ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS[1]
OF JUNE 1, 2001

THE CASTILLO PÁEZ, LOAYZA TAMAYO, CASTILLO PETRUZZI *ET AL.*, IVCHER BRONSTEIN AND CONSTITUTIONAL COURT CASES

COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The decisions of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") in the judgment on reparations of November 27, 1998, in the *Castillo Páez case*.

2. The decisions of the Court in the judgment on reparations of November 27, 1998, in the *Loayza Tamayo case*.

3. The decisions of the Court in the judgment of May 30, 1999, in the *Castillo Petruzzi et al. case*.

4. The note of July 16, 1999, received by the Secretariat of the Court on July 27, 1999, in which the General Secretariat of the Organization of American States (OAS) advised that, on July 9, 1999, the State of Peru (hereinafter "the State" or "Peru") had presented an instrument in which it communicated the "withdrawal" of its declaration consenting to the optional clause concerning recognition of the contentious jurisdiction of the Court. It also remitted a copy of the original of this instrument, dated July 8, 1999, in Lima. In this document, the Minister for Foreign Affairs of Peru indicated that the Congress of the Republic, in Legislative Resolution No. 27,152 of the same date, had adopted the "withdrawal", as follows:

> [...] that, pursuant to the American Convention on Human Rights, the Republic of Peru is withdrawing the declaration consenting to the optional clause concerning recognition of the contentious jurisdiction of the Inter-American Court of Human Rights, which the Government of Peru had made at one time.
>
> The withdrawal of the recognition of the contentious jurisdiction of the Inter-American Court shall take immediate effect and shall apply to all cases in which Peru has not answered the application filed with the Court.

[1] Judge Máximo Pacheco Gómez informed the Court that, owing to circumstances beyond his control, he was unable to attend the Fifty-first Regular Session of the Court; therefore, he did not take part in the deliberation and signature of this Order.

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5. The judgments on competence delivered in the *Constitutional Court* and *Ivcher Bronstein cases* of September 24, 1999, in which the Inter-American Court decided unanimously:

> 1. To declare that:
>
> a. the Inter-American Court of Human Rights is competent to take up [these cases];
>
> b. Peru's purported withdrawal of the declaration recognizing the contentious jurisdiction of the Inter-American Court of Human Rights is inadmissible.
>
> 2. To continue to examine and process [these cases].
>
> [...]

6. The orders on compliance with judgment of November 17, 1999, in which the Court decided that, "in accordance with the principle of *pacta sunt servanda,* and in conformity with the provisions of Article 68(1) of the American Convention on Human Rights, the State has a duty to comply promptly" with the judgments of November 27, 1998, in the *Loayza Tamayo case,* and of May 30, 1999, in the *Castillo Petruzzi et al. case* (*supra* Having seen 2 and 3).

7. Legislative Resolution No. 27,401 of January 18, 2001, by which the State derogated Legislative Resolution No. 27,152 and resolved to commission "the Executive to take all necessary measures to annul any possible results of the said Legislative Resolution, fully re-establishing the contentious jurisdiction of the Inter-American Court of Human Rights for the State of Peru".

8. The decisions of the Court in the judgment of January 31, 2001, in the *Constitutional Court case*.

9. The decisions of the Court in the judgment of February 6, 2001, in the *Ivcher Bronstein case.*

10. The note transmitted by the Minister for Foreign Affairs of Peru, Javier Pérez de Cuéllar, to the Secretary General of the Organization of American States, César Gaviria Trujillo, in which Peru declared that:

> the recognition of the contentious jurisdiction of the Court [...], made by Peru on October 20, 1980, is fully in force and the State of Peru is bound by all its legal effects; and it should be understood that this declaration has been in force without interruption since it was deposited with the General Secretariat of the Organization of American States (OAS), on January 21, 1981.

11. The notes dated February 1, 2001, which the Minister of Justice of Peru presented to the President of the Court during his visit to this Court on February 9, 2001. In these notes, the State indicated that it expressly recognized the responsibility that it had incurred by violating the rights of the justices of the Constitutional Court and of Baruch Ivcher Bronstein and provided information on the measures that the State was taking to re-establish the rights of the said persons.

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12. The communication of February 9, 2001, with which Peru forwarded Supreme Resolution No. 062-2001-RE, published in the official gazette *El Peruano* on February 8, 2001, in which it appointed agents for the State in the *Durand and Ugarte, Neira Alegría et al., Castillo Páez, Loayza Tamayo, Castillo Petruzzi et al., Cantoral Benavides, Barrios Altos, Cesti Hurtado, Constitutional Court* and *Ivcher Bronstein cases.*

13. The State's briefs of March 30 and May 7, 2001, in the *Castillo Páez case,* February 16, and April 10 and 11, 2001, in the *Loayza Tamayo case,* April 18 and May 8 and 16, 2001, in the *Castillo Petruzzi et al. case,* April 18, 2001, in the *Ivcher Bronstein case* and April 18 and May 25, 2001, in the *Constitutional Court case,* informing the Court about progress in compliance with the judgment in each of these cases.

CONSIDERING:

1. That Article 68(1) of the Convention establishes that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties".

2. That this obligation corresponds to a basic principle of the law of State international responsibility, firmly supported by international jurisprudence, according to which States must comply with their obligations under international conventions in good faith (*pacta sunt servanda*)[2].

3. That the measures adopted by the State of Peru (*supra* Having seen 7, 10 and 11) imply compliance with the decisions of the Court in the judgments on competence of September 24, 1999, in the *Constitutional Court* and *Ivcher Bronstein cases*.

4. That, the information that this Court has received implies that progress has been made in compliance with the judgments in the *Castillo Páez, Loayza Tamayo, Castillo Petruzzi et al., Ivcher Bronstein* and *Constitutional Court cases*.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

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[2] *Cf.* Vienna Convention on the Law of Treaties, Article 26. *The Right to Information on Consular Assistance in the Framework of the Guarantees of the Due Process of Law.* Advisory Opinion OC-16/99 of October 1, 1999. Series A No. 16, para. 128; and *International Responsibility for the Promulgation and Enforcement of Laws in violation of the Convention (Articles 1 and 2 of the American Convention on Human Rights),* Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35.

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in accordance with Articles 67 and 68(1) of the American Convention on Human Rights, Article 25 of the Statute of the Inter-American Court of Human Rights and Article 29 of its Rules of Procedure,

DECIDES:

1. To take note of the compliance by the State of Peru of the judgments on competence of September 24, 1999, in the *Constitutional Court* and *Ivcher Bronstein cases,* and of the progress made, up until the date that this order was issued, in compliance with the judgments delivered by the Court in the *Castillo Páez, Loayza Tamayo, Castillo Petruzzi et al., Ivcher Bronstein* and *Constitutional Court cases*.

2. To notify this order to the State of Peru, the Inter-American Commission on Human Rights and the victims or their representatives, as appropriate.

Antônio A. Cançado Trindade
President

Hernán Salgado-Pesantes

Oliver Jackman

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary

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