

12 Cases v. Guatemala

I. COMPLIANCE AND FOLLOW-UP ADDENDUM¹

November 24, 2015: In an effort to follow up with the Court on its compliance with previously adopted measures, the State provided updates on twelve cases.² The Court noted the State was more accepting of its duty to report on compliance and the obligation to investigate.³ The Court found that, generally, the State's submitted materials, "repeated information that was already valued on the Judgment on the merits or in the resolutions of previous monitoring."⁴

In updating the Court on its compliance with the judgments, the State cites a series of "structural problems."⁵ The State informed the Court that the reason for the delay in investigation in the twelve matters was mainly due to certain obstacles.⁶ In this regard, the Commission warns the Court that the State's 2015 reports did not include enough information of any resulting progress but rather only included, "some errands isolated over the past years, in many cases, without indicating its content, relevance, or the results."⁷ The Commission further concluded that the State failed to issue reparations and costs.⁸ The Court recognized the Commission's observations, and found that the State lacked due diligence in carrying out the investigations of the twelve matters.⁹ The State also submitted its strategy for prosecution.¹⁰

Specifically, the Court found that, in each of the twelve cases, "violation of judicial guarantees and judicial protection, among other reasons, lacked due diligence in carrying out the investigation, the

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2. 12 Casos Guatemalenses, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., ¶ 28 (Nov. 24, 2015).

3. *Id.* ¶ 29.

4. *Id.* ¶ 40.

5. *Id.* ¶ 32.

6. *Id.* ¶ 32.

7. *Id.* ¶ 37.

8. 12 Casos Guatemalenses, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., ¶ 38 (Nov. 24, 2015).

9. *Id.* ¶ 39.

10. *Id.* ¶ 5.

obstructions to research and unjustified acts performing procedural delays.”¹¹ As such, the Court ordered the State to: (1) remove all factual and legal obstacles preventing them from complying;¹² (2) refrain from resorting to pardoning those who commit serious human right violations, which ultimately suppresses convictions in criminal prosecutions;¹³ (3) adopt and strengthen investigative authorities and capacity to research “to perform proper processing of any evidence, scientific and otherwise” in criminal processing;¹⁴ (4) stop resorting to arguments of confidentiality when refusing to supply investigative authorities with information in cases involving forced disappearances;¹⁵ and (5) provide the necessary means to protect victims from harassment and threats.¹⁶

The Court found the State failed to adopt necessary compliance measures.¹⁷ As such, the Court concluded that the State’s actions concerning the obligation to investigate the twelve cases, was pending compliance. In the interim, the Court required the State to present a joint report on compliance “with the obligation to investigate, prosecute and, if necessary, punish serious violations of human rights in the twelve cases.”¹⁸ The Court requested the State take both immediate and short-term measures to “combat structural obstacles” related to reform chances, legal issues, and public policy.¹⁹ Furthermore, the Court requested that the State report on exactly how these measures will impact their overall obligation to comply with the Court’s judgment by investigating the twelve cases.²⁰

The Court also requested various efforts from the State regarding individual cases. Specifically, the Court required the State to list the actions they have taken to overcome any legal and factual obstacles preventing them from obtaining information relevant to developments in the twelve cases.²¹ The Court further instructed the State to create measures allowing for judicial remedies not to interfere with justice.²²

11. *Id.* ¶ 39.

12. *Id.* ¶ 40(a).

13. *Id.* ¶ 40(b).

14. 12 Casos Guatemalenses, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., ¶ 40(c) (Nov. 24, 2015).

15. *Id.* ¶ 40(d).

16. *Id.* ¶ 40(h).

17. *Id.* ¶ 175.

18. *Id.*

19. *Id.* ¶ 175(a).

20. 12 Casos Guatemalenses, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., ¶ 175(a) (Nov. 24, 2015).

21. *Id.* ¶ 175(a)(i).

22. *Id.* ¶ 175(a)(ii).

Furthermore, the Court asked the State to continue to provide information for each individual case regarding the status of the investigations carried out and the existing lines of research.²³

Further, in each of the cases, the Court compelled the National Civil Police to perform its required actions to affectively assist in the investigation, prosecution, and punishment of violations of the victims' human rights.²⁴ The Court further asserted that such extended delay in the investigations, some even extending over 28 years, breached the State's obligation to investigate in a timely manner as ordered.²⁵ Therefore, the Court required the State to submitted updated details on the status of investigations and a timeline as to when the State intends to identify, prosecute, and punish those responsible.²⁶ With regards to the State's submitted prosecution strategy, the Court found the report did not show any advances, after over 28 and 14 years in research.²⁷ Since the Court found that the State partially completed its investigation but that it "show[s] no real plan of action,"²⁸ the Court also instructed the State to certify information regarding the steps being taken to investigate the relevant facts and remove obstacles blocking each investigation.²⁹

Overall, although the Court initially stated that it appreciated the State's progress with its duty to report to the Court on its compliance efforts, the Court concluded and observed that there still remained substantial progress to be made to meet the State's second duty, its obligation to investigate.³⁰

23. *Id.* ¶ 175(b).

24. *Id.* ¶ 50.

25. *Id.* ¶ 51.

26. 12 Casos Guatemalenses, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R., ¶ 56 (Nov. 24, 2015).

27. *Id.* ¶ 38.

28. *Id.* ¶¶ 73-75.

29. *Id.* ¶¶ 70-72.

30. *Id.* ¶¶ 57-65.