

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS*
OF NOVEMBER 27, 2003**

**LOAYZA TAMAYO CASE
COMPLIANCE WITH JUDGMENT**

HAVING SEEN:

1. The judgment on merits delivered in *Loayza Tamayo v. Peru* by the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") on September 17, 1997, in which it decided in the fifth and sixth operative paragraphs:

[...]

5. To order the State of Peru to release María Elena Loayza Tamayo within a reasonable time, on the terms set forth in paragraph 84 of this judgment.

[...]

6. That the State of Peru is obliged to pay fair compensation to the victim and her next of kin and to reimburse them for any expenses they may have incurred in their representations before the Peruvian authorities in connection with this process, for which purpose the corresponding proceeding remains open.

[...]

2. The judgment on reparations delivered by the Court in this case on November 27, 1998, in which it decided the following:

AS RESTITUTION MEASURES

[...]

1. That the State of Peru shall take all measures necessary to reinstate María Elena Loayza Tamayo in the teaching service in public institutions, on the understanding that the amount of her salaries and other benefits shall be equal to the pay she was receiving for her teaching services in the public and private sectors at the time of her detention, appreciated to reflect its value as of the date of this judgment.

[...]

2. That the State of Peru shall guarantee to María Elena Loayza Tamayo her full retirement benefits, including those owed for the period transpired since the time of her detention.

[...]

3. That the State of Peru shall take all domestic legal measures necessary to ensure that no adverse decision delivered in proceedings against María Elena Loayza Tamayo in the civil courts has any legal effect whatever.

AS COMPENSATORY DAMAGES,

[...]

* Judge Hernán Salgado Pesantes advised the Court that, owing to circumstances beyond his control, he would not be able to take part in the deliberation and signature of this Order.

4. That the State of Peru shall pay, under the conditions and in the manner described in paragraphs 183 to 190 of this judgment, a total of US\$167,190.30 (one hundred sixty-seven thousand one hundred ninety United States dollars and thirty cents) or its equivalent in Peruvian currency, distributed as follows:

- a. US\$99,190.30 (ninety-nine thousand one hundred ninety United States dollars and thirty cents) or its equivalent in Peruvian currency, to María Elena Loayza-Tamayo;
- b. US\$15,000.00 (fifteen thousand United States dollars) or its equivalent in Peruvian currency to Gisselle Elena Zambrano-Loayza, and U\$15,000.00 (fifteen thousand United States dollars) or its equivalent in Peruvian currency to Paul Abelardo Zambrano-Loayza;
- c. US\$10,000.00 (ten thousand United States dollars) or its equivalent in Peruvian currency to Adelina Tamayo-Trujillo de Loayza, and US\$10,000.00 (ten thousand United States dollars) or its equivalent in Peruvian currency to Julio Loayza-Sudario; and
- d. US\$18,000.00 (eighteen thousand United States dollars) or its equivalent in Peruvian currency, to Carolina Maida Loayza-Tamayo, Delia Haydée Loayza-Tamayo, Olga Adelina Loayza-Tamayo, Giovanna Elizabeth Loayza-Tamayo, Rubén Edilberto Loayza-Tamayo and Julio William Loayza-Tamayo, with each receiving US\$3,000.00 (three thousand United States dollars) or its equivalent in Peruvian currency.

[...]

AS OTHER FORMS OF REPARATION,

[...]

5. That the State of Peru shall adopt the internal legal measures necessary to adapt Decree-Laws 25,475 (Crime of Terrorism) and 25,659 (Crime of Treason) to conform to the American Convention on Human Rights.

WITH RESPECT TO THE DUTY TO TAKE DOMESTIC MEASURES,

[...]

6. That the State of Peru shall investigate the facts in the instant Case, identify and punish those responsible for those acts, and adopt all necessary domestic legal measures to ensure that this obligation is discharged.

CONCERNING FEES AND COSTS,

[...]

7. That the State of Peru shall pay, in the form of fees and costs and under the terms and in the manner described in paragraphs 183 to 190 of this Judgment, the sum of US\$20,000.00 (twenty thousand United States dollars) or its equivalent in Peruvian currency, to Carolina Maida Loayza-Tamayo.

3. The communication of the victim's representative of January 13, 1999, advising that the Minister of Foreign Affairs of Peru had forwarded a copy of the judgment on reparations of November 27, 1998, to the President of the Supreme Court of Justice of the Republic so that the latter could begin implementing it.

4. The note of the Secretariat of the Court (hereinafter "the Secretariat") of June 11, 1999, in which, on the instructions of the President of the Court (hereinafter "the President"), it requested the State of Peru (hereinafter "the State" or "Peru") to present the first report on compliance with the judgment on reparations in this case, because the time limit for submitting it had expired on June 3, 1999.

5. The communication of the victim's representative of June 16, 1999, in which he advised that on June 14 that year, the Supreme Court of Justice of Peru had issued a decision declaring "without effect" its decision of April 15, 1999, and ordering that "the rulings in the judgment of the Inter-American Court [...] be forwarded to the court specializing in the crime of terrorism so that it could proceed in accordance with the law" and, consequently, declaring that the said judgment "was non-enforceable" and "ordering" that the judgment on reparations delivered by the Inter-American Court should be returned to the Court [...] by the diplomatic channel; he therefore requested the Court to take the necessary measures to ensure compliance with judgment.

6. The report of the State of June 25, 1999, in which it advised the Court of the judgment of the Second Transitory Criminal Chamber of the Supreme Court of Peru of June 14, 1999, that "decided to declare that the judgment on reparations [of the Inter-American Court] was non-enforceable. The State also forwarded the original text of the Court's judgment of November 27, 1998.

7. The comments of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of July 26, 1999, on the first report of the State, in which it endorsed the representative's request that measures should be adopted to ensure compliance with the judgment on reparations. The Commission also considered that the State's declaration of the its intention not to comply with the reparations that had been ordered was "a flagrant disregard of the judgment of an international court [...]." Therefore, it requested the Court to "demand the full, prompt and unconditional execution of the operative paragraphs of the judgment [...]" and that "[w]ithout prejudice to the provisions of Article 65 of the American Convention and Article 30 of the Statute of the Court, it [should] proceed forthwith to inform the Secretary General of the Organization of American States and the States Parties to the American Convention of this matter".

8. The brief of the victim's representatives of July 29, 1999, in which they stated that the "decision [of the Peruvian State] not to comply with a judgment [of the Inter-American Court] constitute[d] blatant defiance of the international community's commitments to respect human rights." Among other matters, they requested [the Court] to declare "total non-compliance by the Peruvian Government"; to reiterate to the State that it had the obligation to comply with the judgment; to "order Peru [...] to free María Elena Loayza"; and that "mechanisms [be established] that enable the judgment to be executed [...]" ; that "the States of the region, who are the collective guarantors of the system, be informed of the status of compliance with the judgment," and that the General Assembly consider suspending Peru from the OAS,

9. The communication of María Elena Loayza of September 23, 1999, in which she addressed the Court in order to "request that pertinent measures [be taken] to cease the harassment, threats and slander campaigns against [her] physical and mental integrity [and that] adequate mechanisms [be sought] to ensure that the State of Peru execute[d] the order issued by [the] Court."

10. The order on compliance in this case issued by the Inter-American Court on November 17, 1999, in which the Court decided:

1. To hold, in accordance with the principle *pacta sunt servanda*, and in conformity with the provisions of Article 68(1) of the American Convention on Human Rights, that the State has a duty to comply promptly with the November 27, 1998, judgment on reparations rendered by the Inter-American Court of Human Rights in the Loayza Tamayo case.

[...]

11. The brief of the victim's representatives of December 24, 2000, providing information on the measures taken to ensure that the State complied with the judgment and requesting the Court: 1) "to request information on compliance with [the] judgment from the Peruvian State," 2) [s]hould the judgment not have been complied with, "to request the Peruvian State to grant sufficient guarantees [for compliance within] a short period," 3) that "the sums of money in favor of Mrs. Loayza [...]" should be made available to the victim, and 4) to order that the amounts be adjusted owing to the time that had elapsed.

12. The brief of the victim's representatives of December 30, 2000, in which they insisted on "[t]he requirement [that, in this case, the representatives have had to take] measures [...] [such as] communications with the Ombudsman, the Ministry of Foreign Affairs and the Minister of Justice, when, in other cases [...] being processed by the Commission [...] and by [the] Court, the Government of the State of Peru ha[d] not required the 'victims' to take any measures" in order to comply with judgments, and expressed "their surprise for this unequal treatment."

13. The report of the State of February 16, 2001, in which it advised that the Minister of Justice, "taking into account the provisions of Legislative Resolution No. 27401, by which the Peruvian State re-establish[e] fully the contentious jurisdiction of the Inter-American Court of Human Rights [...], ha[d] communicated with both the Office of the Attorney General and the Ministry of Economy and Finance so that, within their respective jurisdictions, they would adopt measures leading to compliance with the said judgment."

14. The reports of the State of April 6 and 17, 2001, in which it presented information related to compliance with the decisions of the Inter-American Court and indicated that the State acknowledged "the validity and enforceability of the judgments [...] delivered by the Court" and stated that it had been "adopting the necessary actions to comply with the jurisdictional decisions adopted by this supra-national body."

15. The report of the State of April 27, 2001, presenting information on compliance with the decisions of the Court, in which it described how the State's international obligations were distributed by ministries and departments, according to the specific issue.

16. The Order on compliance that the Court issued on June 1, 2001, in the Castillo Páez, Loayza Tamayo, Castillo Petruzzi *et al.*, Ivcher Bronstein and Constitutional Court cases, in which it decided:

1. To take note of the compliance by the State of Peru with 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.

[...]

17. The report of the State of June 1, 2001, advising that "the position corresponding to María Elena Loayza Tamayo in the organizational structure of the Ministry of Education [was] available" and that "[the] reinstatement ha[d] not been carried out owing to Professor Loayza's health problems"; that on April 26, 2001, "the Peruvian State had complied with the payment of the compensation ordered by the Court in favor of the victim and her next of kin and the payment of the fees and expenses in favor of Carolina Loayza Tamayo," and that, in order to ensure that no adverse decision issued in the proceeding to which María Elena Loayza Tamayo had been subject in the civil courts would produce any effect, on May 4 [2001, the State presented] a brief to the Permanent Criminal Chamber to request the review and annulment of the decision of June 14, 1999, issued by Criminal Chamber "C" of the Supreme Court of Justice.

18. The comments of the Commission of August 17, 2001, on the State's reports, in which it indicated that "it agree[d] that the reinstatement of Professor Loayza 'c[ould] not be complied with if the victim [did] not return to Peru [...], but consider[ed] [...] that the payment of the remunerations she had not received c[ould] be made by a deposit or before an authorized representative named by Mrs. Loayza." It added that it did not have any information on the measures that the State had adopted with regard to Decree Laws 25,475 and 25,659, the investigation of the facts, the identification and punishment of those responsible, and the adoption of the provisions of domestic law to comply with this obligation.

19. The report of the State of August 23, 2001, in which it indicated that "the Lima Criminal Provincial Prosecutor had decided to file the complaint for the offense against the life, body and health, the offense against personal freedom, and the offense against the public administration, because the criminal action was statute-barred, and had ordered a preliminary administrative investigation of the facts, by the Inspectorate of the Peruvian National Police in order to apply the punishments corresponding to functional responsibility.

20. The brief of the State of September 27, 2001, advising that, with regard to the measures of restitution, "[t]here was no impediment to the reinstatement of Mrs. [...]Loayza Tamayo in the organizational structure of the Ministry of Education." Regarding payment of the compensation, it indicated that on April 26, 2001, the State had made this payment. As for the other forms of reparations, "the Executive [...] had established a Legislation Study and Review Commission [...] which concluded that Decree Laws Nos. 25475 (Crime of Terrorism) and 25659 (Crime of Treason) [were] unconstitutional and must be derogated." Also, on May 15, 2001, the Permanent Criminal Chamber of the Supreme Court of Justice had declared null and void the Supreme Writ of Execution of the Transitory Criminal Court, which had declared that the judgment of the Court was non-enforceable, and ordered that the litigation should be forwarded to the original court for compliance. In view of the measures taken to date to comply with the judgment on reparations and the order on compliance of November 17, 1999, the State requested the Court to order that the case be filed.

21. The communication of the victim's representative of October 15, 2001, forwarding a request for provisional measures to the Court, the contents of which were considered to form part of compliance. The representative indicated that, as regards the measures of restitution, the State had only reinstated the victim in her teaching position formally, without taking any step to ensure that this was

accomplished. To date, no measure had been taken towards her reinstatement in the other public employments, or for her to receive the total of her earnings adjusted to take inflation into account. The victim had not received her salary and benefits since September 17, 1997, for uninterrupted employment activities, and that obliged her to continue in exile. Moreover, she had only be granted six months leave for illness, so that she would be retired owing to disability, if she did not return to her teaching activities before October 26, 2001. The criminal sentence of 20 years' imprisonment had not been annulled, the State had advised that the offenses committed by its agents were statute-barred and the State had not offered the victim any help to recover her health.

22. The Order of the Court of November 27, 2002, in which it decided:

1. That the State had the obligation to take all necessary measures to comply effectively and promptly with the judgment on reparations of November 27, 1998, delivered by the Inter-American Court of Human Rights in the Loayza Tamayo case, in accordance with Article 68(2) of the American Convention on Human Rights.

[...]

23. The brief of the State of November 29, 2002, in which it submitted a report on compliance with several judgments that the Court had delivered against Peru. Regarding the instant case, the State advised that it had complied with the payment of US\$99,190.30 (ninety-nine thousand one hundred ninety United States dollars and thirty cents) for reparations to María Elena Loayza Tamayo and her next of kin.

24. The comments of the victim's representative of February 12, 2003, indicating that the 20 years' imprisonment to which María Elena Loayza Tamayo had been sentenced had still not been annulled and, therefore, she was obliged to remain in exile; that the Office of the Lima Criminal Provincial Prosecutor, which was in charge of the case, had decided to file the complaint for the offense against the life, body and health, the offense against personal freedom, and the offense against the public administration committed against the victim alleging that the criminal action was statute-barred; that the State had not taken "all pertinent measures to reinstate the victim in all the positions in which she was employed when she was detained, [i]t had only reinstated her legal status as a college professor, with a number of working hours and, consequently, with a salary that did not allow the victim an adequate standard of living"; that the salaries and benefits that the victim should have earned during her detention had not been paid; and that Decree Laws 25,475 (Terrorism) and 25,659 (Treason) had not been derogated, even though the Constitutional Court had declared that some of the norms of those decrees were unconstitutional, because "even though the interpretations of [this court] are binding for all legal agents, that does not guarantee *per se* that the provisions of the pertinent decrees are applied *de facto* according to the interpretation of the Constitutional Court and, therefore, does not guarantee the fundamental rights of the victim to the non-repetition of facts that violate human rights similar to those that were negatively assessed by the Inter-American Court."

25. The note of the victim of February 21, 2003, stating that she was too afraid for her own safety to return to Peru, because although the State had "complied with the financial reparation" it had not complied with "the investigation, identification and punishment of those responsible for violating [her] fundamental rights; effective derogation of Decree Laws 25,475 (Terrorism) and 25,659 (Treason); payment of [her] earned salaries and benefits for uninterrupted employment; reinstatement in

her employment in two public universities in the country, as part of the commitment made, taking into account the academic load that she had in a private university before her detention [...] and, above all, the effective annulment of the criminal sentence to 20 years' imprisonment to which she had been condemned.

26. The brief of the State of March 12, 2003, in which it advised that "Mrs. Loayza should consider that her safe return to the country is guaranteed, because the State has been complying with the judgment on reparations"; it [had] paid the sum of US\$99,190.30 (ninety-nine thousand one hundred and ninety United States dollars and thirty cents) for the concept of pecuniary reparations; it was coordinating her reinstatement in the teaching sector of the Ministry of Education; the Office of the Lima First Provincial Criminal Prosecutor "[...] formulated a criminal complaint against [the possible authors of the rape and grave injuries] of the victim"; it had paid US\$20,000.00 (twenty thousand United States dollars) for fees and expenses to the lawyer, Carolina Loayza Tamayo, and the Constitutional Court had delivered judgment declaring that several norms of Decree Laws Nos. 25,475 (Terrorism) and 25,659 (Treason) were unconstitutional.

27. The communication of the victim of March 14, 2003, in which she provided information on her employment situation and, in particular, stated that on March 3, 2003, she was only able to recover her position in the *Colegio Nacional de Lima*.

28. The brief of the State of May 9, 2003, in which it reiterated the contents of its last report of February 27, 2003, received by the Secretariat on March 12, 2003 (*supra* twenty-sixth having seen paragraph).

29. The brief of the victim's representative of May 22, 2003, advising that the prosecutor of the Office of the Lima Criminal Provincial Prosecutor had formulated a criminal complaint against the possible authors of the offense of rape and the offense against the life, body and health of María Elena Loayza Tamayo. With regard to the annulment of the judgment sentencing her to 20 years' imprisonment, he advised that this had not been carried out and that, to the contrary, there was a possibility that the victim could be subjected to a new trial for the same facts, which would violate the "*ne bis in idem*" principle. Lastly, he advised that the State had "only reinstated Loayza Tamayo in her position as a teacher in College 2,057, with 15 hours of employment a week as of April 2003 [...]" and with a salary that was insufficient to be able to live decently, take care of her children and herself, and pay a lawyer to assist her in essential matters.

30. The comments of the Inter-American Commission of July 25, 2003, stating that "[i]t recognized the efforts made by the State to achieve the reinstatement of Mrs. Loayza Tamayo in the teaching sector. However, the characteristics of this reinstatement, as regards the type of institution in which she had been reinstated, the amount of her salary and the social benefits, did not correspond to what was ordered in the judgment." The Commission also indicated that "by not complying fully with the provisions of the first operative paragraph of the judgment, compliance with the second operative paragraph, which establishes the obligation of the [...] State to ensure the right to retirement of Mrs. Loayza Tamayo could also be affected. As regards the obligation to adopt all measures of domestic law to ensure that no adverse decision delivered in proceedings against María Elena Loayza Tamayo in the civil courts had any legal effect, the Commission stated that there was still a need for another complementary measure (in addition to the annulment of the decrees), that had the effect of annulling any adverse decision that had been issued in the

proceeding, including those related to the pre-trial proceedings. The Commission recognized the efforts made by the State to comply with its obligation to investigate the facts and punish those responsible for them. Lastly, it requested that "in exercise of the authority granted by Article 65 of the American Convention and Article 30 of the Statute of the Court [...], and to maintain a situation similar to the current one, in its next report to the General Assembly, the Court should mention that compliance with the first, second, third, fifth and sixth operative paragraphs of [the judgment] was still pending."

31. The report of the State of August 20, 2003, in which it indicated that María Elena Loayza Tamayo had been reinstated in her position as a teacher at College 2,057 and, to date, the amount of her salary corresponded to the remuneration for that activity in the public sector; that the victim would enjoy her right to retirement like any employee at the service of the State; that the National Corporative Chamber for Terrorism cases of the Lima Superior Court of Justice had ordered the annulment of the criminal, police and legal records arising from the terrorism proceeding and, at that date, no legal norm or decision issued by a Peruvian authority affected the legal status of Mrs. Loayza Tamayo; that it was doing everything necessary to comply with its obligation to investigate the facts, and to prosecute and punish those responsible for them; and that the State had complied with its obligation to pay the compensation ordered by the Court.

32. The brief of the Inter-American Commission of October 23, 2003, in which it submitted its comments on compliance with the judgment on reparations in this case and stated that "in relation to the first operative paragraph, on the reinstatement of Mrs. Loayza Tamayo in the teaching sector [...], it considers that, based on the information provided, it cannot be understood that all aspects of the judgment have been fully complied with [because] the characteristics of this reinstatement as regards the type of institution in which she had been reinstated, the amount of her salary and the social benefits, do not correspond to what was ordered in the judgment." The Commission explained that Mrs. Loayza Tamayo had been reinstated in an institution with a different educational level and with a much lower academic load than she had at the time of the facts, and that she had also been connected to the National School of Dramatic Arts and to the San Martín de Porres University. With regard to compliance with the third operative paragraph concerning the obligation of the State to adopt measures of domestic law to ensure that no adverse decision delivered in proceedings against the victim in the civil courts would have any legal effect, the Commission indicated that the State's argument in its report attempted to revive the second proceeding and the judgment delivered in the civil courts against María Elena Loayza Tamayo for the crime of terrorism, by ordering the annulment of this judgment owing to the new legislation and, consequently, the re-opening of a new proceeding under the questioned norms, and this "disregards the [...] Court's decision and jeopardizes the victims' legal certainty." As regards the fifth operative paragraph, on taking the necessary measures to adapt the anti-terrorist legislation to the American Convention, the Commission stated that the respective decision of the Peruvian Constitutional Court of January 4, 2003, was a step forward, but it did not resolve the essence of the matter, which means the entire terrorism legislation is still far from being compatible with the Convention. Lastly, the Commission acknowledged the efforts made by the State to comply with its obligation to investigate and punish those responsible for the violations committed against María Elena Loayza Tamayo, by re-opening the criminal investigation procedure in this case; however, it considered that, at that

date, the status of that proceeding had not changed since the State's previous report.

33. The note of María Elena Loayza Tamayo of November 18, 2003, which she delivered personally to the President of the Court on that date, and in which she provided information on the general status of compliance with the judgment on reparations. She indicated that the State had complied with the financial reparation and by "reinstating her in her place of employment of the Ministry of Education, in the College of Dramatic Art." She also affirmed that the State had not complied with the following elements: 1) reinstating her in the university teaching sector in private or similar institutions, "in the understanding that the amount of [her] salary and other benefits would be equal to the amount of [her] remunerations in the public and private sectors at the time of [her] detention, with amounts adjusted at the date of the judgment to allow for inflation"; 2) paying her the earned salary in State institutions that she was owed; and 3) annulling the criminal, police and legal records relating to the domestic proceeding against her. She also indicated that her physical and mental health "had deteriorated as a result of the traumatic situation to which [she was] subjected." She therefore requested the Court to order "provisional measures regarding [her] physical and mental health and integrity."

CONSIDERING:

1. That one of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.
2. That the State of Peru has been a State Party to the American Convention since July 28, 1978, and accepted the jurisdiction of the Court on January 21, 1981.
3. That Article 68(1) of the American Convention stipulates 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." The treaty obligations of the States Parties are binding for all the powers and organs of the States.
4. That, in view of the final and non-appealable character of the judgments of the Court, as established in Article 67 of the American Convention, they should be complied with fully and promptly.
5. That the obligation to comply with the provisions of the Court's judgments corresponds to a basic principle of the law of the international responsibility of the State, supported by international case law, according to which, a State must comply with its international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has already indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its domestic law as justification for its failure to perform a treaty¹.

¹ Cf. *Benavides Cevallos case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of September 9, 2003, third considering paragraph; *Baena Ricardo et al. case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of June 6, 2003, fourth considering paragraph; *"The Last Temptation of Christ" (Olmedo Bustos et al.). Compliance with judgment*. Order of the Inter-American Court of Human Rights of November 28, 2002, third considering paragraph; *El Amparo case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of November 28, 2002, third considering paragraph; and *International Responsibility for Enacting and Applying Laws that violate the Convention* (Arts. 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.

6. That, in the course of monitoring compliance with the judgment on reparations in this case, the Court has verified that the State paid the compensation ordered in favor of the victim and her next of kin and the fees and expenses, in accordance with the fourth and seventh operative paragraphs of the judgment on reparations (*supra* seventeenth, twentieth, twenty-third and twenty-sixth having seen paragraphs).

7. That María Elena Loayza Tamayo has been reinstated in educational center No. 2057 and in the College of Dramatic Art of the Ministry of Education (*supra* thirty-first, thirty-second and thirty-third having seen paragraphs).

8. That the Court considers it essential that the State should provide information to the Court on progress in compliance with the judgment on reparations; in particular, as regards:

- a) The reinstatement of Mrs. Loayza Tamayo in the teaching sector in public institutions and the measures taken to ensure that the amount of her salary and other benefits are equivalent to the remuneration she was receiving for these activities in the public and private sector at the time of her detention (*first operative paragraph of the judgment on reparations of November 27, 1998*);
- b) Payment of the salary and work-related benefits to which María Elena Loayza Tamayo is entitled for uninterrupted employment and the guarantee of full enjoyment of her retirement benefits (*first and second operative paragraph of the judgment on reparations of November 27, 1998*);
- c) The adoption of measures of domestic law to ensure that no adverse decision delivered in the proceedings against Mrs. Loayza Tamayo in the domestic courts has any legal effect whatsoever (*third operative paragraph of the judgment on reparations of November 27, 1998*); and
- d) The investigation of the facts of the case, and the identification and punishment of those responsible (*sixth operative paragraph of the judgment of November 27, 1998*).

9. That the Court will consider the general status of compliance with the judgment on reparations of November 27, 1998, (*supra* second having seen paragraph) when it has received the State's report and the comments of the parties on this report.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions and in accordance with Articles 67 and 68(1) of the American Convention sobre Derechos Humanos, Article 25(1) of its Statute and Article 29(2) of its Rules of Procedure,

DECIDES:

1. To urge the State to adopt all necessary measures to comply effectively and promptly with the judgment on reparations of November 27, 1998, delivered by the Inter-American Court of Human Rights in the *Loayza Tamayo case*, as established in Article 68(1) of the American Convention on Human Rights.
2. To call upon the State to present to the Court by April 1, 2004, at the latest, a detailed report on the measures taken in order to comply with the ruling of the Court in the judgment on reparations of November 27, 1998, as indicated in the eighth considering paragraph of this order on compliance.
3. To call upon the representatives of the victim and the Inter-American Commission on Human Rights to present their comments on the State's report within two months of receiving it.
4. To notify this order on compliance to the State, the Inter-American Commission on Human Rights and the representatives of the victim.

Antônio A. Cançado Trindade
President

Sergio García-Ramírez

Máximo Pacheco-Gómez

Oliver Jackman

Alirio Abreu-Burelli

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary