Republic of Mexico, while the organs of the inter-American system decided on the admissibility and merits of the report presented; (b) to agree with the beneficiary the most appropriate mechanisms for

implementing the protection measures, in order to ensure their pertinence and effectiveness, and (c) to inform the Inter-American Court of Human Rights about the specific actions it had taken to implement the provisional measures.

On November 25, 2005, the Court issued an order on provisional measures in which it decided to reject as inadmissible this request in favor of Jorge Castañeda Gutman.

8. Provisional measures in the Cesti Hurtado case (Peru)

On November 21, 2005, Mr. Cesti Hurtado requested the adoption of "the necessary measures to protect the rights not only of the victim, but also of the [Lima thirty-seventh civil] judge, guaranteeing the independence of the powers." Subsequently, on December 2, 2005, the representative of the victim requested the Court, "under Article 63(2) of the American Convention on Human Rights to adopt provisional measures in favor of Gustavo Adolfo Cesti Hurtado, in order to protect compliance with the judgments delivered by the Court to repair the violation of his human rights and prevent the continued violation of other rights embodied in the said Convention and other instruments for the protection of human rights."

On December 21, 2005, having consulted all the judges of the Court, the President of the Court issued an order in which he decided to reject the request for provisional measures filed by Gustavo Cesti Hurtado's representative.

I. STATUS OF MATTERS BEFORE THE COURT

1. Contentious cases

	Name of the case	Respondent State	Current State
1.	Neira Alegria <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.	Garrido and Baigorria case	Argentina	Monitoring compliance with judgment
5.	Castillo Páez case	Peru	Monitoring compliance with judgment
6.	Loayza Tamayo case	Peru	Monitoring compliance with judgment
7.	Paniagua Morales <i>et al.</i> case	Guatemala	Monitoring compliance with judgment
8.	Blake case	Guatemala	Monitoring compliance with judgment
9.	Suárez Rosero case	Ecuador	Monitoring compliance with judgment

10.	Benavides Cevallos case	Ecuador	Monitoring compliance with judgment
11.	Cantoral Benavides case	Peru	Monitoring compliance with judgment
12.	Durand and Ugarte case	Peru	Monitoring compliance with judgment
13.	Bámaca Velásquez case	Guatemala	Monitoring compliance with judgment
14.	The “Street Children” case (Villagrán Morales <i>et al.</i>)	Guatemala	Monitoring compliance with judgment
15.	Castillo Petruzzi <i>et al.</i> case	Peru	Monitoring compliance with judgment
16.	Cesti Hurtado case	Peru	Monitoring compliance with judgment
17.	Baena Ricardo <i>et al.</i> case	Panama	Monitoring compliance with judgment
18.	The Mayagna (<i>Sumo</i>) Awas Tingni Community case	Nicaragua	Monitoring compliance with judgment
19.	Las Palmeras case	Colombia	Monitoring compliance with judgment
20.	Cantos case	Argentina	Monitoring compliance with judgment
21.	Ivcher Bronstein case	Peru	Monitoring compliance with judgment
22.	The Constitutional Court case	Peru	Monitoring compliance with judgment
23.	Hilaire, Constantine and Benjamin <i>et al.</i> case	Trinidad and Tobago	Monitoring compliance with judgment
24.	El Caracazo case	Venezuela	Monitoring compliance with judgment
25.	Trujillo Oroza case	Bolivia	Monitoring compliance with judgment
26.	Barrios Altos case	Peru	Monitoring compliance with judgment
27.	19 Tradesmen case	Colombia	Monitoring compliance with judgment
28.	Bulacio case	Argentina	Monitoring compliance with judgment
29.	Myrna Mack Chang case	Guatemala	Monitoring compliance with judgment
30.	Juan H. Sánchez case	Honduras	Monitoring compliance with judgment
31.	“Five Pensioners” case	Peru	Monitoring compliance with judgment

32.	Maritza Urrutia case	Guatemala	Monitoring compliance with judgment
33.	Gómez Paquiyauri case	Peru	Monitoring compliance with judgment
34.	The "Children's 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.	The Plan de Sánchez Massacre case	Guatemala	Monitoring compliance with judgment
38.	Herrera Ulloa case	Costa Rica	Monitoring compliance with judgment
39.	Caesar case	Trinidad and Tobago	Monitoring compliance with judgment
40.	Yakye Axa Indigenous Community case	Paraguay	Monitoring compliance with judgment
41.	Carpio Nicolle <i>et al.</i> case	Guatemala	Monitoring compliance with judgment
42.	The Serrano Cruz Sisters case	El Salvador	Monitoring compliance with judgment
43.	YATAMA case	Nicaragua	Monitoring compliance with judgment
44.	De La Cruz Flores case	Peru	Monitoring compliance with judgment
45.	Tibi case	Ecuador	Monitoring compliance with judgment
46.	Acosta Calderón case	Ecuador	Monitoring compliance with judgment
47.	Molina Thiessen case	Guatemala	Monitoring compliance with judgment
48.	The Yean and Bosico case	Dominican Republic	Monitoring compliance with judgment
49.	The "Mapiripán Massacre" case	Colombia	Monitoring compliance with judgment
50.	Pedro Huilca Tecse case	Peru	Monitoring compliance with judgment
51.	Gutiérrez Soler case	Colombia	Monitoring compliance with judgment
52.	Palamara Iribarne case	Chile	Monitoring compliance with judgment
53.	García Asto and Ramírez Rojas case	Peru	Monitoring compliance with judgment

54.	Blanco Romero <i>et al.</i> case	Venezuela	Monitoring compliance with judgment
55.	Fermín Ramírez case	Guatemala	Monitoring compliance with judgment
56.	Gómez Palomino case	Peru	Monitoring compliance with judgment
57.	Raxcacó Reyes case	Guatemala	Monitoring compliance with judgment
58.	The Moiwana Community case	Suriname	Monitoring compliance with judgment/ Interpretation of judgment
59.	Acevedo Jaramillo <i>et al.</i> case	Peru	Preliminary objections and possible merits, reparations and costs
60.	Pueblo Bello case	Colombia	Preliminary objections and possible merits, reparations and costs
61.	Ituango case	Colombia	Preliminary objections and possible merits, reparations and costs
62.	Montero Aranguren <i>et al.</i> case	Venezuela	Preliminary objections and possible merits, reparations and costs
63.	Nogueira de Carvalho case	Brazil	Preliminary objections and possible merits, reparations and costs
64.	Almonacid Arellano case	Chile	Preliminary objections and possible merits, reparations and costs
65.	Ximenes Lopes case	Brazil	Merits and possible reparations and costs
66.	López Álvarez case	Honduras	Merits and possible reparations and costs
67.	Servellón García <i>et al.</i> case	Honduras	Merits and possible reparations and costs
68.	The Sawhoyamaxa Indigenous Community case	Paraguay	Merits and possible reparations and costs
69.	Baldeón García case	Peru	Merits and possible reparations and costs
70.	Vargas Areco case	Paraguay	Merits and possible reparations and costs
71.	Claude Reyes <i>et al.</i> case	Chile	Merits and possible reparations and costs
72.	Juárez Cruzat <i>et al.</i> case	Peru	Initial processing (written procedure)
73.	The “Dismissed Congressional Employees” case	Peru	Initial processing (written procedure)
74.	Goiburú <i>et al.</i> case	Paraguay	Initial processing (written procedure)

2. Provisional measures

	Name of the case	State regarding which they have been dopted
1.	Álvarez <i>et al.</i>	Colombia
2.	Bámaca Velásquez <i>et al.</i>	Guatemala
3.	Caballero Delgado and Santana	Colombia
4.	Carpio Nicolle <i>et al.</i>	Guatemala
5.	Colotenango	Guatemala
6.	Giraldo Cardona	Colombia
7.	James <i>et al.</i>	Trinidad and Tobago
8.	Haitians and Dominicans of Haitian origin in the Dominican Republic	Dominican Republic
9.	Peace Community of San José de Apartadó	Colombia
10.	Pilar Noriega García <i>et al.</i>	Mexico
11.	Gallardo Rodríguez	Mexico
12.	Urso Branco Prison	Brazil
13.	Helen Mack <i>et al.</i>	Guatemala
14.	The Mayagna (<i>Sumo</i>) Awas Tigni Community	Nicaragua
15.	Liliana Ortega <i>et al.</i>	Venezuela
16.	Luis Uzcátegui	Venezuela
17.	Luisiana Ríos <i>et al.</i>	Venezuela
18.	Communities of the Jiguamiandó and of the Curbaradó	Colombia
19.	Lysias Fleury	Haiti
20.	Marta Colomina and Liliana Velásquez	Venezuela
21.	Gómez Paquiyauri	Peru
22.	The Kichwa Indigenous People of Sarayaku	Ecuador
23.	The "El Nacional" and "Así es la Noticia" Newspapers	Venezuela
24.	Kankuamo Indigenous Community	Colombia
25.	Carlos Nieto <i>et al.</i>	Venezuela
26.	"Globovisión" Television Station	Venezuela
27.	19 Tradesmen (Sandra Belinda Montero Fuentes <i>et al</i>)	Colombia
28.	Raxcacó <i>et al.</i>	Guatemala
29.	Boyce <i>et al.</i>	Barbados
30.	Eloisa Barrios <i>et al.</i>	Venezuela
31.	Mendoza Prisons	Argentina
32.	"Mapiripán Massacre"	Colombia
33.	Gutiérrez Soler <i>et al.</i>	Colombia
34.	Ramírez Hinojosa <i>et al.</i>	Peru
35.	López Álvarez <i>et al.</i>	Honduras
36.	Children and adolescents deprived of liberty in the "Complexo do Tatuapé" of FEBEM.	Brazil

III. OTHER ACTIVITIES OF THE COURT

The following is a description of the principal activities of the Court during the current year:

Presentation of the 2004 Annual Report on the Work of the Inter-American Court of Human Rights

On April 14, 2005, the President of the Court, accompanied by the Vice President and the Secretary of the Court, presented the 2004 Annual Report on the work of the Inter-American Court to the OAS Committee on Juridical and Political Affairs (CJPA). During this activity, Judge García Ramírez first presented a “Summary of the 2004 exercise”.

Then, on June 1, 2005, CJPA issued the “Observations and Recommendations of the Permanent Council on the Annual Report of the Inter-American Court of Human Rights,” in resolution AG/doc. 4475/05.

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

The thirty-fourth regular session of the OAS General Assembly was held in Fort Lauderdale, Florida, United States, on June 6 and 7, 2005. The Inter-American Court was represented by its President, Vice President and Secretary.

On June 7, 2005, the President of the Court addressed the plenary session of the Assembly and, among other matters, referred to the importance of the international protection of human rights retaining the highest priority on the Organization’s political agenda; to the hope that the States that had not yet acceded to the American Convention would become parties to it, and to acceptance of the standards established by the Court in the domestic laws of the States Parties. He referred to the increase in the number of contentious cases, and the requests for advisory opinions and provisional measures submitted to the Court, which represented one of the greatest and most challenging factors for the inter-American jurisdiction, and also to recognition of the importance of compliance with the Court’s decisions and the efforts of the States to ensure their complete observance.

The same day, the OAS General Assembly adopted the Court’s 2004 Annual Report in Resolution AG/RES. 2129 (XXXV-O/05). In this resolution the General Assembly resolved:

1. To adopt the observations and recommendations of the Permanent Council on the Annual Report of the Inter-American Court of Human Rights (AG/doc.4475/05); 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 parties 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, in a timely fashion, the information requested 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:

a. 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; and

b. The jurisprudence of the Inter-American Court of Human Rights for the effective exercise of and respect for human rights in the Hemisphere, and consequently the dissemination of its decisions by the member states, as they deem it appropriate.

6. To instruct the Permanent Council to:

a. Continue its consideration of the issue of "Access of victims to the Inter-American Court of Human Rights (*jus 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"; the revised Rules of Procedure of the Inter-American Court of Human Rights and of the Inter-American Commission on Human Rights; and the need to maintain procedural equity and to redefine the role of the Commission in proceedings before the Court;

b. Continue to consider means of encouraging compliance by member states with the judgments of the Court; and

c. 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, which will take into account the suggestions made by the Court itself in its Annual Report for 2004, including, among other things, the possibility of increasing the number and the length of its sessions. To that effect, request the Secretary General of the Organization to present a proposal, sufficiently in advance of the next regular session of the General Assembly, with alternatives for bringing 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.

7. In addition, to encourage member states to contribute to the Specific Fund for Strengthening the Inter-American System for the Protection and Promotion of Human Rights. Also to thank member states, permanent observers, and other institutions that have made voluntary contributions to the Inter-American Court of Human Rights.

8. To encourage member states to continue to invite the Inter-American Court of Human Rights to hold special sessions away from its headquarters.

9. To urge the Inter-American Court of Human Rights, the Inter-American Commission on Human Rights, and the Inter-American Institute of Human Rights to continue to hold specialized seminars on the inter-American system for the promotion and protection of human rights for government officials.

10. To invite the Inter-American Court of Human Rights to continue to participate, with its judges, in the dialogue with member states in the reflection process on strengthening the inter-American human rights system, within the context of the Committee on Juridical and Political Affairs.

11. To urge the OAS member states to consider the signature and ratification of, ratification of, or accession 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.

12. To request the Permanent Council to report to the General Assembly at its thirty-sixth regular session on the implementation of this resolution, which will be carried out within the resources allocated in the program-budget of the Organization and other resources.

The same day, the OAS General Assembly adopted Resolution AG/RES. 2075 (XXXV-O/05) entitled "Strengthening of the Human Rights Systems to Follow Up on the Plan of Action of the Third Summit of the Americas," in which it decided:

1. To reaffirm the commitment of member states to continue strengthening and improving the inter-American system for the promotion and protection of human rights and, in that connection, to continue to take concrete measures aimed at implementing the respective mandates of the Heads of State and Government, as set forth in the Plan of Action of the Third Summit of the Americas:

- a) Universalization of the inter-American human rights system by considering the signature and ratification or ratification of, or accession to, as soon as possible and as the case may be, all universal and inter-American human rights instruments;
- b) Compliance with the 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 come to operate on a permanent basis, taking into account, among other things, the views of those organs.
2. To recognize 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. The initiation, within the Committee on Juridical and Political Affairs (CAJP) of the Permanent Council, of the broad process of reflection on the inter-American system for the promotion and protection of human rights;
 - b. The start of a dialogue, within the Committee on Juridical and Political Affairs, between member states and the organs of the inter-American human rights system (Inter-American Court of Human Rights and Inter-American Commission on Human Rights), in which the Inter-American Institute of Human Rights also participated;
 - c. The beginning of the process of reflection by the Inter-American Commission on Human Rights and the Inter-American Court of Human Rights during the special session of the Inter-American Commission on Human Rights, held in Mexico City on July 19 and 20, 2004;
 - d. Establishment of the Follow-up Mechanism of the Inter-American Convention on the Prevention, Punishment, and Eradication of Violence against Women, "Convention of Belém do Pará";
 - e. The "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";
 - f. 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, which has resulted, *inter alia*, in increased participation by victims in proceedings before the Court and greater use of the friendly settlement procedure in cases considered by the Inter-American Commission on Human Rights, as well as follow-up by the Commission on compliance with its recommendations on this subject;

- g. Deposit of the instrument of ratification of the Inter-American Convention on Forced Disappearance of Persons by Colombia; and
 - h. The voluntary contributions to facilitate the work of the organs of the inter-American human rights system made by Brazil, Costa Rica, and Mexico, along with the United Nations High Commissioner for Refugees (UNHCR) and the European Union for the Inter-American Court of Human Rights; and by Argentina, Brazil, Costa Rica, United States, Mexico, and Peru, along with Denmark, Spain, Finland, France, Sweden, the Inter-American Development Bank, the European Union, the Ford Foundation, and the University of Notre Dame for the Inter-American Commission on Human Rights.
3. To instruct the Permanent Council to meet the objectives mentioned in operative paragraph 1 and to complement and consolidate the progress referred to in operative paragraph 2, by:
- a. Continuing the broad process of reflection on the inter-American system for the promotion and protection of human rights, initiated within the Committee on Juridical and Political Affairs, in consultation with the 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:
 - i. The major challenges facing the inter-American system for the promotion and protection of human rights in the Hemisphere;
 - ii. Possible actions to strengthen and improve the system; and
 - iii. The advisability of convening an inter-American human rights conference.
 - b. 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;
 - c. 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 to further the activities of the organs of the inter-American system for the promotion and protection of human rights;
 - d. 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;
 - e. Continuing to consider ways to promote compliance with the judgments of the Inter-American Court of Human Rights and follow-up on the recommendations of the Inter-American Commission on Human Rights by member states;
 - f. Continuing to analyze the priorities for improvement of the inter-American human rights system, 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; and

- g. Holding each year, within the Committee on Juridical and Political Affairs, the dialogue between the member states and the members of the Inter-American Court of Human Rights and the Inter-American Commission on Human Rights on the way the inter-American human rights system operates. The Committee on Juridical and Political Affairs will establish the agenda for said meeting at least two months in advance;
- h. 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 respective Rules of Procedure and the amendments thereto that they adopt, and, on the other, the provisions of their respective Statutes and of the American Convention on Human Rights; and
 - ii. Continue to 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

4. To reaffirm the commitment of our heads of state and government to promote and protect human rights and fundamental freedoms in the Hemisphere by strengthening the capacity of governmental institutions mandated to do so and, in that connection, to instruct the Committee on Juridical and Political Affairs to devote a meeting, prior to the Fourth Summit of the Americas, to the progress made on this topic, among other things.

5. To continue to promote the strengthening of national systems for the promotion and protection of human rights in member states and, to that end, to urge the pertinent organs, agencies, and entities of the Organization to provide, in accordance with their capabilities and resources, cooperation and technical support to the member states that so request, in order to help enhance compliance with their international human rights obligations, and to develop cooperative relations and information exchange, *inter alia*, with the Network of National Institutions for the Promotion and Protection of Human Rights and the Ibero-American Federation of Ombudsmen.

6. To request the Permanent Council to follow up on this resolution, which will be carried out in accordance with the 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-sixth regular session.

Joint meeting with the Inter-American Commission on Human Rights

On May 11, 2005, the members of the Inter-American Court of Human Rights and the Inter-American Commissions on Human Rights held a meeting in Asunción, Paraguay. During the



meeting they discussed issues such as: the Commission's role before the Inter-American Court, monitoring 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.

For the Court, the meeting was attended by: Judges Sergio García Ramírez (President), Alirio Abreu Burelli (Vice President), Oliver Jackman, Antonio A. Cançado Trindade, Cecilia Medina Quiroga, Manuel E. Ventura Robles, and the Secretary of the Court, Pablo Saavedra Alessandri, and the Deputy Secretary, Emilia Segares Rodríguez, the Court's Administrative Officer, Arturo Herrera, and the lawyers, Olger González, Gabriela Pacheco and Francisco Quintana. And for the Commission by: Commissioners Evelio Fernández and Florentín Meléndez, and Principal Specialists, Ariel Dulitzky, Elizabeth Abi-Mershed, Pedro Díaz, Víctor Madrigal, Lilly Ching, Juan Pablo Albán and Manuela Cuvi.

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

First Specialized Course for State Officials on the Use of the Inter-American System for the Protection of Human Rights

From March 9 to 15, 2005, the "First Specialized Course for State officials on the use of the inter-American system for the protection of human rights" was held in San José, Costa Rica. It was organized jointly by the Inter-American Court of Human Rights, the Inter-American Commissions on Human Rights and the Inter-American Institute of Human Rights. During the course, which was attended by 48 officials of various Latin American States, several of the Court's judges, as well as officials of the Court, the Commission and the Institute gave presentations.

IV. INTER-INSTITUTIONAL COOPERATION AGREEMENTS

During the year, the Inter-American Court of Human Rights signed seven cooperation agreements with different institutions of the Americas. The agreements were signed with: the Universidad Iberoamericana, A.C., Mexico, the Supreme Court of Justice of Paraguay, the Judiciary Council of the Republic of Paraguay, the Universidad Nacional Autónoma del Paraguay, the Universidad Americana del Paraguay, the Universidad Católica del Paraguay, the Human Rights Center of the Universidad de Margarita, Venezuela, and the Center for Human Rights Studies of the Universidad Central, Venezuela. 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.

V. ADMINISTRATIVE AND FINANCIAL AFFAIRS

The Inter-American Court's financial statements for the 2004 financial year were audited by the independent external auditing firm, Venegas, Pizarro, Ugarte & 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, 2005, 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 2004 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, a cooperation agreement to strengthen and increase the Court's judicial activities was signed with the European Commission in 2004 for the sum of €800,000.00 (€600,000.00 contributed by the European Union and €200,000.00 counterpart funds from the Court); the agreement has been implemented this year. The Mexican State renewed its support to the Inter-American Court of Human Rights for the sixth time and donated the amount of US\$125,000.00 (one hundred and twenty-five thousand United States dollars). In addition, the Court received a contribution of US\$4,800.59 (four thousand eight hundred United States dollars and fifty-nine cents) from the Republic of Paraguay, US\$60,000.00 (sixty thousand United States dollars) from the Federative Republic of Brazil, and US\$7,500.00 (seven thousand five hundred United States dollars) from the Republic of Colombia.

The Inter-American Development Bank (IDB) donated US\$125,000.00 (one hundred and twenty-five thousand United States dollars) to the program to strengthen the Court's library. And the United Nations High Commissioner for Refugees (UNHCR) donated US\$4,168.75 (four thousand one hundred and sixty-eight United States dollars and seventy-five cents) to strengthen the Court's Editorial Unit.

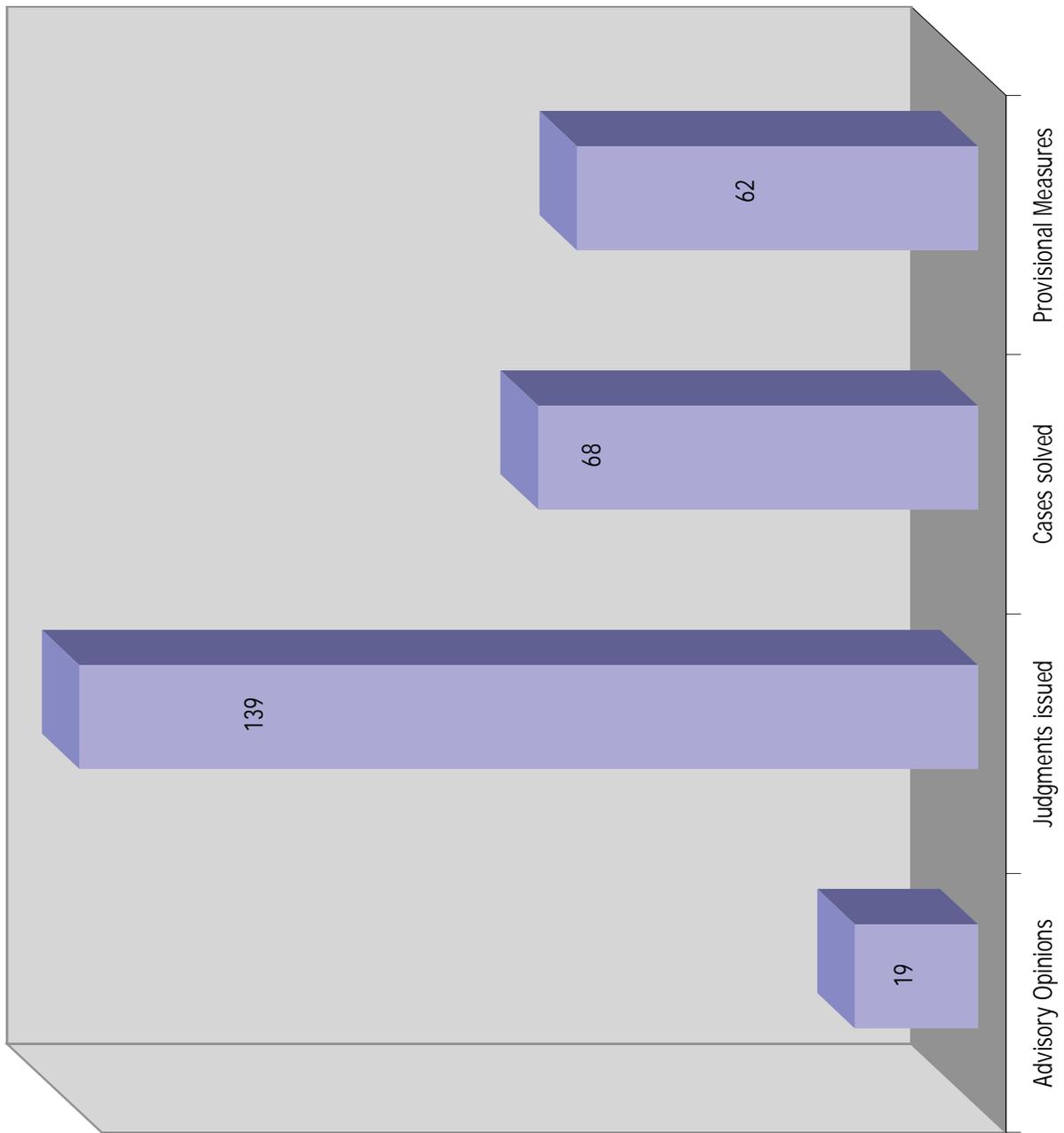
Although the Inter-American Court's budget is financed by the OAS, the Government of Costa Rica also contributes an annual amount of US\$100,000.00 (one hundred thousand United States dollars), as part of the commitment it made on signing the Headquarters Agreement in 1983. The Government of Costa Rica has included this amount in its 2006 budget.



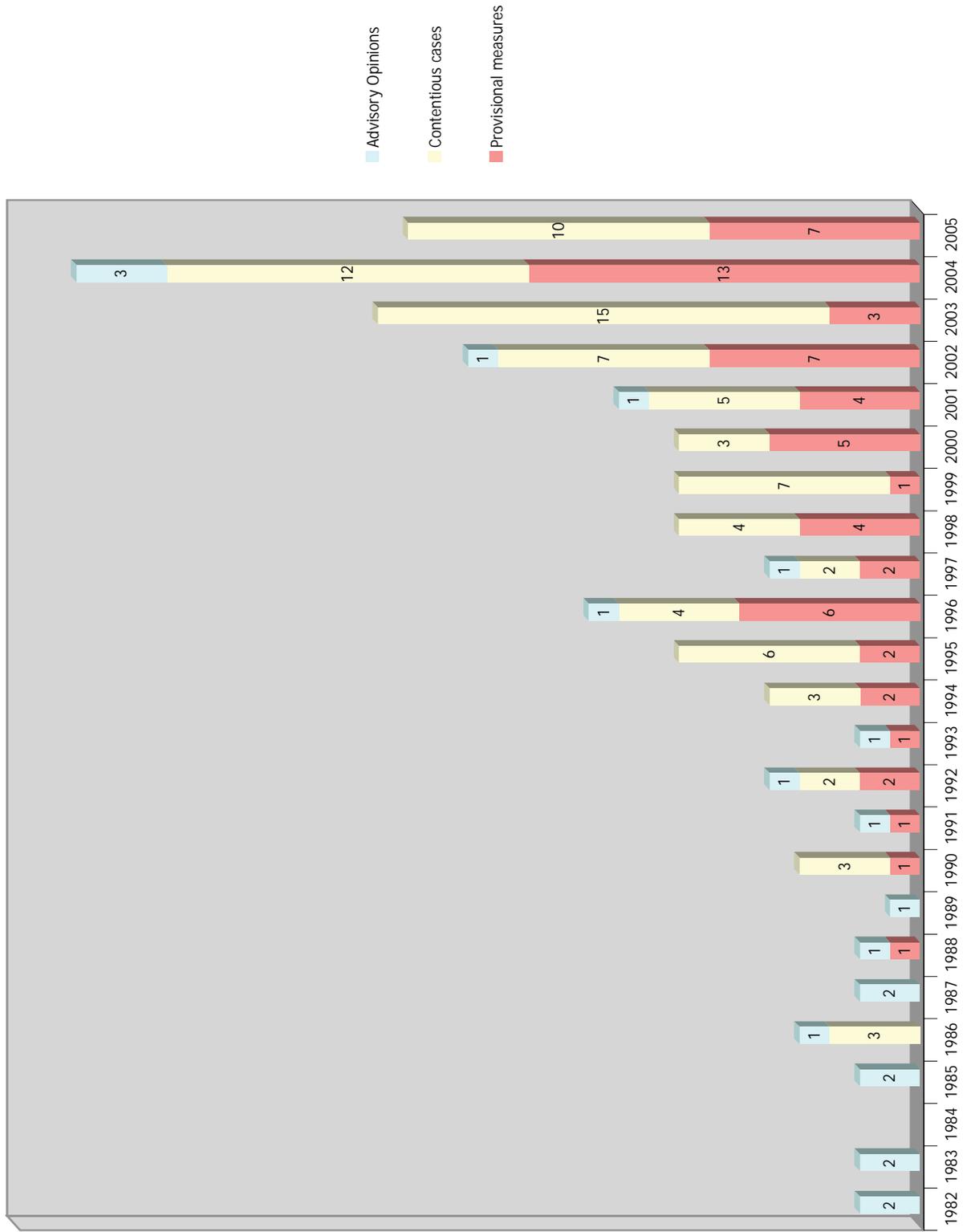
VI. STATISTICS OF THE COURT

The following 25 tables illustrate the activities of the Inter-American Court of Human Rights, and its current status:

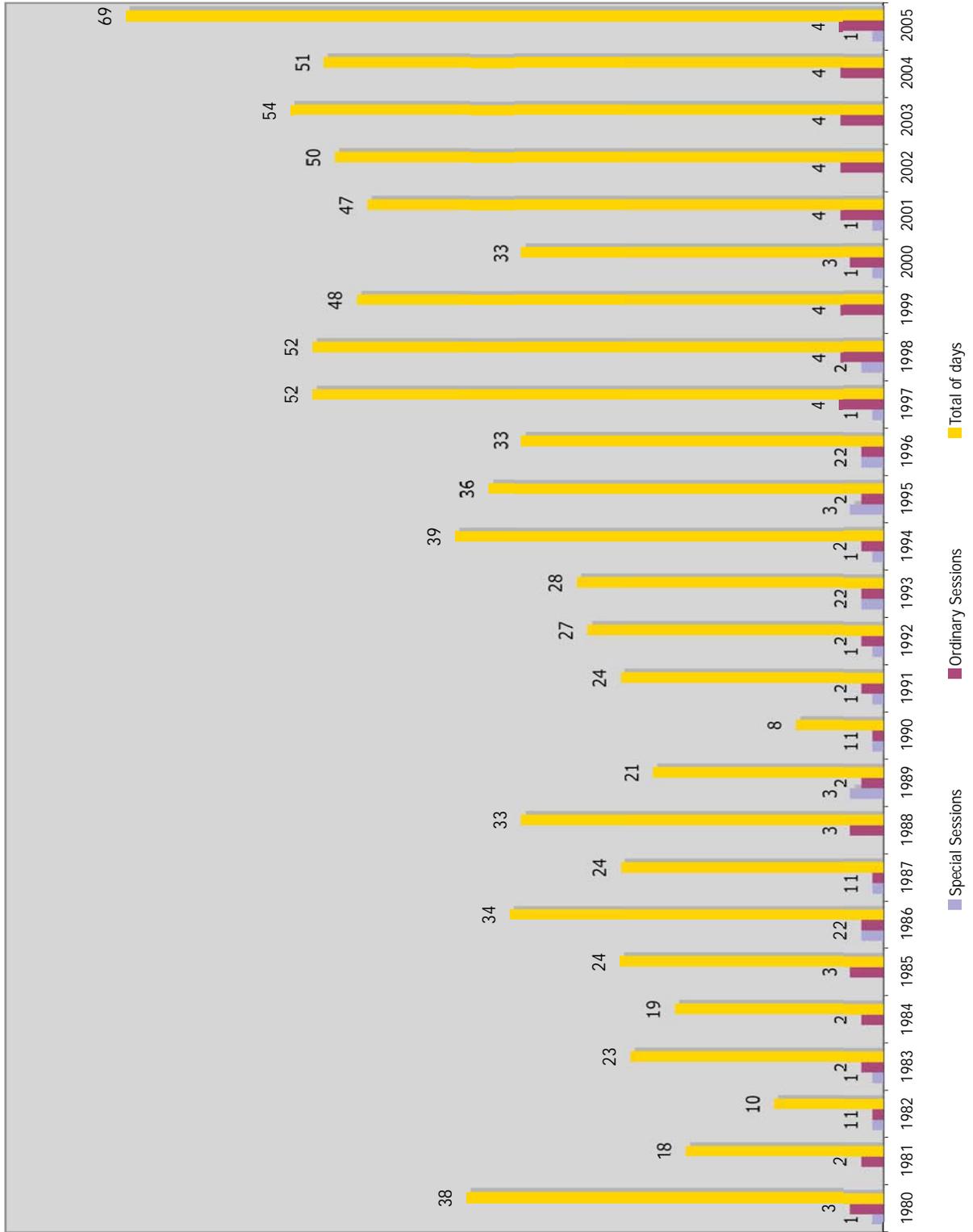
The Inter-American Court of Human Rights (1979 - 2005)



Submission of advisory opinions, contentious cases and provisional measures



Sessions

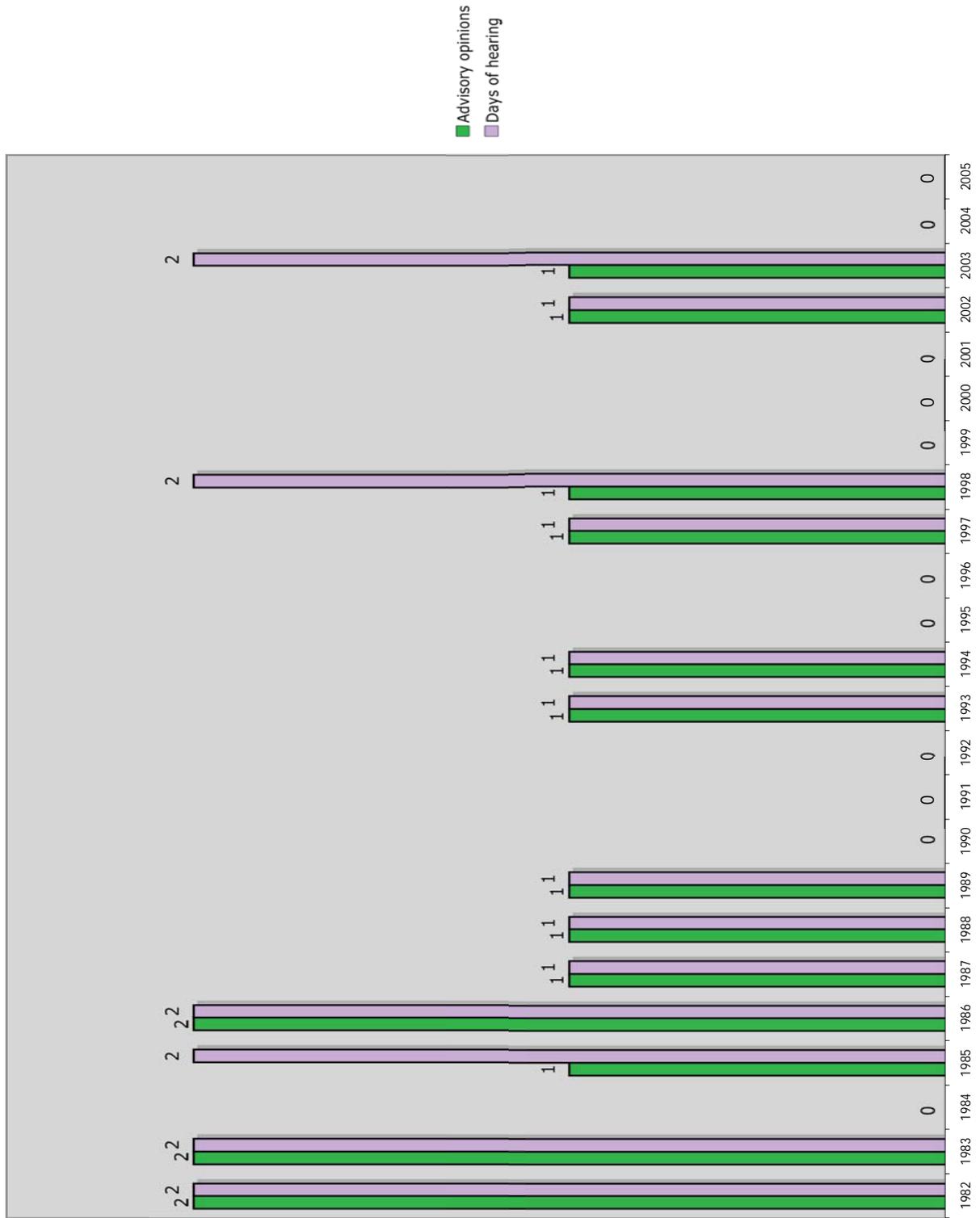


Subjects of the advisory opinions

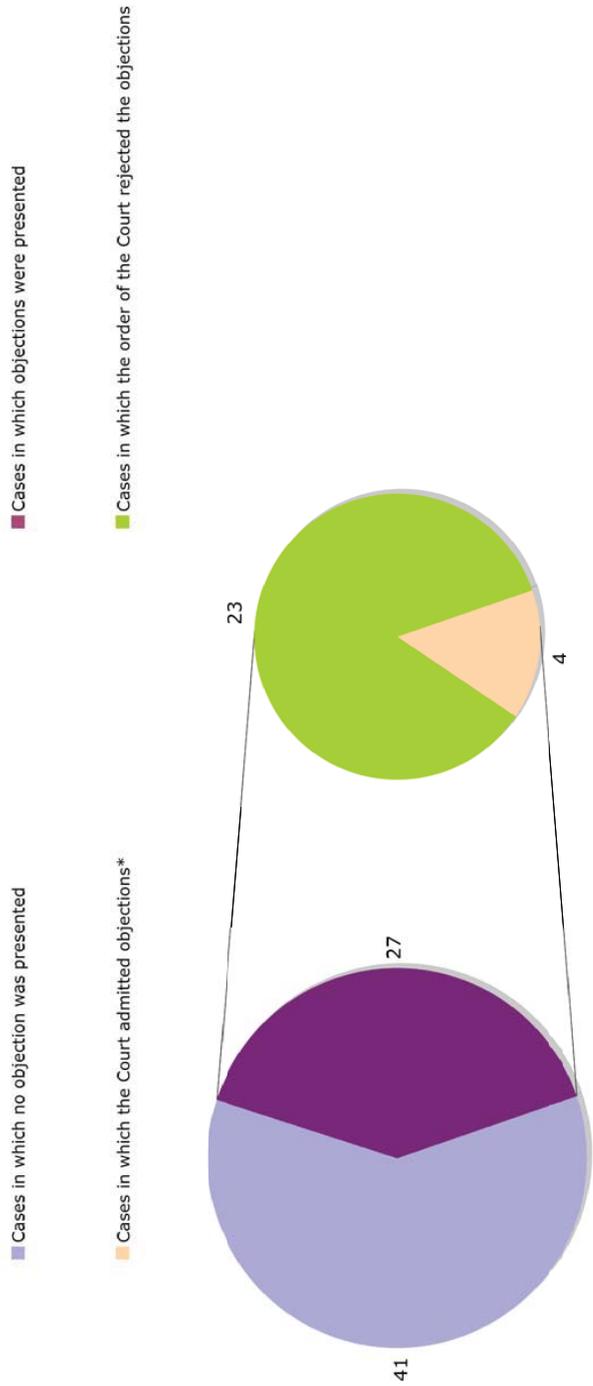


- 13 advisory opinions were requested by member States of the OAS and 6 by the Inter-American Commission on Human Rights.

Public hearings on advisory opinions



Preliminary objections

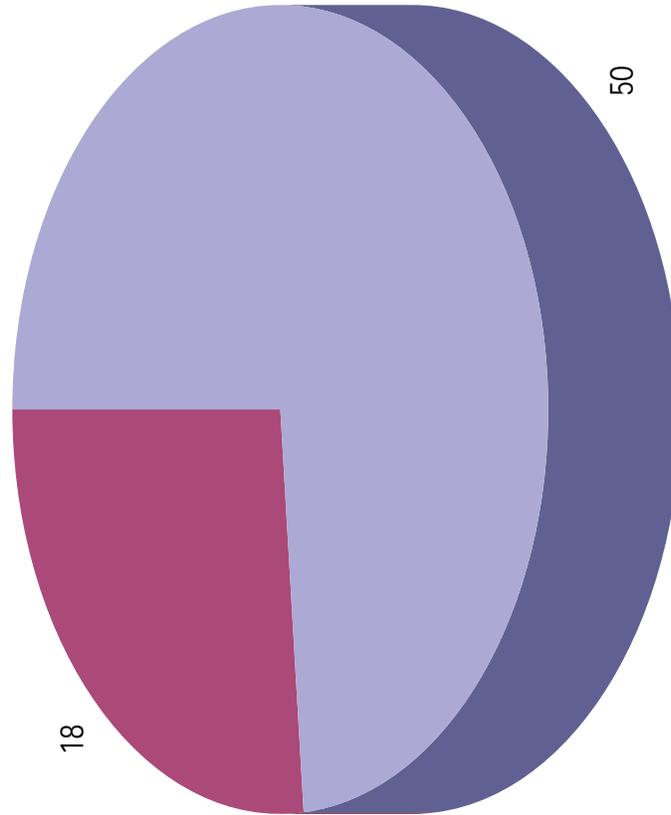


* In one occasion the Court ordered the filing of the case after admitting the preliminary objection presented by the State.

Acquiescence or acknowledgement of international responsibility

In the 27.9% of the contentious cases, the States have acquiesced or acknowledged completely or in part, their international responsibility. These cases are:

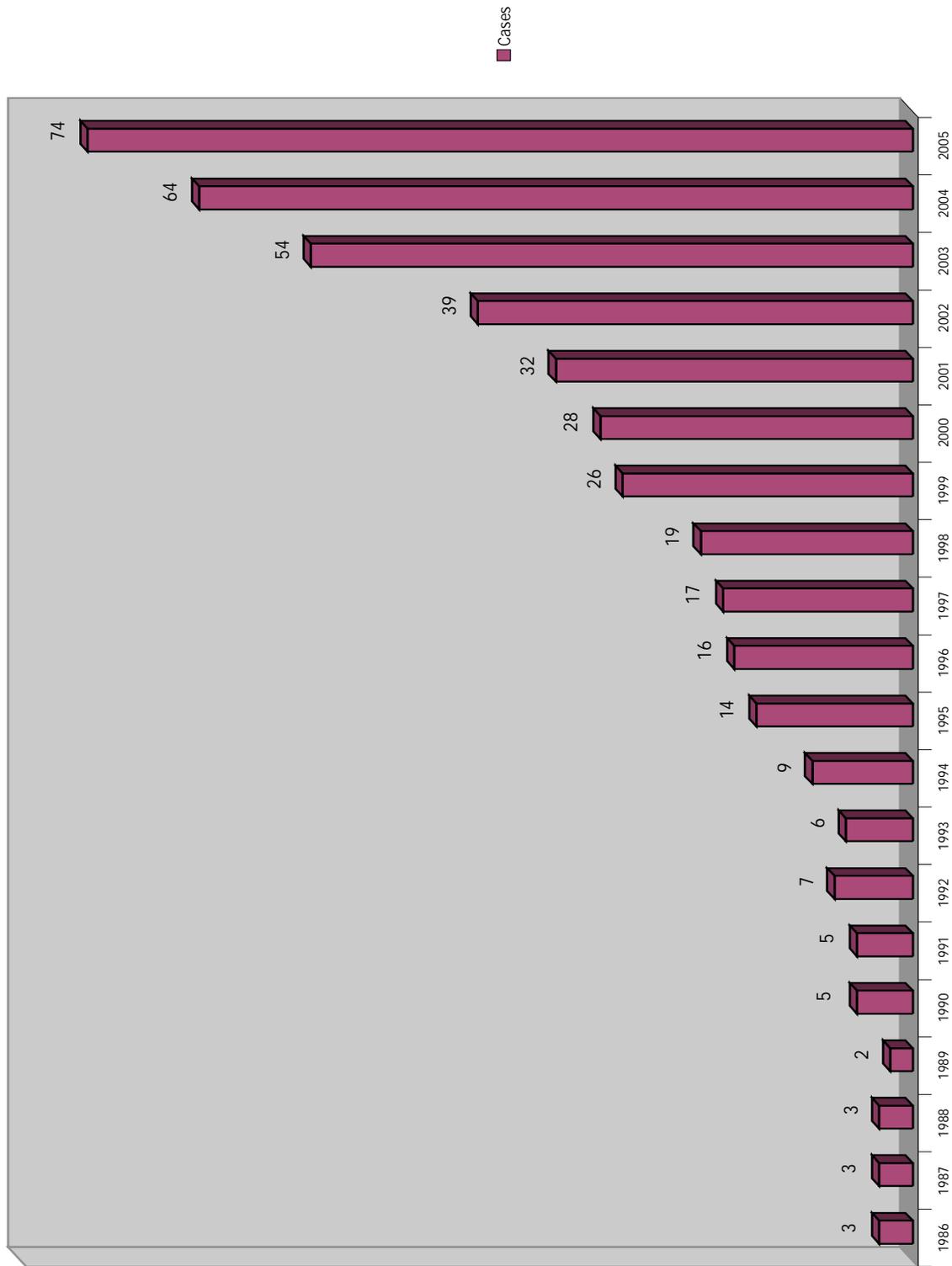
- Aboeboetoe et al. v. Suriname
- Barrios Altos v. Peru
- Benavides Cevallos v. Ecuador
- Blanco Romero v. Venezuela
- Bulacio v. Argentina
- Caracazo v. Venezuela
- Carpio Nicolle et al. v. Guatemala
- El Amparo v. Venezuela
- García Asto and Ramírez Rojas v. Peru
- Garrido and Baigorria v. Argentina
- Gómez Palomino v. Peru
- Gutiérrez Soler v. Colombia
- Hulica Tecse v. Peru
- Maritza Urrutia v. Guatemala
- Mapiripán Massacre v. Colombia
- Plan de Sánchez Massacre v. Guatemala
- Molina Theissen v. Guatemala
- Myrna Mack Chang v. Guatemala
- Trujillo Oroza v. Bolivia



■ Ordinary processing

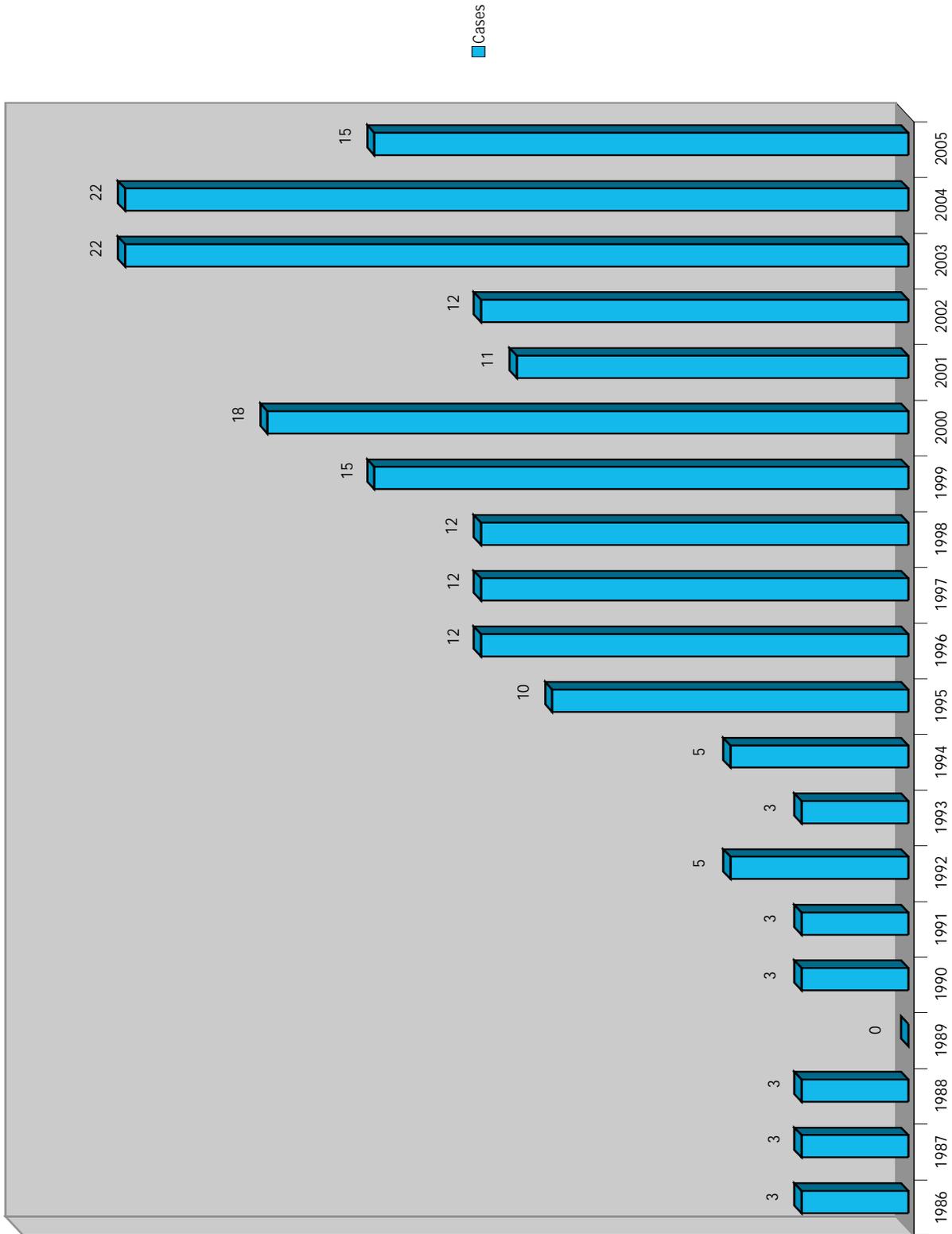
■ Acquiescence or acknowledgement of international responsibility by the State

Contentious cases before the Court and in stage of monitoring compliance with judgment

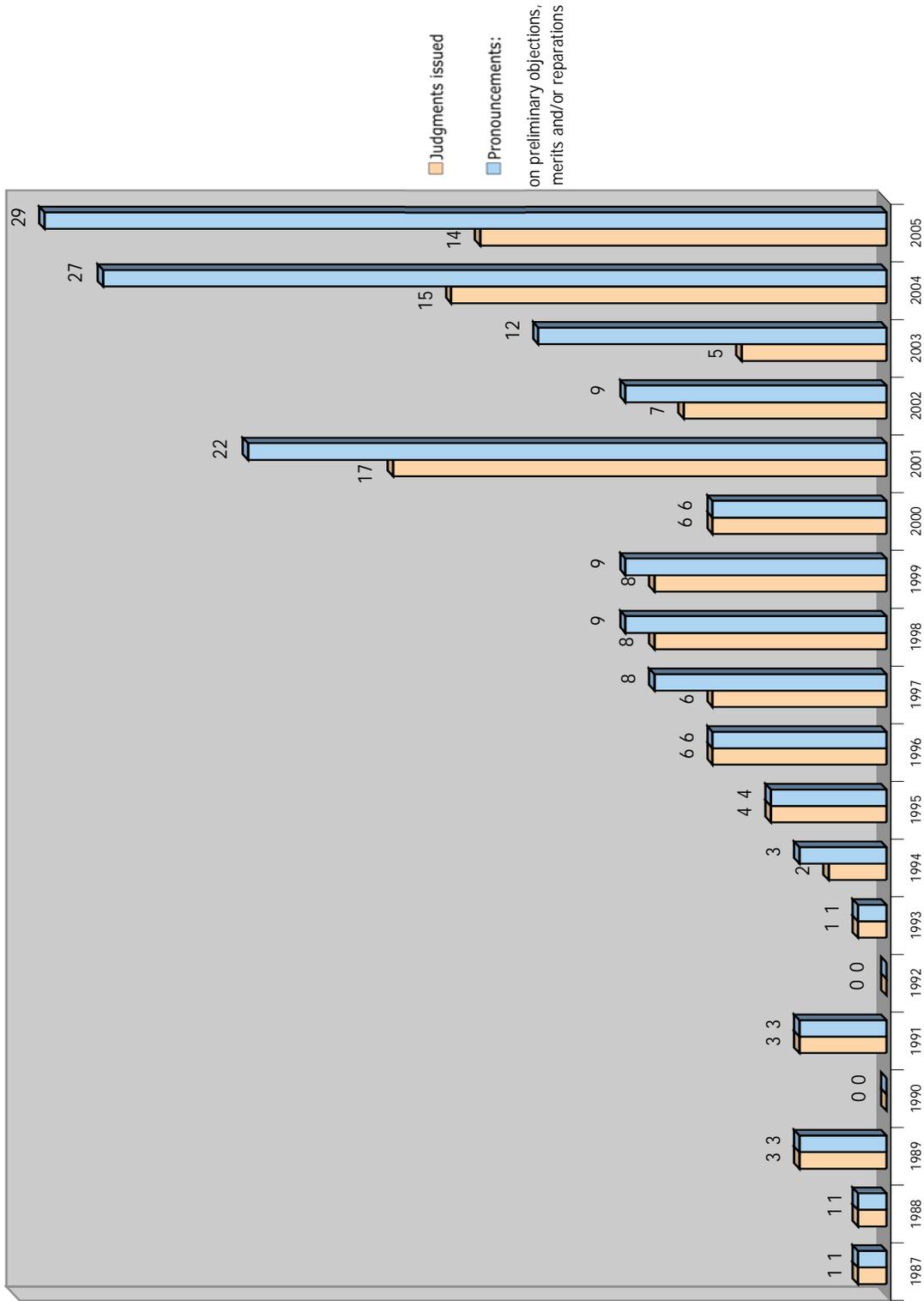


- This chart includes the cases in which no judgment has been issued and the cases in which the judgment has been issued and are in stage of monitoring compliance with judgment.

Contentious cases without judgment at the end of the mentioned years

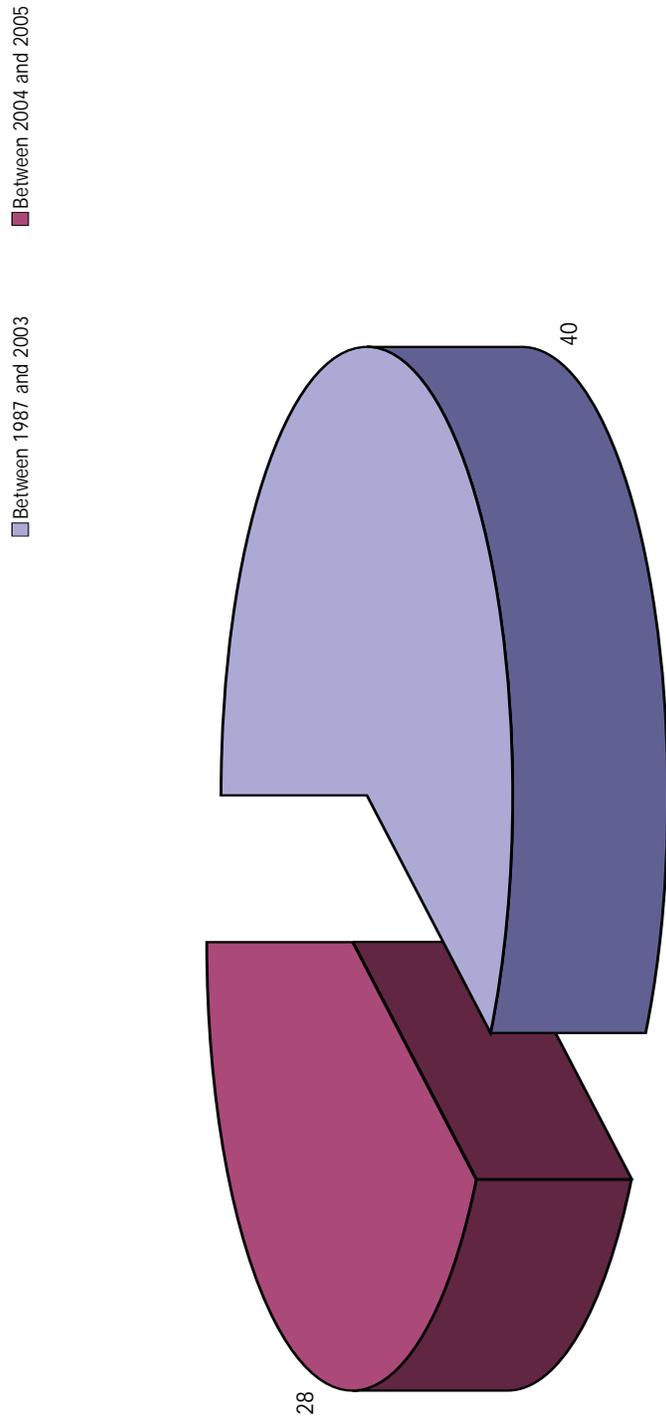


Judgments and pronouncements issued in contentious cases



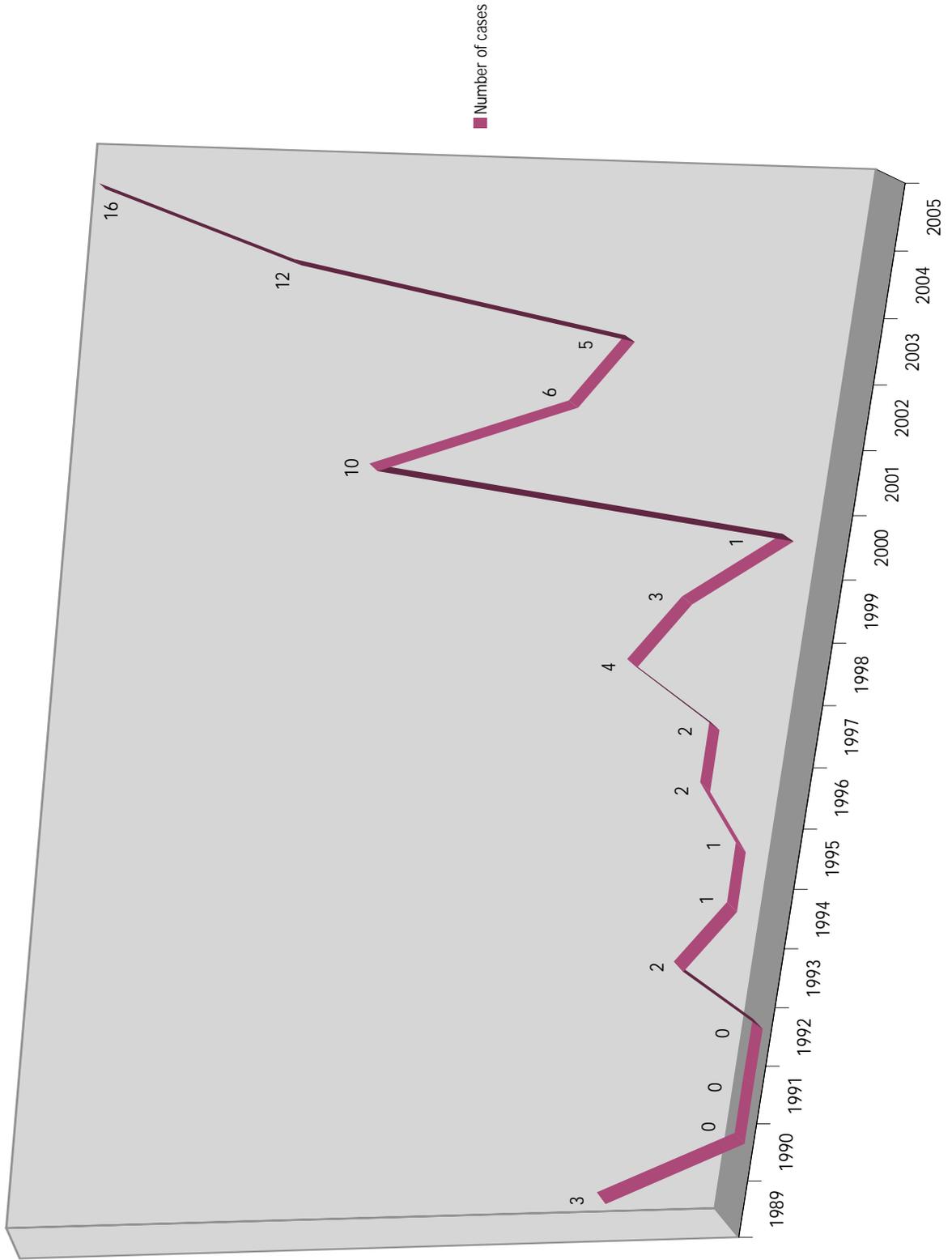
- This chart includes only the judgments and pronouncements issued by the Court on preliminary objections, merits and reparations.
 - It does not include separate orders on competence, interpretation and execution.

Solution of contentious cases

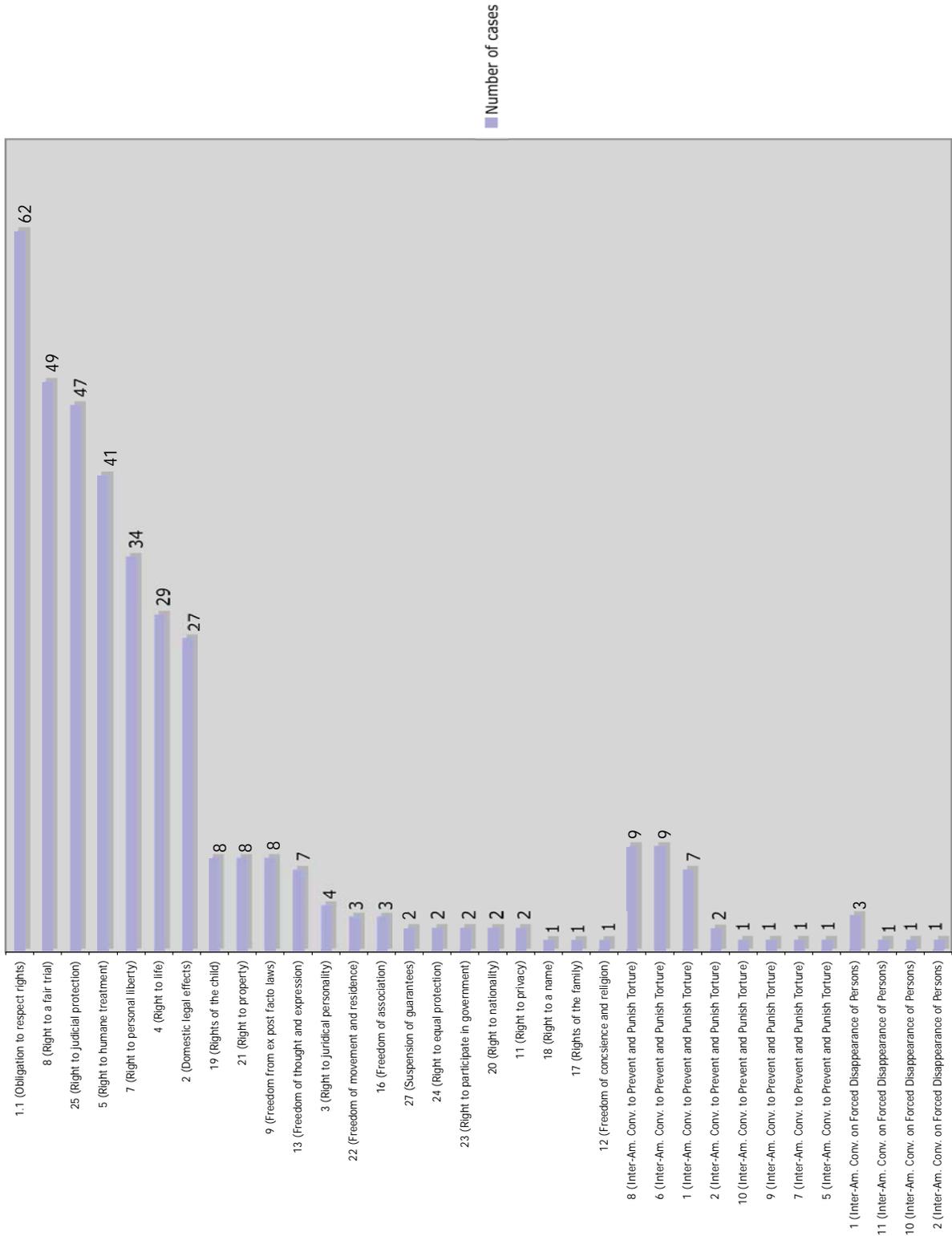


- Includes the cases solved on preliminary objections, merits and reparations, independently of the posterior stage of monitoring compliance with judgment.

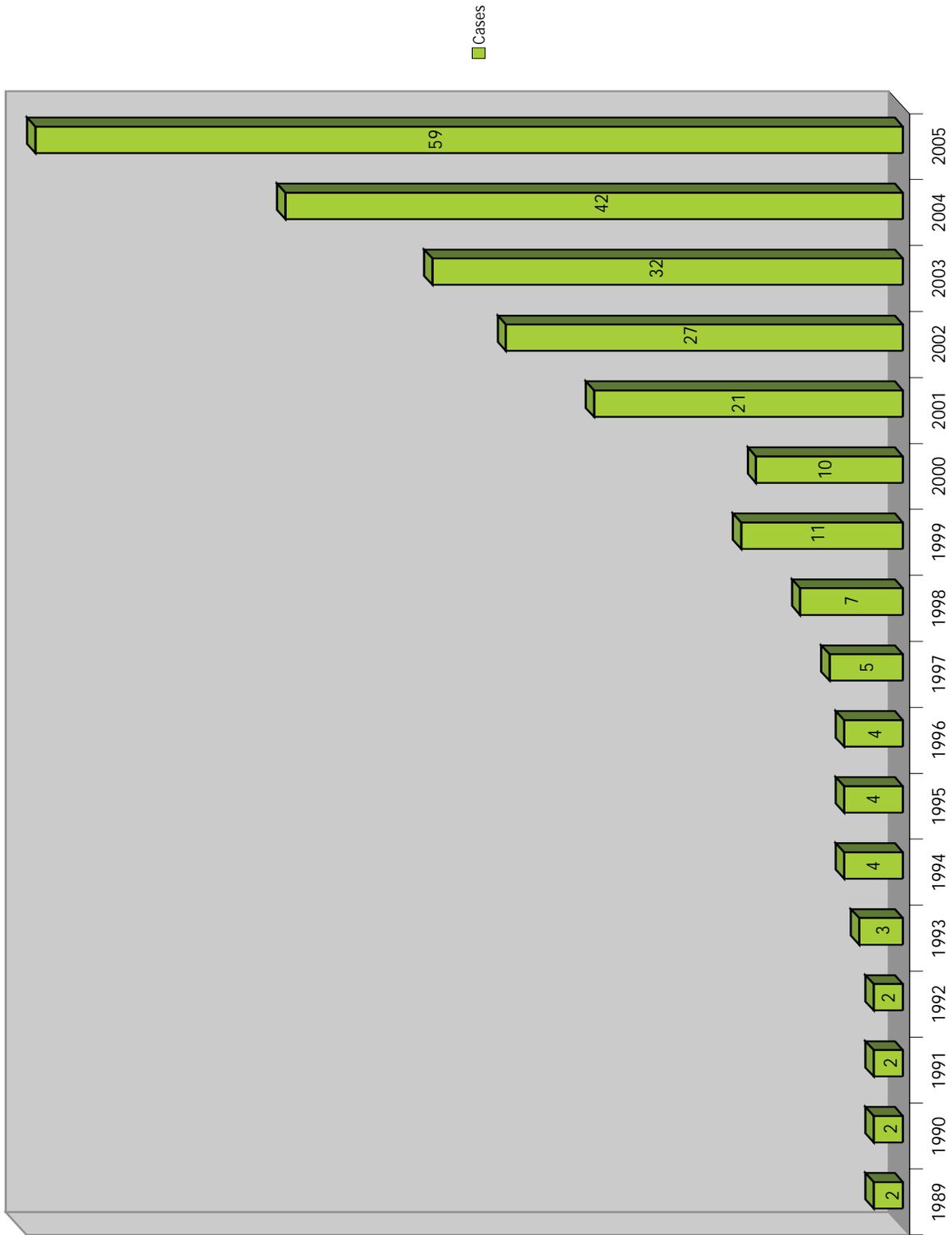
Increase in the solution of contentious cases per year



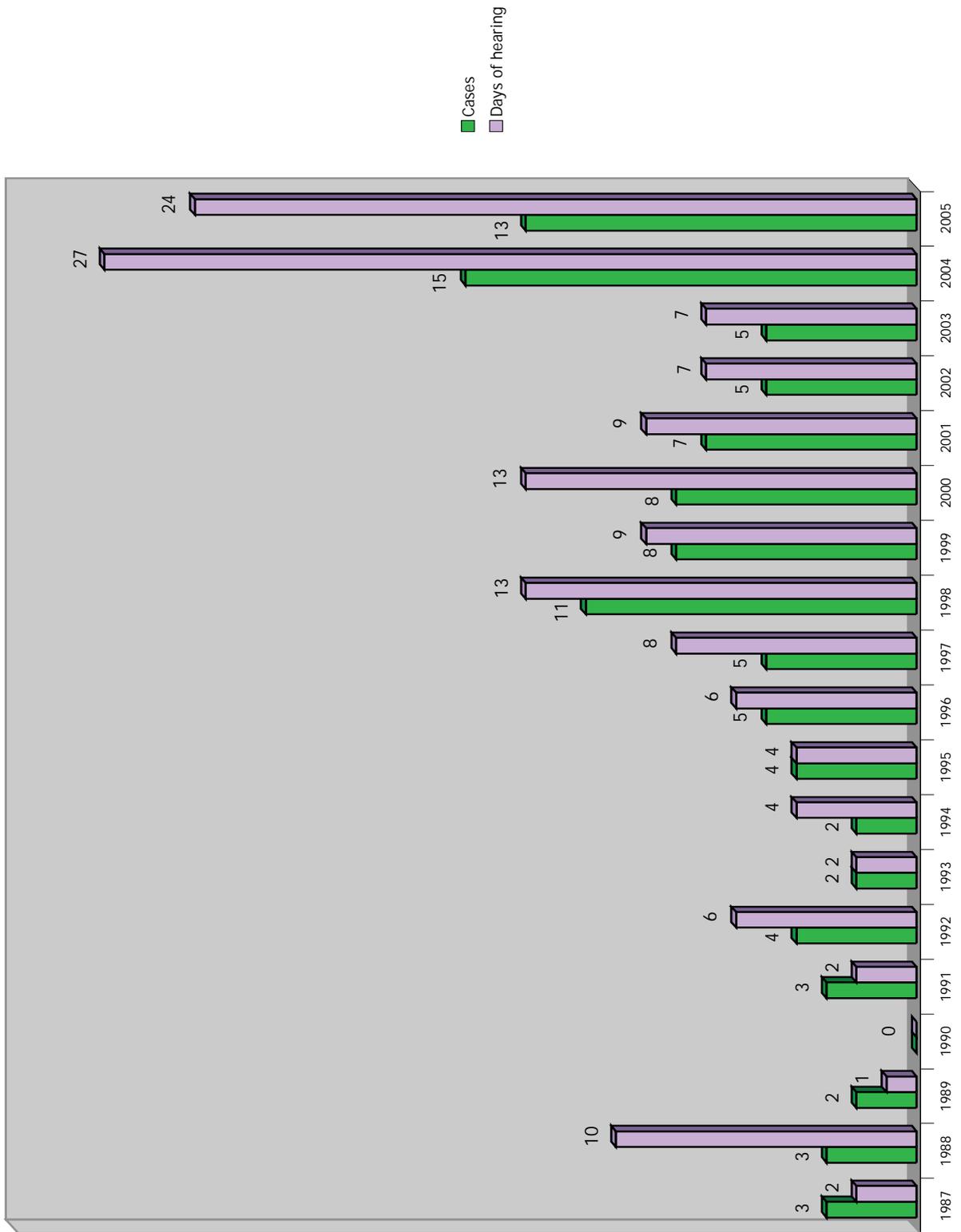
Articles of the A.C.H.R. and other treaties,
which violation was declared in judgment of the Court



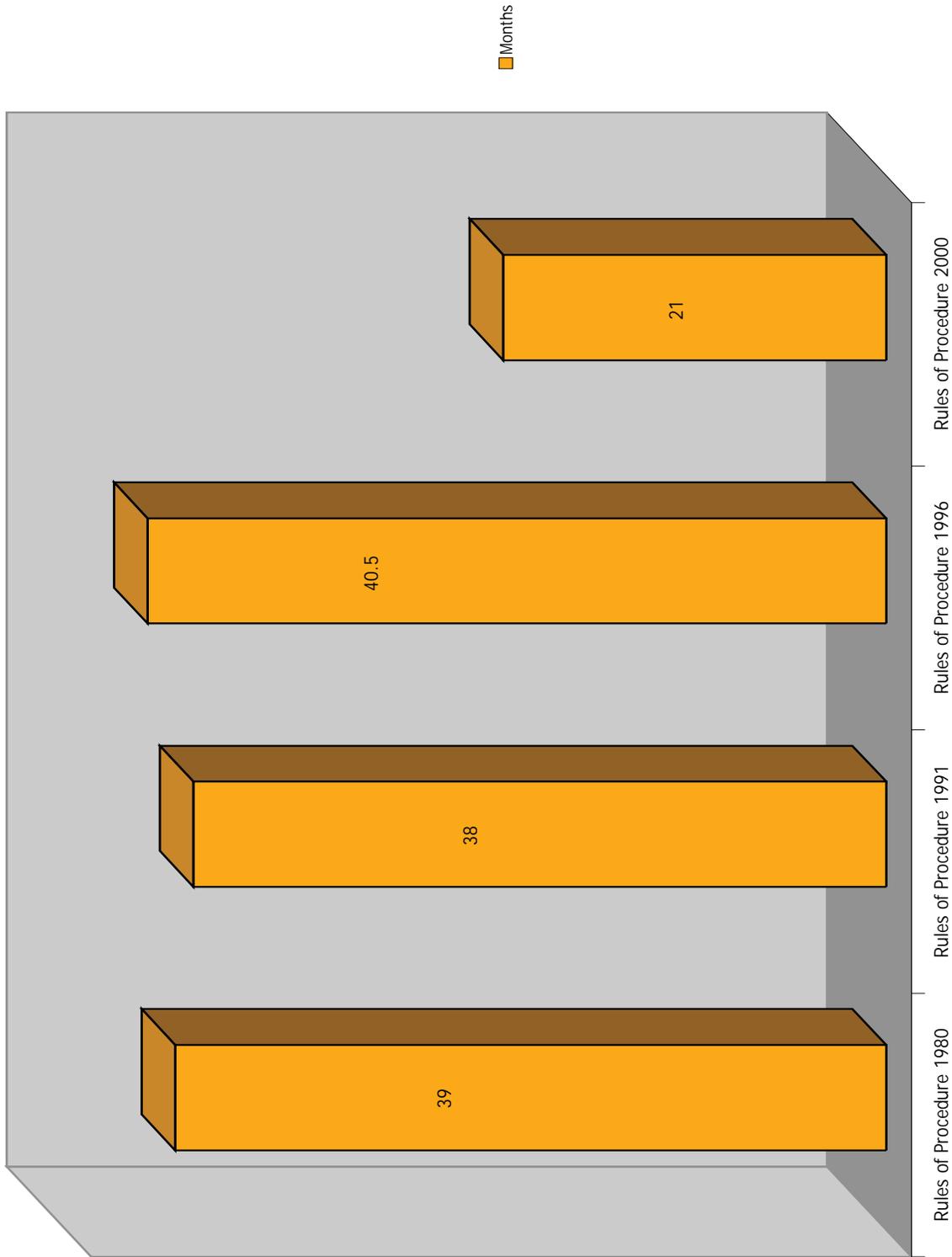
Contentious cases on stage of monitoring compliance with judgment



Public hearings on contentious cases

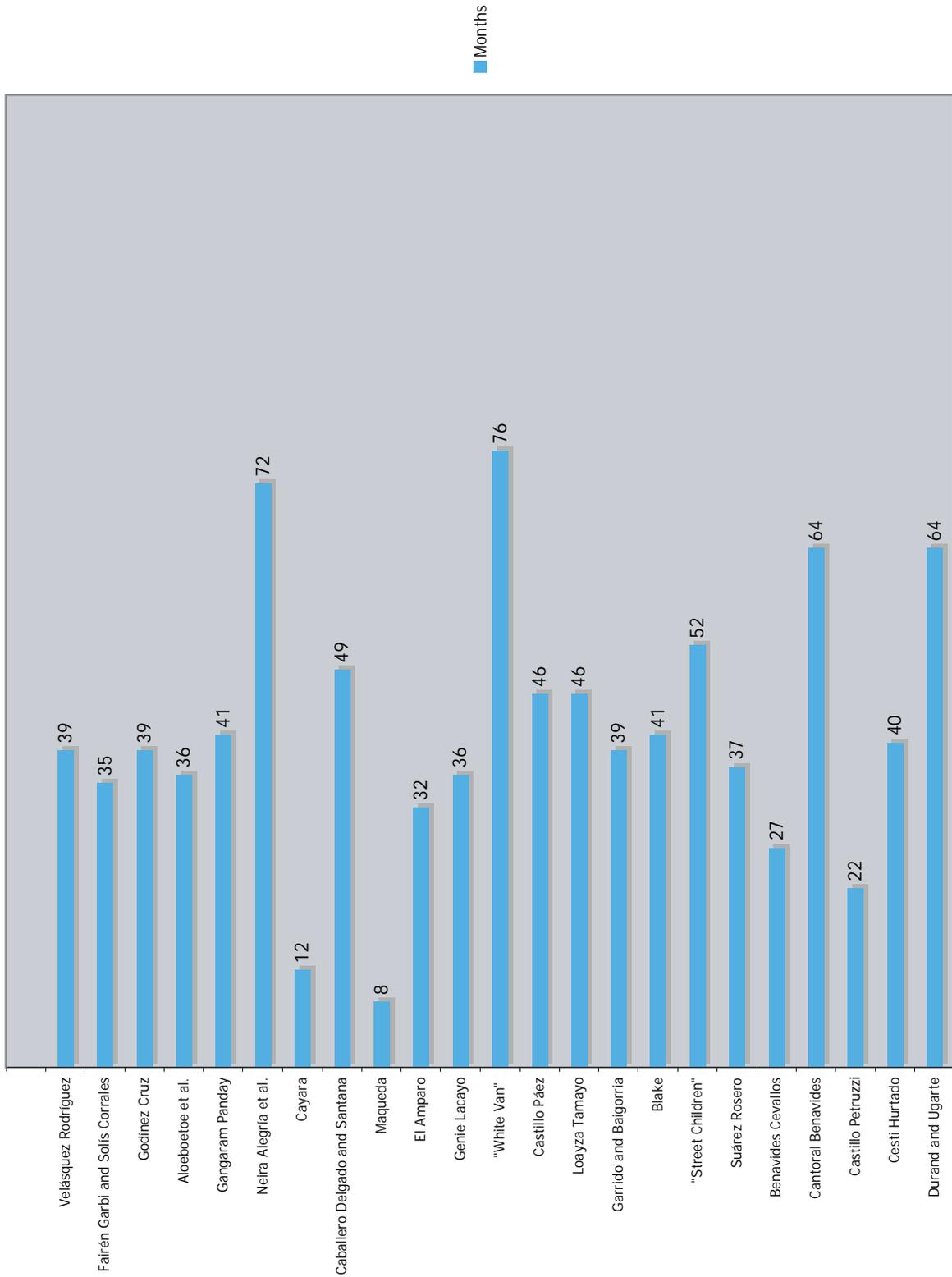


Average time of the proceeding on contentious cases

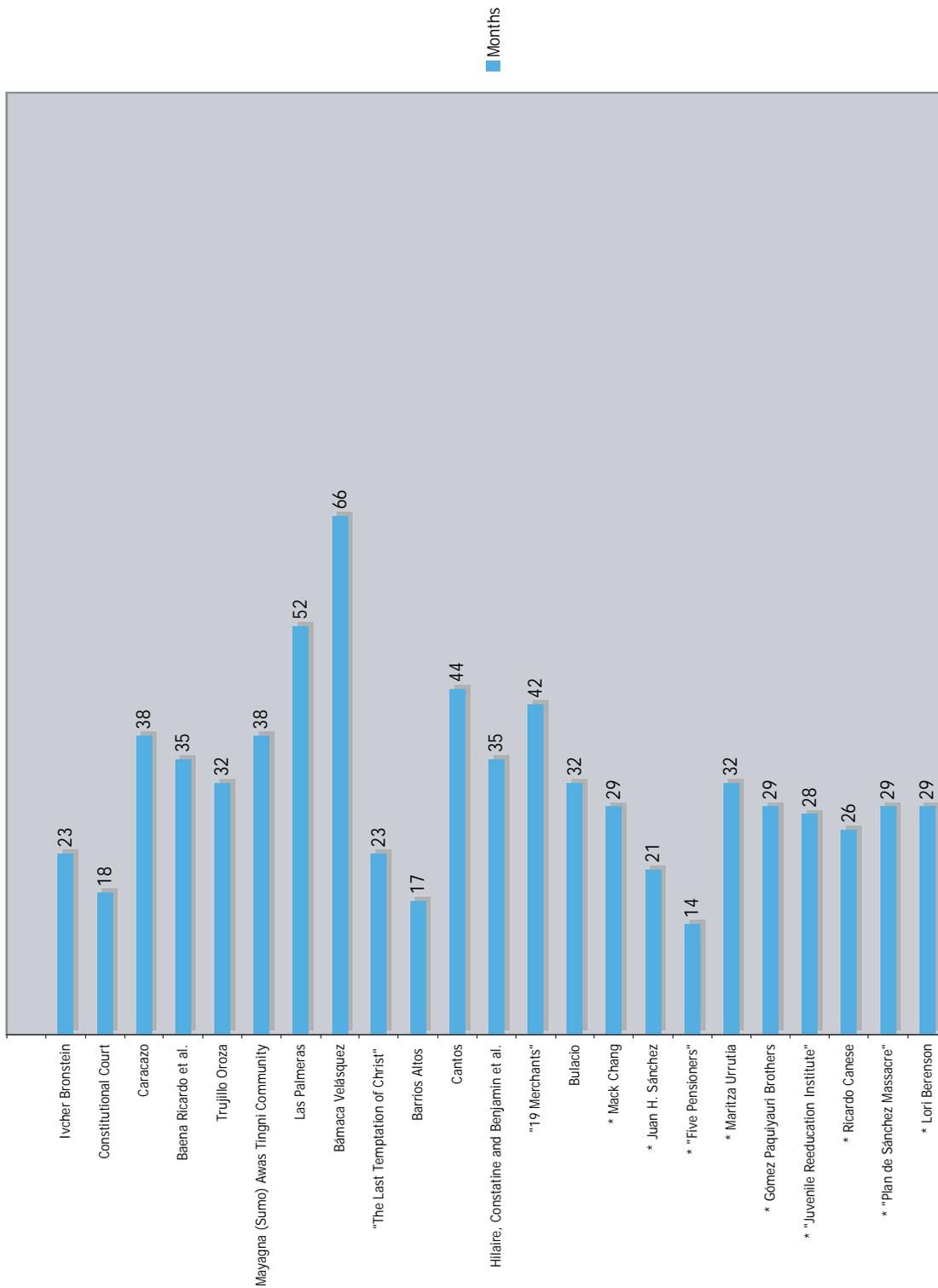


- The average time of the proceeding has been counted since the presentation of the application, until the date of the judgment on reparations (or the judgment that includes the pronouncement on reparations).

Time of the processing of contentious cases
Chart No. 1

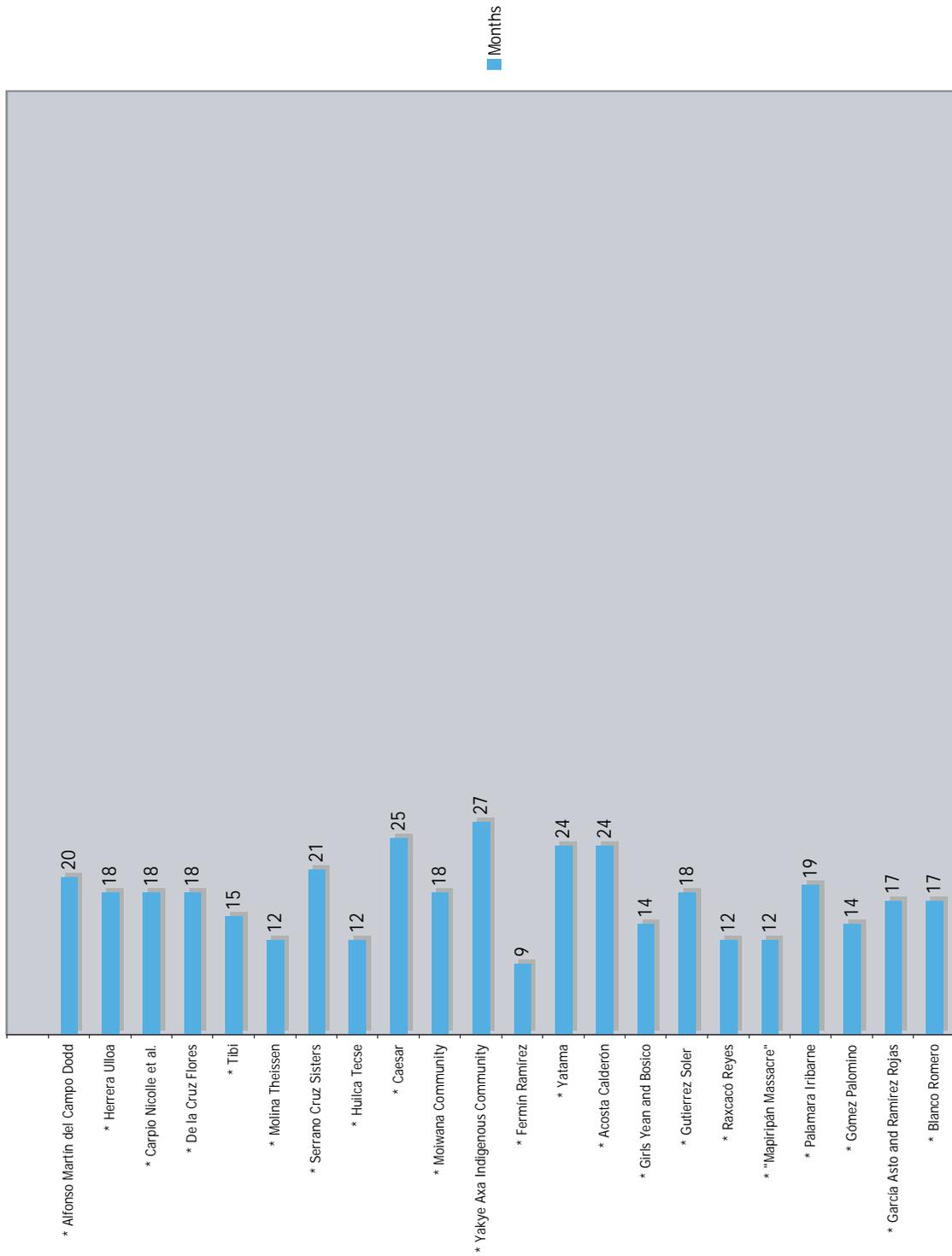


Time of the processing of contentious cases
Chart No. 2



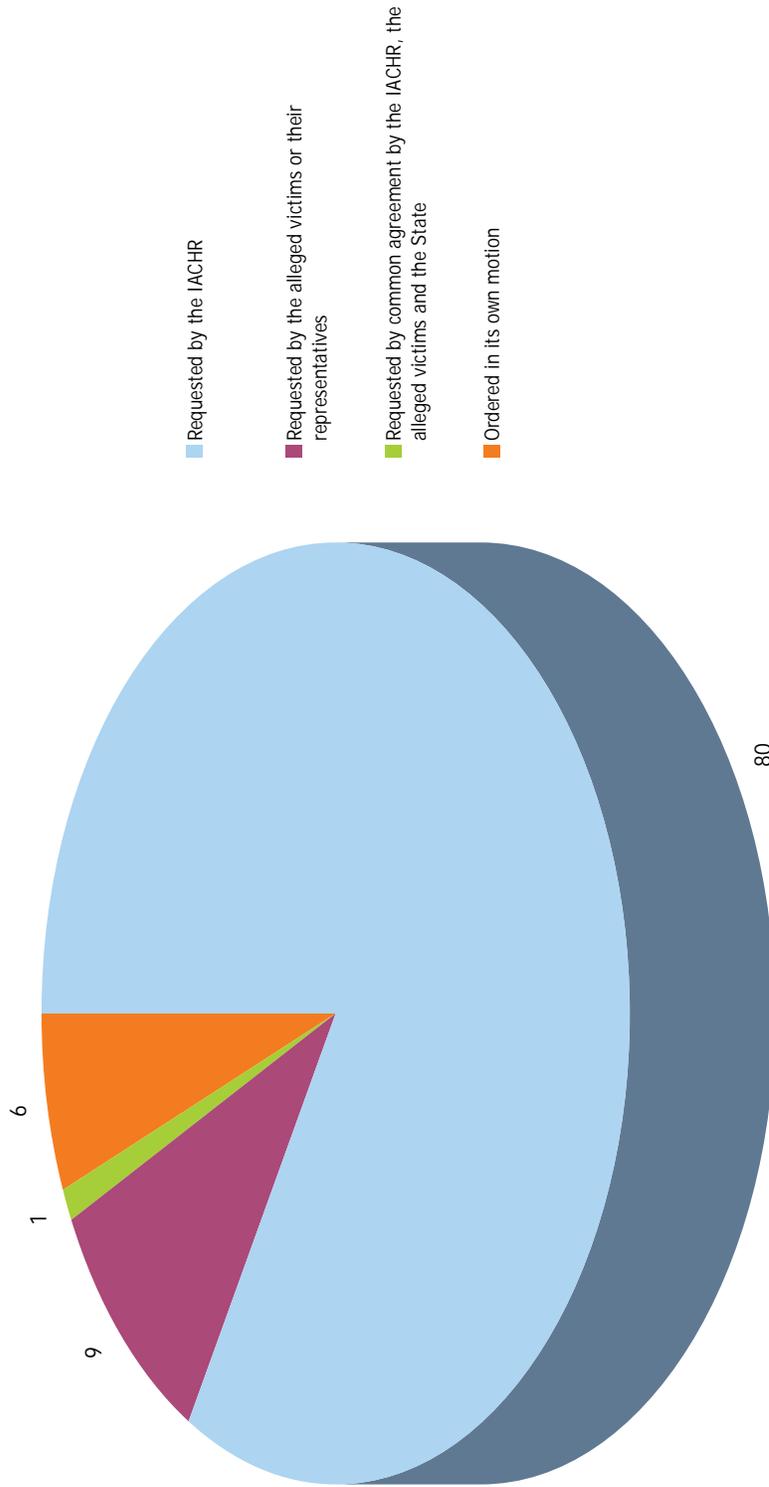
* Contentious cases processed with the Rules of Procedure of the year 2000.

Time of the processing of contentious cases
Chart No. 3



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

Request for provisional measures

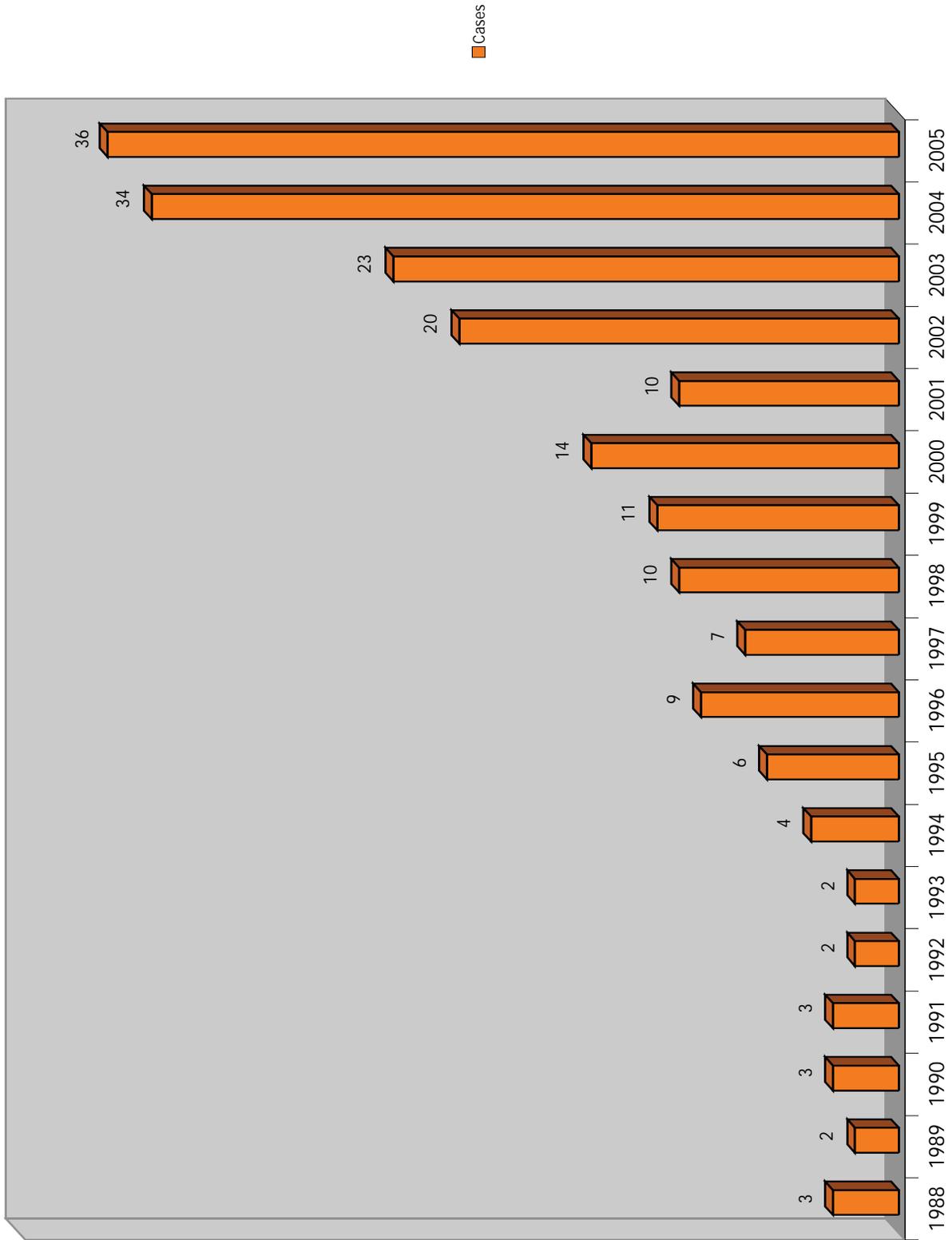


- The 25% of the provisional measures requested are related to contentious cases processed before the Court. The other 75% belong to proceedings before the Commission.

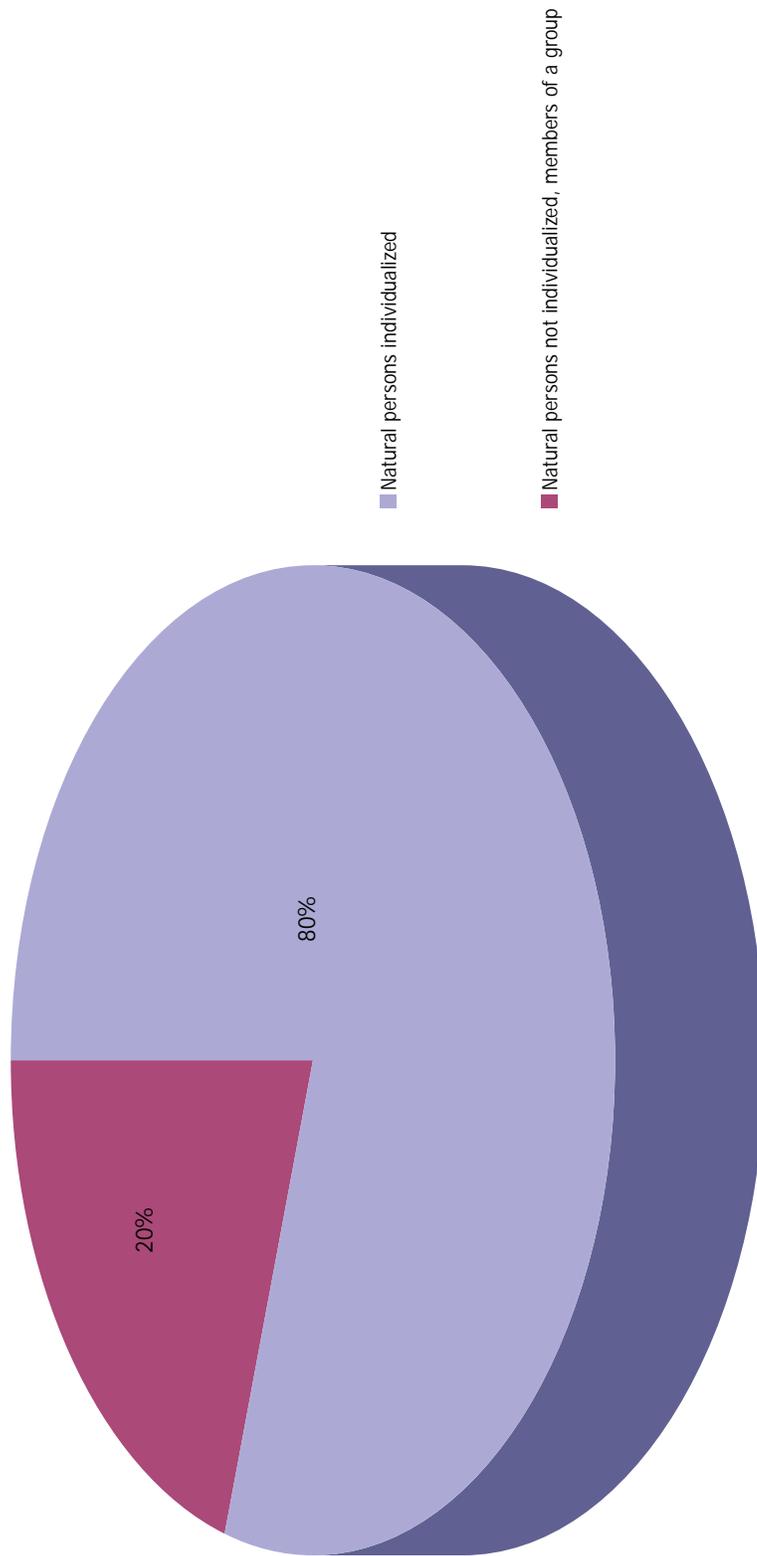
- This chart includes 96 requests for provisional measures.

In 3 cases the measures requested were rejected and 31 belong to requests of expansion of provisional measures already adopted by the Tribunal.

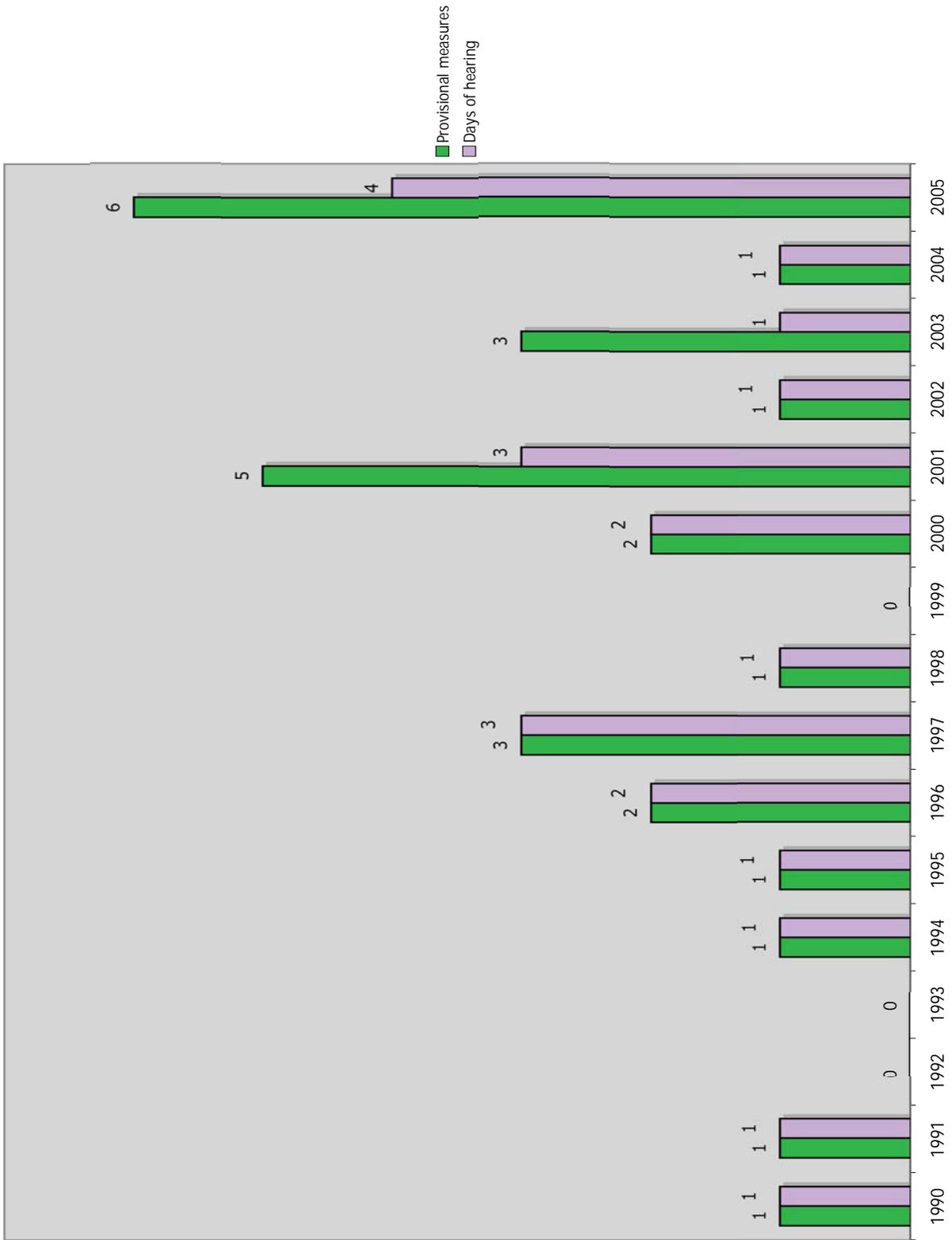
Provisional measures ordered



Addressees of the provisional measures



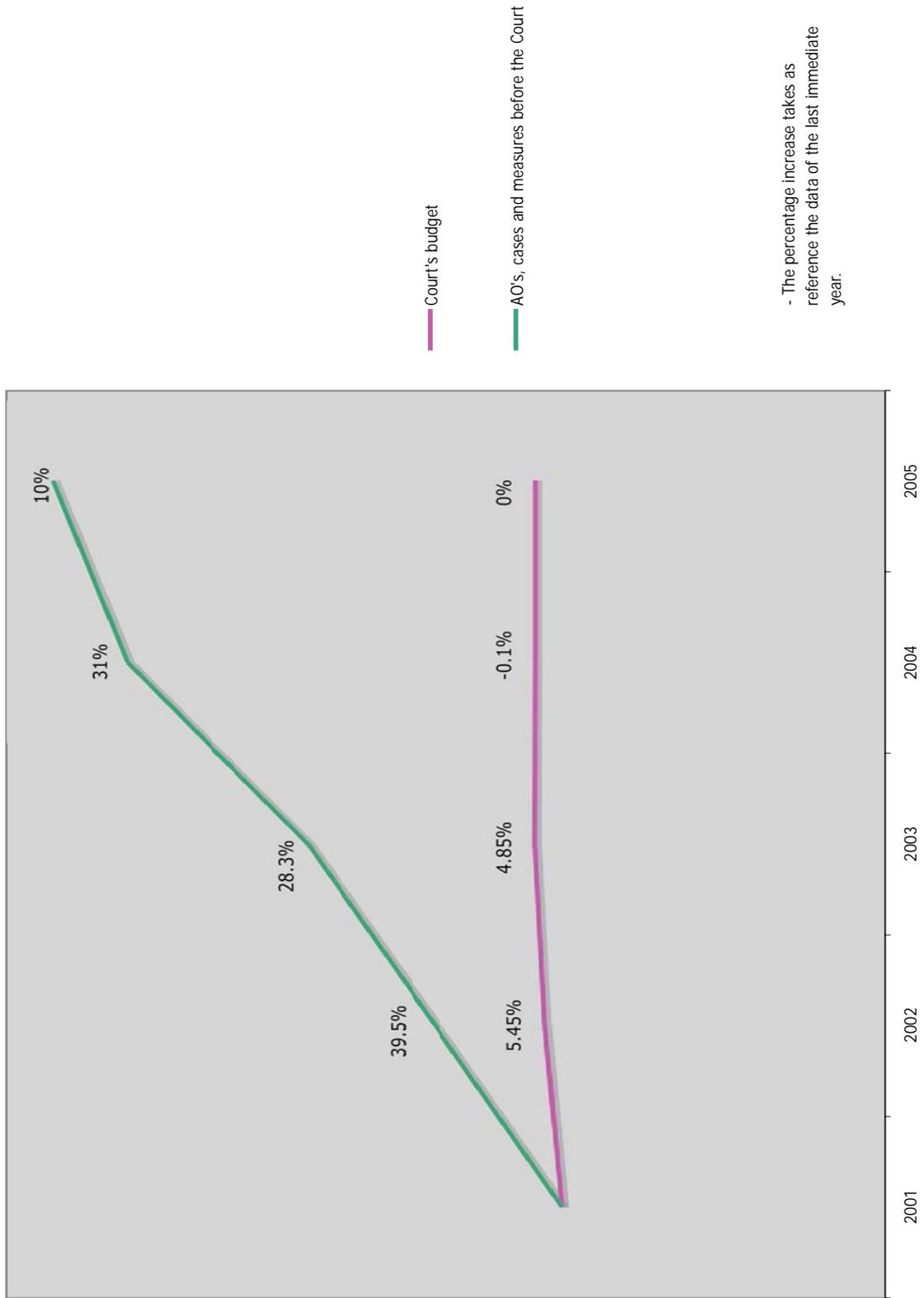
Public hearings on provisional measures



Regular annual fund of the OAS and annual budget of the Inter-American Commission and Court



Regular budget of the Court and advisory opinions, contentious cases and provisional measures before the Court



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.