**FOLLOW-UP FACTSHEET OF REPORT No. 69/06**

**CASO 11.171**

**TOMÁS LARES CIPRIANO**

**(Guatemala)**

1. **Summary of Case**

|  |
| --- |
| **Victim (s):** Tomas Lares Cipriano  **Petitioner (s):** Global Rights  **State:** Guatemala  **Merits Report No.:** [69/06](http://www.cidh.oas.org/annualrep/2006eng/GUATEMALA.11171eng.htm), published on October 21, 2006  **Admissibility Report No.:** [13/02](http://cidh.org/annualrep/2002eng/Guatemala.11171.htm), published on February 27, 2002  **Themes:** Right to Life / Right to Humane Treatment / Right to a Fair Trial / Judicial Protection / Investigation and Due Diligence / Torture, Cruel, Inhuman and / or Degrading Treatment  **Facts:** On February 19, 1993, three thousand members belonging to several counties of the municipal seat of Joyabaj, in the department of Quiché, including Mr. Tomás Lares Cipriano, submitted their resignations from the voluntary self-defense committees before several civil authorities. On March 26, 1993, Tomás Lares Cipriano, Diego Lares, Marcos Ambrosio Sacarías, Manuel Ambrosio Sacarías, and Domingo Gutiérrez arrived at the Human Rights Office of the Archdiocese of Guatemala to report that threats had been made against them by members of the civil self-defense patrol units of the Joyabaj municipality, in response to their resignations from the self-defense committees. On April 30, at approximately 11:30 a.m., according to a communiqué by the Peasant Unity Committee (*Comité de Unidad Campesina* – CUC), Tomás Lares Cipriano “was ambushed and cowardly murdered: he received 6 gunshot wounds (2 bullets in the left hand, 1 bullet in the chest, 1 bullet between the eyes, 1 bullet in the head); his right ear was severed and his head smashed, after which he was decapitated”.  **Rights violated:** The Commission concludes that the State of Guatemala is responsible for violating the human right to life established under Article 4 of the American Convention, in conjunction with Article 1.1 of that instrument, on account of the extrajudicial execution of Tomás Lares Cipriano by State agents on April 3, 1993. The Commission further concludes that the State of Guatemala is responsible for the violation of the human rights to humane treatment, to a fair trial, and to judicial protection, provided for in Articles 5, 8 and 25 of the American Convention, in connection with Article 1.1 of same, as a result of the events that took place on April 3, 1993 and the ensuing consequence of impunity, with prejudice to Tomás Lares Cipriano, and his family members. Based on the above, the Commission concludes that the State has not complied with its duty to respect human rights and guarantees provided for in Article 1(1) of the American Convention. |

1. **Recommendations**

|  |  |
| --- | --- |
| **Recommendations** | **State of compliance in 2020** |
| 1. To carry out a complete, impartial and effective investigation of the events reported, to judge and punish all those responsible, either as abettors or perpetrators, for human rights violations with prejudice to Tomás Lares Cipriano and his family members. | Partial compliance |
| 2. To make reparation for the violation of the aforementioned rights as established in paragraph 128 of this report | Pending compliance |
| 3. To effectively prevent the resurgence and reorganization of the Civil Self-defense Patrols. | Total compliance |
| 4. To adopt the necessary measures to avoid similar events in the future, pursuant to the duty of prevention and guarantee of fundamental human rights, recognized by the American Convention | Substantial partial compliance |

1. **Procedural Activity**
2. On August 7, 2020, the IACHR requested the State to provide up to date information on compliance with the recommendations issued in Merits Report No. 69/06. On August 19 the State asked the Commission for an extension; then by note of September 22, 2020, it reported that it was still compiling the information requested. The State provided the information requested on October 14, 2020. Previously the State provided information in 2018.
3. On August 7, 2020, the IACHR requested the petitioners to provide up to date information on compliance with the recommendations contained in Merits Report No. 69/06. As of the closing date of this report, the Commission had not received said information from the petitioners. The Commission notes with concern that the petitioners have not submitted this information since the publication of the merits report.
4. **Analysis of the information presented**
5. The Commission considers that the information provided by the State in 2020 addresses measures adopted to comply with at least one of the recommendations issued in Report No. 69/06.
6. **Analysis of compliance with the recommendations**
7. **Regarding Recommendation 1**,in 2019, the State of Guatemala reiterated what it had already communicated to the IACHR in previous years. Specifically, it stated that with regard to the criminal process, it had been pursued through the trial court judgment of May 3, 1993. On November 5, 1996, the Quiche Sentencing Court sentenced Mr. Santos Chic Us to 28 years in prison. Also in that case, the arrest warrants issued for the other two individuals remains pending execution, and their criminal responsibility has yet to be established. Regarding this, the State noted that in August 2019, the Office of the District Prosecutor of Quiche of the Public Ministry had taken steps toward executing the warrants for the arrest of Diego Granillo Juárez, Santos Tzit, and Gaspar López. The State said it would request the cooperation of the Ministry of National Defense of Guatemala and the Voluntary Civil Defense Committee.
8. In 2019, the State reported that the investigation continues under the direction of the Quiché District Prosecutor’s Office, under the Attorney General’s Office, as case No. MP226-2005-1671. The State further stated that on October 14, 2015, the Quiché Prosecutor’s Office located and interviewed Juan Lares Ambrosio, the victim’s eldest son, who said he had no knowledge about the current status of the case. On that same date [the Prosecutor’s Office] interviewed Manuel Hernández Gutiérrez, president of the Community Council for Development of the county of Chorraxaj, of the Joyabaj municipality, Quiché. He was asked if he knew the whereabouts of the union members and responded that those individuals were unknown in that community.
9. In 2020, the State reiterated some information provided previously and indicated that it is carrying out investigative activities to apprehend the persons accused. It indicated that on August 15, 2019, information was requested from the Ministry of Defense of Guatemala as to whether the three persons accused were members of the Voluntary Civil Defense Committee in 1993, in response to which no information was reported. It also indicated that on August 20, 2019, the Attorney General’s Office indicated that thanks to the computer system of the Attorney General’s Office it was determined that there is an arrest warrant outstanding for Mr. Gaspar López. No information was found regarding the other two accused. In addition, the State reported that on October 4, 2020, it requested information from the National Registry of Persons of Guatemala regarding the three persons indicted. No information was found on two of them; whereas in respect of Mr. Gaspar López, it was reported that he died on November 7, 1998, thus the Attorney General’s Office is taking the appropriate measures to determine the extinction of his criminal liability. In addition, the State indicated that on October 4, 2019, information was requested from the Supreme Electoral Tribunal regarding the accused, in response to which it was indicated that information was found regarding only one of them. The State also said that on October 7, 2020, the Office of the District Prosecutor of Santa Cruz del Quiché requested an order to investigate from the Specialized Criminal Investigation Division of Santa Cruz del Quiché to profile the accused. In addition, it reported that the prosecutor’s office also requested information from some institutions, and that it is awaiting those responses.
10. The Commission values the information provided by the State regarding the investigative steps reported in 2020 aimed at determining the whereabouts of those responsible for the facts of the instant case. In that regard, the Commission requests the State to provide further information on the results of the proceedings to locate the whereabouts of the persons identified. The Commission also notes that, although Mr. Santos Chic Us was punished by the national justice system in 1996, more than twenty years have passed without the State enforcing the arrest warrant against other alleged perpetrators of the acts. In this regard it invites it to continue carrying out the relevant investigative actions to fully carry out this recommendation. In this regard, the IACHR recalls that the duty to investigate must be fulfilled seriously and not as a mere formality condemned in advance to be fruitless, and must have a meaning and be assumed by the States as a legal duty and not as a simple management of private interests, which depends on the procedural initiative of the victim or his relatives or the private contribution of evidence, without the public authority effectively seeking the truth". Therefore, the IACHR considers that Recommendation 1 has been partially fulfilled.
11. **Regarding Recommendation 2**,the State of Guatemala reiterated its request made in prior years that the case be definitively closed, owing to a lack of interest of the victim’s next of kin to continue with the case. The foregoing is based on IACHR press release 150/16, published on October 18, 2016. Further, the State reported that the Regional Coordinator of the *Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos* (COPREDH) [Presidential Coordinating Commission for Executive Policy on Human Rights Matters] visited the victim’s eldest son, Juan Lares Ambrosio, for the first time in 2007, and subsequently conducted three additional visits, in which Mr. Lares Ambrosio did not change his mind about receiving reparations. Specifically, he stated “that he and his family are not interested in receiving any assistance, either financial or from projects of any kind; that he was grateful for the visit and the interest in arriving at a friendly resolution. He further stated that one piece of advice his late father had given was that they not become involved in negative things and certainly never receive money or anything else in exchange for something that God alone will punish”.
12. In 2020, the State reiterated the information provided previously and asked the Commission to archive the case as a result of the petitioner’s inactivity and the manifest lack of interest on the part of the victim’s family.
13. Regarding the request by the State that this case be closed because of the alleged procedural inactivity of the petitioners, the IACHR underscores that Resolution 1/16 provides a set of measures to reduce procedural delay during the stages of initial study, admissibility, and merits. However in principle, the standards set forth in [the Resolution] do not extend to the recommendation-monitoring stage.The IACHR reiterates that the Inter-American jurisprudence has established that, by virtue of the good-faith principle enshrined in Article 31.1 of the Vienna Convention, when a State signs and ratifies an international treaty, especially if it addresses human rights, as is the case of the American Convention, it is obliged to exert its best efforts to apply the recommendations of a protective body such as the Inter-American Commission, which is in fact one of the principal bodies of the Organization of American States. Further, Article 33 of the American Convention provides that the Inter-American Commission is a competent body, together with the Court, “to hear matters related to compliance with commitments made by the States-Parties”, and therefore, by ratifying the Convention, the States-Parties commit themselves to comply with recommendations the Commission approves in its reports.[[1]](#footnote-1)
14. In this case, the Commission reiterates that State has not provided new information about efforts put forth to comply with Recommendation 2 of the Report on Merits No. 69/06, particularly as pertains to specific actions taken to approach the victims’ next of kin and the dates of the most recent visits. Therefore, given the lack of contact with representatives of the victims, the IACHR again calls on the State to create a special reparations fund for the victim’s next of kin, should they accept reparations in the future, pursuant to the terms set forth by the IACHR in the Report on Merits No. 69/06. Based on this, the IACHR finds that Recommendation 2 is pending compliance.
15. **Regarding Recommendation 4**, in 2019, the State reiterated information provided in previous years with respect to the prevention measures, that security and justice measures had been implemented, including the following administrative acts: Decree 21-2006 Law against Organized Crime; the Law for Strengthening Criminal Prosecution by means of Decree 17-2009; Decree 40-2010, which makes it possible to create the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatments or Sentences; Government Agreement 197-2012, which establishes the Specific Cabinet for Security, Justice, and Peace; Decree 3-2012, which adopts the Rome Statute of the International Criminal Court; Decree 5-2012, which adopts the Reforms to Decree 28-2010 of the Alba-Keneth Law on the Alert System; Decree 15-2012, the Law on the Directorate General for Criminal Investigation; Decree 31-2012, the Law against Corruption; and Decree 9-2016, the Law on the Immediate Search for Missing Women[[2]](#footnote-2). In 2020, the State did not submit information with respect to compliance with this recommendation, after reporting that due to the COVID-19 pandemic a State of Public Calamity was declared, provoking a slowdown in the activities of the public administration.
16. The IACHR takes note of the information provided and acknowledges the actions taken by the State in matters of security and justice. However, the IACHR considers that the determination of total compliance with this recommendation is tied to the measures the State adopted to prevent the resurgence and reorganization of the Civil Self-Defense Patrols, to ensure the non-recurrence of similar deeds (Recommendation No. 3). Therefore, the Commission invites Guatemalan authorities to expand on the information about actions taken to address that recommendation. Based on the foregoing, the IACHR concludes that the Recommendation 4 is substantially partially complied.
17. **Level of compliance of the case**
18. Based on the foregoing, the IACHR concludes that the level of compliance of the case is partial. Consequently, the Commission will continue to monitor Recommendations 1, 2, 3 and 4. In addition, the IACHR urges the State of Guatemala to make the necessary efforts to contact the representatives of the victims in this case and to advance the necessary steps to comply with the recommendations established in its Merits Report No. 69/06.
19. **Individual and structural results of the case**
20. This section highlights the individual and structural results of the case which have been informed by the parties.
21. **Individual results of the case**

*Truth and justice measures*

* On November 5, 1996, the Quiché Sentencing Tribunal sentenced Mr. Santos Chich Us on the facts of the case.

1. **Structural results of the case**

*Legislation/Regulations*

* Decree 21-2006 Law against Organized Crime.
* The Law for Strengthening Criminal Prosecution by means of Decree 17-2009.
* Decree 40-2010, which makes it possible to create the National Mechanism for the Prevention of Torture and Other Cruel, Inhuman, or Degrading Treatments or Sentences.
* Government Agreement 197-2012, which establishes the Specific Cabinet for Security, Justice, and Peace.
* Decree 3-2012, which adopts the Rome Statute of the International Criminal Court.
* Decree 5-2012, which adopts the Reforms to Decree 28-2010 of the Alba-Keneth Law on the Alert System.
* Decree 15-2012, the Law on the Directorate General for Criminal Investigation.
* Decree 31-2012, the Law against Corruption; and Decree 9-2016, the Law on the Immediate Search for Missing Women.

1. IACtHR, [Case of Loayza Tamayo Vs. Peru](http://www.corteidh.or.cr/docs/casos/articulos/seriec_42_ing.pdf), Judgement of November 27, 1998. Series C No. 42, paras. 79-81. [↑](#footnote-ref-1)
2. IACHR, 2017 Annual Report, [Chapter II, Section F: Status of compliance with the recommendations of the IACHR and friendly settlements of the IACHR](http://www.oas.org/en/iachr/docs/annual/2017/docs/IA2017cap.2-en.pdf), para. 1401. [↑](#footnote-ref-2)