

## **Colombian Constitutional Court, Award 178 of 2005**

**Republic of Colombia  
Constitutional Court  
Third Review Chamber**

Award n° 178 of 2005

-Orders issued by the Court-

### **“The Third Review Chamber of the Constitutional Court (...)**

DECIDES:

**First.-** To **DECLARE** that in spite of the advances made as of this date, the unconstitutional state of affairs in the situation of the displaced population declared in decision T-025 of 2004 has not been overcome yet, and that it is still necessary to continue advancing in the correction of the discordance between the seriousness of the affectation of the constitutionally recognized and legally developed rights, on the one hand, and the volume of resources effectively destined to secure said rights’ effective enjoyment and the institutional capacity to implement the corresponding constitutional and legal mandates, on the other.

**Second.-** To **ORDER** the Director of the Social Solidarity Network to design, implement and promptly apply, within a term of three months counted from the moment this Award is communicated, all the procedures and corrective measures that are necessary to overcome the problems indicated in paragraph 1.4. of this Award’s Annex, related to the “Evaluation of compliance with the order contained in number 2(a)(i) of the decision adopted in judgment T-025 of 2004”, so that within the maximum term of one (1) year, counted from the moment this Award is communicated, the process of characterizing the internally displaced population has

finalized. For that purpose, the Director of the Social Solidarity Network must carry out the nine actions described in Consideration 11 of this Award.

**Third.-** To **ORDER** the National Council for Comprehensive Assistance to the Population Displaced by Violence, to design, implement and promptly apply, within a term of three months counted from the moment this Award is communicated, all of the procedures and corrective measures that are necessary to overcome the problems indicated in paragraph 2.4. of this Award's Annex, related to the "Evaluation of compliance with the order contained in number 2(c) of the decision adopted in judgment T-025 of 2004", so that within the maximum term of six (6) months, counted from the moment this Award is communicated, such difficulties have been effectively overcome at both the national and the territorial levels, and the necessary conditions are established to secure the effective enjoyment of the displaced population's right to participation. For said purpose, it must carry out the nine actions described in Consideration 11 of this Award.

**Fourth.-** To **ORDER** the National Council for Comprehensive Assistance to the Population Displaced by Violence to establish and promptly set in motion, within a term of three months counted from the moment this Award is communicated, a coordinated program of action for the resolution of the institutional capacity problems indicated in paragraph 3.6. of this Award's Annex, related to the "Evaluation of compliance with the order contained in number 4 of the decision adopted in judgment T-025 of 2004", so that within the maximum term of six (6) months, counted from the moment this Award is communicated, such institutional capacity problems have been effectively overcome. For this purpose, the National Council for Comprehensive Assistance to the Population Displaced by Violence must carry out the nine actions described in Consideration 11 of this Award.

**Fifth.-** To **ORDER** the Ministers of the Interior and Justice and of National Defense, as well as the Director of the Presidential Program for Human Rights and International Humanitarian Law, to adopt, within a term of three months counted from the moment this Award is communicated, all the corrective measures that are necessary to overcome the problems indicated in paragraphs 4.7.11 and 4.7.12 of this Award's Annex, related to the "Evaluation of the measures adopted to protect the right to life", so that within the maximum term of six (6) months, counted from the

moment this Award is communicated, the necessary corrective measures have been adopted and applied, the necessary conditions have been established to secure the effective enjoyment of the displaced population's right to life. For this purpose, the Ministers of the Interior and Justice and of National Defense, and the Director of the Presidential Program for Human Rights and International Humanitarian Law must carry out the nine actions described in Consideration 11 of this Award.

**Sixth.-** To **ORDER** the Minister of Social Protection and the Director of the Colombian Institute of Family Welfare to design and promptly apply, within a term of three months counted from the moment this Award is communicated, the corrective measures necessary to solve the problems indicated in paragraph 4.8.13 of this Award's Annex, related to the "Evaluation of the measures adopted to protect the rights to dignity and to physical, psychological and moral integrity, to a family and to family unity", so that within the maximum term of six (6) months, counted from the moment this Award is communicated, the necessary conditions have been established to secure the effective enjoyment of the displaced population's rights to dignity and to physical, psychological and moral integrity, to a family and to family unity. For that purpose, the Minister of Social Protection and the Director of the Colombian Institute of Family Welfare must carry out the nine actions described in Consideration 11 of this Award.

**Seventh.-** To **ORDER** the Director of the Social Solidarity Network to design, adopt and promptly apply, within the maximum term of three (3) months counted from the moment this Award is communicated, the corrective measures that are necessary to overcome the problems indicated in paragraph 4.9.14 of the Annex to this Award, related to the "Evaluation of the measures adopted to protect the right to minimum subsistence", so that within the maximum term of six (6) months, counted from the moment this Award is communicated, the necessary conditions have been established to secure the effective enjoyment of the displaced population's right to a minimum subsistence. To comply with the above, the Director of the Social Solidarity Network must carry out the nine actions described in Consideration 11 of this Award.

**Eighth.-** To **ORDER** the Minister of Environment, Housing and Territorial Development, and the Director of the Social Solidarity Network, to design and promptly apply, within the maximum term of three months, counted from the moment this Award is communicated,

adequate instruments to correct the problems indicated in paragraph 4.10.11 of this Award's Annex, related to the "Evaluation of the measures adopted to protect the right to basic shelter and housing", so that within the maximum term of one year, counted from the moment this Award is communicated, such problems have been overcome, in such a way that the necessary conditions are established to secure the effective enjoyment of the displaced population's right to basic shelter and housing. In order to comply with the above, the Minister of Environment, Housing and Territorial Development and the Director of the Social Solidarity Network must carry out the nine actions described in Consideration 11 of this Award.

**Ninth.-** To **ORDER** the Minister of Agriculture to design and promptly apply, within the maximum term of three months counted from the moment this Award is communicated, adequate instruments to correct the problems indicated in paragraph 4.10.11 of this Award's Annex, related to the "Evaluation of the measures adopted for the protection of the right to basic shelter and housing" and in paragraph 4.14.10. of the Annex, related to the "Evaluation of the measures adopted to provide support for self-sufficiency and economic stabilization", so that within the maximum term of six months counted from the moment this Award is communicated, such problems have been overcome and said Ministry's actions have been effectively oriented, and the necessary conditions are established to guarantee the effective enjoyment of the displaced population's rights to basic shelter and housing and to the provision of support for self-sufficiency and economic stabilization. In order to comply with the above, the Minister of Agriculture must carry out the nine actions described in consideration 11 of this Award. The Minister of Agriculture must submit to the Constitutional Court, the *Procuraduría General de la Nación* and the Public Ombudsman, as well as the human rights and displaced population organizations that took part in the June, 29 public hearing and to UNHCR, monthly advance reports.

**Tenth.-** To **ORDER** the Ministry of Social Protection to design and implement, within the term of three months counted from the communication of the present Award, the corrective measures that are necessary to guarantee that within the maximum term of one year, counted from the communication of the present Award, displaced persons enjoy their right to have access to healthcare services, and the problems indicated in paragraph 4.11.12 of this Award's Annex—related to the "Evaluation of the measures adopted to secure the right to health"—have been

overcome, so that within the maximum term of one (1) year counted from the moment this Award is communicated, the necessary conditions have been established to guarantee the effective enjoyment of the displaced population's right to have access to healthcare services. To comply with the above, the Minister of Social Protection must carry out the nine actions described in consideration 11 of this Award.

**Eleventh.-** To **ORDER** the Director of the Social Solidarity Network to implement and promptly apply, within the maximum term of three months from the moment this Award is communicated, a program of action to overcome the problems indicated in paragraph 4.12.9. of this Award's Annex, related to the "Evaluation of the measures adopted to protect the displaced population from discriminatory practices", so that within the maximum term of six (6) months, counted from the moment this Award is communicated, the necessary conditions have been established to guarantee the effective enjoyment of the displaced population's right to be protected from discriminatory practices. To comply with the above, the Director of the Social Solidarity Network must carry out the nine actions described in Consideration 11 of this Award.

**Twelfth.-** To **ORDER** the Minister of National Education to design, implement and promptly apply, within a term of three months counted from the moment this Award is communicated, the corrective measures that are necessary to overcome the problems indicated in paragraph 4.13.12. of this Award's Annex, related to the "Evaluation of the measures adopted to guarantee the right to education", so that within the maximum term of one year counted from the moment this Award is communicated, the necessary conditions have been established to guarantee the effective enjoyment of the displaced population's right to access to education. To comply with the above, the Minister of National Education must carry out the nine actions described in Consideration 11 of this Award.

**Thirteenth.-** To **ORDER** the Director of the Social Solidarity Network and the Director of the National Learning Service (SENA) to design, implement and promptly apply, within the maximum term of three months counted from the moment this Award is communicated, adequate instruments to correct the problems indicated in paragraph 4.14.10. of this Award, related to the "Evaluation of the measures adopted to provide support for self-sufficiency and economic stabilization", so that within the maximum term of one year, counted from the moment

this Award is communicated, such problems have been overcome and the necessary conditions have been established to guarantee the effective enjoyment of the displaced population's right to self-sufficiency and economic stabilization. For this purpose, the Director of the Social Solidarity Network and the Director of the National Learning Service must carry out the nine actions described in Consideration 11 of this Award.

**Fourteenth.-** To **ORDER** the Director of the Social Solidarity Network to design, implement and promptly apply, within a maximum term of three months counted from the moment this Award is communicated, a coordinated program of action to overcome the problems indicated in paragraph 4.15.12 of this Award's Annex, related to the "Evaluation of the measures adopted to guarantee the right to return and reestablishment", so that within the maximum term of six months counted from the moment this Award is communicated, returns and reestablishments can be carried out in conditions that are compatible with full respect for the Guiding Principles on Internal Displacement adopted in the framework of the United Nations Organization, that develop constitutional rights. For said purpose, the Director of the Social Solidarity Network and the Minister of National Defense must carry out the nine actions described in Consideration 11 of this Award.

**Fifteenth.-** To **ORDER** the Director of the Social Solidarity Network to present a report, within the maximum term of one month counted from the moment this Award is communicated, indicating the actions and measures that have been adopted, as well as the results effectively attained to guarantee compliance with the order issued in number 8 of the decision adopted in judgment T-025 of 2004, in the sense of warning "all national and territorial authorities responsible for assisting the displaced population in each one of its components, that in the future they must abstain from incorporating the presentation of *tutela* lawsuits as a requirement to have access to any of the benefits defined in the law". Likewise, to **ORDER** the Director of the Social Solidarity Network to design, implement and promptly apply, within a term of three months counted from the moment this Award is communicated, the corrective measures necessary to overcome the problems indicated in Section 5 of this Award's Annex, related to the "Evaluation of compliance with the order issued in number eight of the decision adopted in judgment T-025 of 2004", so that within the maximum term of six months, counted from the moment this Award

is communicated, said problems have been corrected. For that purpose, the Director of the Social Solidarity Network must carry out the nine actions described in Consideration 11 of this Award.

**Sixteenth.-** To **ORDER** the Director of the Social Solidarity Network, within the maximum term of three months counted from the moment this Award is communicated, to broaden the dissemination of the Charter or Basic Rights of Displaced Persons, so that even those who cannot read can know about such Charter, in order to guarantee compliance with number nine of the decision adopted in judgment T-025 of 2004. For that purpose, he must carry out the nine actions described in Consideration 11 of this Award.

**Seventeenth.-** To **COMMUNICATE** the content of the present Award to the President of the Republic for his information, in order for him to adopt the decisions he considers pertinent.”