

Garífuna Triunfo de la Cruz Community and its Members v. Honduras

I. COMPLIANCE AND FOLLOW-UP ADDENDUM¹

September 1, 2016: The Court gave an update on the State's reimbursement of the victims' Assistance Fund.² It found that the State had only partially complied with its obligation to reimburse the victims' fund.³ Although the State reimbursed the fund by making a bank transfer, the transfer was \$15 short for each victim because the bank charged an international transfer fee.⁴ Further, the State made the payment late and failed to pay interest for the delay.⁵ Therefore, the Court ordered the State to pay the remaining outstanding reimbursement fee including all corresponding interest for its late payment.⁶

May 14, 2019: The Court gave an update on the State's compliance.⁷ It found that the State partially complied with its obligation to publish the Judgment.⁸ The State complied with the Court's orders to publish the Judgment in the Official Gazette and in a newspaper of wide circulation, and complied with the Court's order to disseminate the Judgment by radio broadcast with wide coverage.⁹ However, the State failed to comply with the obligation to publish the Judgment on an official government website for one year and it failed to provide the Court with a website link to view the publication on such website.¹⁰ The State also failed to comply with

1. Aram Kuredjian, Author; Adam Knighton, Editor; Elizabeth Russo, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. ¶ 2 (Sept. 1, 2016).

3. *Id.* "Considering That" ¶ 3.

4. *Id.*

5. *Id.*

6. *Id.*

7. Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Resolves" (May 14, 2019).

8. *Id.* "Resolves" ¶ 1.

9. *Id.*

10. *Id.* ¶ 35.

its obligation to translate and transmit the radio broadcast in Garífuna language.¹¹

The Court also found that the State failed to comply fully with its obligation to demarcate and delimit lands on which collective property was granted to the Triunfo de la Cruz Community.¹² The Court acknowledged the State's creation of the Interinstitutional Commission for Compliance with International Judgments (Comisión Interinstitucional para el Cumplimiento de las Sentencias Internacionales; "CICSI"), which served as an act in compliance with the order. However, the creation of the CICSI was not sufficient to satisfy fully the State's obligation to ensure that the Triunfo de la Cruz Community is given the title to the lands on which their communities are based.¹³ Thus, the Court found that the CICSI did not prove with sufficient precision that the State had made any progress in the demarcation and delimitation of the granted territories to the community.¹⁴ Further, the State failed to carry out expropriation and relocation procedures for any third parties that held full ownership titles on lots included in "Lot A1" to grant the Triunfo de la Cruz Community a title, properly delimited and demarcated, on collective ownership of that area.¹⁵ Therefore, the Court kept open the proceeding for monitoring compliance for this reparation and required that the State continue to provide detailed updates on the measures it adopts in compliance with the Judgment.¹⁶

The State failed to begin investigations into the deaths of the Lord Jesus Alvarez, Mr. Oscar Brega, Mr. Jorge Castillo Jiménez and Mr. Julio Alberto Morales to determine possible criminal responsibilities and authorize punishment where appropriate.¹⁷ The Court found that the State failed to initiate such investigations and although the Court did not expect a result from any investigation, the Court still required the State to do more than the bare minimum with respect to carrying out an investigation.¹⁸ The State had a duty of due diligence which required that the State perform all actions necessary aimed at determining the truth, including

11. *Id.* "Resolves" ¶ 1.

12. *Id.* "Resolves" ¶ 2.

13. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court, ¶ 13.*

14. *Id.* ¶ 12.

15. *Id.* ¶ 16.

16. *Id.* ¶ 25.

17. *Id.* "Resolves" ¶ 2.

18. *Id.* ¶ 31.

the prosecution, capture and punishment of anyone responsible.¹⁹ Therefore, the Court kept open the proceeding for monitoring compliance for this reparation.²⁰

The Court determined that the State failed to fully comply with its obligation to carry out a public act of acknowledgement of international responsibility.²¹ The Court required that the State consult with the Triunfo de la Cruz Community before carrying out such an act of acknowledgement and consider the community's traditions and customs.²² The Court acknowledged the State's willingness to communicate with the community to comply with this reparation. However, discussions were ongoing and the Court urged the parties to continue discussing how to achieve the public act of acknowledgment.²³ Therefore, the Court kept open the proceeding for monitoring compliance for this reparation.²⁴

The State also failed to comply with its duty to guarantee the Triunfo de la Cruz Community access and use and enjoyment of its territory that overlapped with a portion of the Punta Izopo National Park.²⁵ The Court considered that the State's adoption of the Special Strategies Project was a step towards compliance with the order. However, the initiative did not satisfy the State's obligation to comply fully with the measure.²⁶ The Court kept open the proceeding for monitoring compliance for this reparation.²⁷

The Court found that the State failed to adequately regulate the Land Registry system to prevent similar events, including allowing the overlapping of titles of land from happening in the future.²⁸ Thus, the State must continue to inform the Court of the steps that the State took in compliance and explain how the CИСCI will contribute to compliance with this order.²⁹

The State failed to create a community development fund for members of the Triunfo de la Cruz Community.³⁰ The Court ordered that the

19. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court*, ¶ 30.

20. *Id.* ¶ 32.

21. *Id.*

22. *Id.* ¶ 39.

23. *Id.* ¶ 41.

24. *Id.* ¶ 42.

25. *Garífuna Triunfo de la Cruz Community and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court, "Resolves"* ¶ 2.

26. *Id.* ¶ 46.

27. *Id.* ¶ 48.

28. *Id.* "Resolves" ¶ 2.

29. *Id.* ¶ 51.

30. *Id.* "Resolves" ¶ 2.

State must adopt administrative, legislative, financial and human resources measures to implement and appoint a competent authority in charge of the administration of the fund. The Court found that the State only partially complied with its obligation by allocating \$1,500,000 to its budget for the benefit of the Triunfo Community. However, this allocation did not satisfy full compliance.³¹ Therefore, the Court kept open the proceeding for monitoring compliance for this reparation.³²

The State also failed to reimburse the Board of Directors of the Black Fraternal Organization of Honduras (OFRANEH) for remaining costs and expenses.³³ The State claimed that payment was not possible within the deadline.³⁴ The Court found that the State started the process of consignment of the reimbursement of costs and expenses, but it has not yet submitted documentation indicating that the consignment is complete.³⁵ The Court kept open the proceeding for monitoring compliance for this reparation.³⁶

31. *Garifuna Triunfo de la Cruz Community and its Members v. Honduras, Monitoring Compliance with Judgment, Order of the Court*, ¶ 54.

32. *Id.* ¶ 57.

33. *Id.* “Resolves” ¶ 2.

34. *Id.* ¶ 60.

35. *Id.* ¶ 61.

36. *Id.* ¶ 62.