

**ORDER OF THE INTER-AMERICAN COURT
OF HUMAN RIGHTS
OF NOVEMBER 28, 2003**

BARRIOS ALTOS CASE

COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The judgment on merits delivered in the Barrios Altos case by the Inter-American Court of Human Rights (hereinafter "the Court") of March 14, 2001, in which it decided, unanimously:

1. To admit the State's recognition of international responsibility.
2. To find, in accordance with the terms of the State's recognition of international responsibility, that it had violated:
 - a) The right to life embodied in Article 4 of the American Convention on Human Rights, with regard to Placentina Marcela Chumbipuma Aguirre, Luis Alberto Díaz Astovilca, Octavio Benigno Huamanyauri Nolazco, Luis Antonio León Borja, Filomeno León León, Máximo León León, Lucio Quispe Huanaco, Tito Ricardo Ramírez Alberto, Teobaldo Ríos Lira, Manuel Isaías Ríos Pérez, Javier Manuel Ríos Rojas, Alejandro Rosales Alejandro, Nelly María Rubina Arquiñigo, Odar Mender Sifuentes Nuñez and Benedicta Yanque Churo;
 - b) The right to humane treatment embodied in Article 5 of the American Convention on Human Rights, with regard to Natividad Condorcahuana Chicaña, Felipe León León, Tomás Livias Ortega and Alfonso Rodas Alvítez; and
 - c) The right to a fair trial and judicial protection embodied in Articles 8 and 25 of the American Convention on Human Rights, with regard to the next of kin of Placentina Marcela Chumbipuma Aguirre, Luis Alberto Díaz Astovilca, Octavio Benigno Huamanyauri Nolazco, Luis Antonio León Borja, Filomeno León León, Máximo León León, Lucio Quispe Huanaco, Tito Ricardo Ramírez Alberto, Teobaldo Ríos Lira, Manuel Isaías Ríos Pérez, Javier Manuel Ríos Rojas, Alejandro Rosales Alejandro, Nelly María Rubina Arquiñigo, Odar Mender Sifuentes Nuñez, Benedicta Yanque Churo, and with regard to Natividad Condorcahuana Chicaña, Felipe León León, Tomás Livias Ortega and Alfonso Rodas Alvítez, as a result of the promulgation and application of Amnesty Laws No. 26479 and No. 26492.
3. To find, in accordance with the terms of the State's recognition of international responsibility, that the State failed to comply with Articles 1(1) and 2 of the American Convention on Human Rights as a result of the promulgation and application of Amnesty Laws No. 26479 and No. 26492 and the violation of the articles of the Convention mentioned in operative paragraph 2 of [the] judgment.
4. To find that Amnesty Laws No. 26479 and No. 26492 are incompatible with the American Convention on Human Rights and, consequently, lack legal effect.
5. To find that the State of Peru should investigate the facts to determine the identity of those responsible for the human rights violations referred to in [the] judgment, and also publish the results of this investigation and punish those responsible.
6. To order that reparations sh[ould] be established by mutual agreement between the defendant State, the Inter-American Commission and the victims, their next of kin or

their duly accredited legal representatives, within three months of notification of [the] judgment.

7. To reserve the authority to review and approve the agreement mentioned in the previous operative paragraph and, should no agreement be reached, to continue the reparations procedure.

2. The judgment on reparations delivered by the Court on November 30, 2001, in the operative paragraphs of which it decided:

unanimously,

1. To approve, under the terms of [the] judgment, the agreement on reparations signed on August 22, 2001, by the State of Peru and the victims, their next of kin and their representatives.

2. That the State of Peru must pay:

a) US\$175,000.00 (one hundred and seventy-five thousand dollars of the United States) to each of the following surviving victims: Natividad Condorcahuana Chicaña, Felipe León León, Tomás Livias Ortega and Alfonso Rodas Alvétez (or Albitres, Albites or Alvitrez);

b) US\$175,000.00 (one hundred and seventy-five thousand dollars of the United States) to the beneficiaries of the reparations pertaining to each of the following deceased victims [...]: Placentina Marcela Chumbipuma Aguirre, Luis Alberto Díaz Astovilca, Octavio Benigno Huamanyauri Nolasco, Luis Antonio León Borja, Filomeno León León, Lucio Quispe Huanaco, Tito Ricardo Ramírez Alberto, Teobaldo Ríos Lira, Manuel Isaías Ríos Pérez, Javier Manuel Ríos Rojas, Alejandro Rosales Alejandro, Nelly María Rubina Arquifigo, Odar Mender (or Méndez) Sifuentes Nuñez, and Benedicta Yanque Churo; and

c) US\$250,000.00 (two hundred and fifty thousand dollars of the United States) to the beneficiaries of the reparations pertaining to the deceased victim Máximo León León.

The State of Peru must make all the respective payments for these reparations during the first quarter of fiscal year 2002, in accordance with the provisions set forth in paragraphs 35 to 40 of [the] judgment.

3. That the State of Peru must grant the beneficiaries of the reparations their healthcare expenses, granting them free care at the respective health care center according to their place of residence and at the respective specialized institute or hospital of referral, in the areas of out-patient consultation, diagnostic support procedures, medicine, specialized care, diagnostic procedures, hospitalization, surgery, childbirth, traumatological rehabilitation, and mental health, in accordance with the provisions set forth in paragraphs 42 and 45 of [the] judgment.

4. That the State of Peru must provide the beneficiaries of the reparations the following educational benefits, in accordance with the provisions set forth in paragraphs 43 and 45 of [the] judgment:

a) Scholarships through the *Instituto Nacional de Becas y Crédito Educativo* to study in Academies, Institutes and *Centros de Ocupación Ocupacional (sic)* and support to beneficiaries interested in furthering their education, "through the National Directorate of Secondary and Higher Technological Education"; and

b) Educational materials; official textbooks for students in primary and secondary schooling; uniforms; class work materials, and others.

5. That the State of Peru must make the following non-pecuniary reparations, pursuant to the provisions set forth in paragraphs 44 and 45 of [the] judgment:

- a) To apply the ruling of the court in its judgment on interpretation of the judgment on merits "regarding the meaning and scope of the declaration of ineffectiveness of Laws N° 26479 and [N°]26492";
- b) To initiate the procedure to include "the most suitable legal classification" to define the crime of extra-judicial executions, within 30 days of the date the agreement was signed";
- c) To initiate "the procedure to sign and promote ratification of the Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes against Humanity, [...] within 30 days of the date the agreement was signed";
- d) To publish the judgment of the Court in the official gazette *El Peruano*, and to disseminate its content through other media "deemed appropriate for that purpose, within 30 days from the date the agreement was signed";
- e) To include in the Supreme Resolution ordering publication of the agreement, "a public expression of apology to the victims for the grave damages caused" and ratification of the determination not to allow this type of event to occur again; and
- f) To erect a memorial within 60 days of the date the agreement was signed.

6. To require that the State publish through a radio station, a television channel, and a newspaper, all of them with national coverage, an announcement stating that the next of kin of Tito Ricardo Ramírez Alberto, Odar Mender (or Méndez) Sifuentes Nuñez, and Benedicta Yanque Churo, [were] being sought to grant them reparation in connection with the facts in the instant case. Said publication [to] be made for at least 3 non-consecutive days, within 30 days after notice of [the] judgment [was] served, according to the provisions of paragraphs 31 and 32 of the latter.

7. That the State of Peru must submit to the Inter-American Court of Human Rights a report on fulfillment of the reparations within six months of the date that notice of [the] judgment is served.

8. That it w[ould] monitor fulfillment of the obligations set forth in [the] judgment and it w[ould] only close the instant case once the State of Peru ha[d] faithfully complied with the provisions set forth in [the] judgment.

3. The brief of March 27, 2002, in which the State of Peru (hereinafter "the State" or "Peru") forwarded a copy of the "Minutes relating to the addendum to the agreement on integral reparation in the Barrios Altos case."

4. The brief of May 9, 2002, in which the Embassy of Peru in Costa Rica forwarded Report No. 39-2002-JUS/CNDH-SE and its attachments, prepared by the Executive Secretariat of the National Human Rights Council (CNDH) of the Ministry of Justice of Peru, which "describes the measures taken by the Peruvian State to comply with the judgment on reparations of the Inter-American Court of Human Rights of November 30, 2001, in the *Barrios Altos* case."

5. The brief of June 17, 2002, in which the Embassy of Peru in Costa Rica forwarded Report No. 48-2002-JUS/CNDH-SE and its attachments, prepared by the Executive Secretariat of the National Human Rights Council (CNDH) of the Ministry of Justice of Peru, which "describes compliance with [...] the pecuniary reparations granted to the next of kin and/or the victims in the *Barrios Altos* case."

6. The brief of July 30, 2002, in which the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") forwarded the comments (unsigned) of the National Human Rights Coordinator

(CNDDHH), the representative of the victims and their next of kin, to the above-mentioned report of the State (*supra* fifth having seen paragraph). The Commission indicated that "as it ha[d] no information on the matter, apart from that provided by the petitioners, it referred to the information they had submitted."

7. The brief of August 1, 2002, in which the National Human Rights Coordinator (CNDDHH), the representative of the victims and their next of kin, presented its comments on the said report of the State (*supra* fifth having seen paragraph) directly to the Court.

8. The brief of September 19, 2002, in which the Embassy of Peru in Costa Rica forwarded a copy of Supreme Resolution No. 284-2002-RE of August 29, 2002, resolving to appoint the lawyer, María del Pilar Freitas Alvarado, as Agent in this case, in substitution of Javier Ernesto Ciurliza Contreras. By Supreme Resolution No. 384-2001-RE of September 18, 2001, the State accepted the resignation of Mr. Ciurliza Contreras as Peru's Agent in the instant case.

9. The order issued by the Court on November 22, 2002, in the fifth considering clause of which, it established that it was essential that Peru provide information:

- a) Regarding the broadcast by a radio station and a television channel of an announcement indicating that the next of kin of Odar Mender (or Méndez) Sifuentes Nuñez, Benedicta Yanque Churo and Tito Ricardo Ramírez Alberto were being sought to grant them reparation in relation to the facts of the instant case;
- b) Regarding the payment of the compensation owing to the beneficiaries of Odar Mender (or Méndez) Sifuentes Nuñez, Benedicta Yanque Churo and Tito Ricardo Ramírez Alberto, who were still being sought when the judgment on reparations was delivered;
- c) Regarding payment of compensation to the following beneficiaries:
 - i) Luis Alvaro León Flores, son of the victim, Luis Antonio León Borja;
 - ii) Martín León Lunazco, son of the victim, Máximo León León;
 - iii) Norma Haydé Quispe Valle, daughter of the victim, Lucio Quispe Huanaco;
 - iv) Cristina Ríos Rojas and Ingrid Elizabeth Ríos Rojas, daughters of the victim, Manuel Isaías Ríos Pérez; and
 - v) Rocío Rosales Capillo, daughter of the victim, Alejandro Rosales Alejandro;
- d) Regarding the deposit of the amount of the compensation corresponding to the beneficiaries of the reparations who were minors in a "trust fund under the most favorable conditions according to Peruvian banking practice," in accordance with the provisions of paragraph 35 of the judgment on reparations;
- e) Whether the compensation owing to the respective beneficiaries had been paid during the first quarter of fiscal year 2002 and, if not, regarding the payment of arrears, as regulated in paragraph 36 of the judgment on reparations;
- f) Regarding the education and health services provided;
- g) Regarding implementation of the Court's ruling in its judgment on interpretation of the judgment on merits in this case "on the meaning and scope of the declaration of ineffectiveness of Acts No. 26479 and [Nº] 26492", should the State have any information in addition to that which it had already forwarded to the Court;
- h) Regarding progress in incorporating "the most suitable legal classification" to define the crime of extra-judicial execution;

- i) Regarding progress concerning the signature and ratification of the International Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity;
- j) Regarding the publication of the judgment of the Court in the official gazette *El Peruano* and the dissemination of its contents through other media;
- k) Regarding the inclusion in the Supreme Resolution ordering publication of the agreement on reparations of "a public expression of apology to the victims for the grave damages caused" and ratification of the determination that this type of event would never happen again; and
- l) Regarding the memorial to be erected.

Consequently, the Court decided:

1. That the State of Peru must present to the Court by April 7, 2003, at the latest, a detailed report on the issues mentioned in the fifth considering paragraph of the [...] Order, concerning the measures taken in order to comply with the decisions of the Court in its judgment on reparations.
 2. That the representatives of the victims and their next of kin, and also the Inter-American Commission on Human Rights, must present their comments on the report of the State mentioned in the preceding operative paragraph within two months of receiving it.
10. The communication of November 29, 2002, in which the Embassy of Peru in Costa Rica presented a brief prepared by the Executive Secretariat of the National Human Rights Council (CNDH) of the Ministry of Justice of Peru, submitting information on compliance with the reparations ordered by the Court.
 11. The report of the State of April 9, 2003, concerning the measures taken to comply with the rulings of the Court in its judgment on reparations.
 12. The communication of the Commission of June 11, 2003, requesting an extension until June 18, 2003, to present its comments on the above-mentioned report of the State. The following day, the Secretariat of the Court (hereinafter "the Secretariat"), on the instructions of the President of the Court (hereinafter "the President"), informed the Commission that the requested extension had been granted.
 13. The communication of the Commission of June 17, 2003, with which it forwarded the comments of the National Human Rights Coordinator (CNDDHH), representative of the victims and their next of kin, on the State's report of April 9, 2003 (*supra* eleventh having seen paragraph). In this communication, the Commission indicated that it endorsed the comments of the National Human Rights Coordinator (CNDDHH).
 14. The brief of June 25, 2003, in which the National Human Rights Coordinator (CNDDHH), representative of the victims and their next of kin, submitted its comments on the State's report of April 9, 2003 (*supra* eleventh having seen paragraph), directly to the Court.
 15. The brief of the State of August 25, 2003, in which it "consulted" the Court with regard to payment of the compensation corresponding to the beneficiaries who were minors mentioned in paragraph 35 and in the second operative paragraph *in fine* of the judgment on reparations delivered by the Court on November 30, 2001,

in the instant case. The State indicated that “the deposit in the form of a trust fund would involve the cost of the administrative and financial expenses of the banking entities, and this would adversely affect the capital deposited and prejudice the interests of the minor beneficiaries included in the judgment on reparations, bearing in mind also the time that the money would be deposited in trust,” and requested the Court “to provide information on its point of view and/or opinion” in this regard.

16. The note of the Secretariat of August 27, 2003, in which, on the instructions of the President, it granted until September 26, 2003, for the representatives of the victims and their next of kin and the Inter-American Commission to submit any comments they deemed pertinent on the State’s consultation.

17. The brief of September 24, 2003, in which the National Human Rights Coordinator (CNDDHH) and the Center for Justice and International Law (CEJIL), representatives of the victims and their next of kin, presented their comments on the State’s consultation (*supra* fifteenth having seen paragraph). In this brief with comments, they indicated, *inter alia*, that “in the friendly settlement agreement signed by the Peruvian State and ratified by the Court [...] the beneficiaries and their representatives insist[ed] that [depositing the amount of the compensation in a trust fund under the most favorable conditions according to Peruvian banking practice] was the means of complying with the obligation to provide compensation that was in the interest of the minors.” They also stated that the financial costs arising from setting up the trust fund could never be deducted from the amount deposited in favor of the minors, but should be assumed entirely by the State.

18. The brief of the Inter-American Commission of September 25, 2003, presenting its comments on the State’s consultation (*supra* fifteenth having seen paragraph). As an attachment, the Inter-American Commission presented the above-mentioned brief with the comments of CNDDHH and CEJIL, and indicated that it endorsed their comments. The Inter-American Commission also stated that “[t]he judgment is clear that the amount to be deposited [in trust] is the amount of the compensation established by the Court in its judgment and that this should not be affected by expenses arising from any pertinent measures taken to comply with the ruling.”

19. The brief of September 26, 2003, in which the *Fundación Ecuménica para el Desarrollo y la Paz* (FEDEPAZ) [Ecumenical Foundation for Development and Peace], representative of the victims and their next of kin, forwarded its comments on this consultation by the State (*supra* fifteenth having seen paragraph). In this respect, FEDEPAZ indicated, *inter alia*, that “any expenses that arises from the State’s compliance with the judgment sh[ould] be assumed by the State” and that “[i]t should not be understood that the third party in whose favor the trust fund is set up is obliged to assume the costs arising from this legal act.” It also stated that “in the Neira Alegría *et al.* case, the Peruvian State set up a trust fund for the beneficiaries who were minors and assumed the expenses arising from compliance with this payment, as was correct.”

20. The brief of October 21, 2003, in which the State provided information on compliance with the judgment on reparations. Peru stated that “it ha[d] complied with the delivery of the cheque [...] for \$28,822.67 United States dollars to Crisosta Valle Chacmana, in representation of Norma Haydee Quispe Valle, beneficiary of the victim [...] Lucio Quispe Huanaco” and that “it ha[d] complied with the delivery of the cheque [...] for \$175,000.00 United States dollars to Tehódulo Isidoro Sifuentes

Ocampo and Juliana Minez de Sifuentes, beneficiaries of the victim [...] Odar Sifuentes Minez." The attachments to this brief were forwarded on November 3, 2003.

21. The note of the Secretariat of October 30, 2003, in which, on the instructions of the President, it granted until November 7, 2003, for the representatives of the victims and their next of kin and the Inter-American Commission to forward any comments they deemed pertinent on the information submitted by the State on October 21, 2003.

22. The brief of November 5, 2003, in which FEDEPAZ forwarded its comments on the information on compliance with the judgment on reparations submitted by the State on October 21, 2003 (*supra* twentieth having seen paragraph). With regard to the information provided by Peru, FEDEPAZ indicated that "the Peruvian State had indeed made pecuniary reparations [...] as follows: [a] Norma Haydee Quispe Valle, beneficiary and daughter of the victim, Lucio Quispe Haunaco, \$28,822.67 (twenty-eight thousand eight hundred and twenty-two United States dollars and sixty-seven cents)[, and to] Tehódulo Isidoro Sifuentes Ocampo and Juliana Minez de Sifuentes, parents of the victim, Odar Mender Sifuentes Minez, \$175,000.00 (one hundred and seventy-five thousand United States dollars)."

23. The communication of November 6, 2003, in which the Inter-American Commission forwarded its comments on the information on compliance with the judgment on reparations presented by the State on October 21, 2002 (*supra* twentieth having seen paragraph). The Commission stated that "it [had] received a copy of the petitioners' confirmation [...] that the Peruvian State has made the pecuniary reparation set out in the agreement on full reparation to the victims and next of kin in the Barrios Altos case, to Norma Haydée Quispe Valle (\$28,822.67) and to Tehódulo Isidoro Sifuentes Ocampo and Juliana Minez de Sifuentes (\$175,000.00)[, t]hereby complying with the Court's requirement."

CONSIDERING:

1. That one of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.
2. That Peru has been a State Party to the American Convention since July 28, 1978, and accepted the obligatory 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."
4. That, in view of the final and unappealable character of the judgments of the Court, as established in Article 67 of the American Convention, they should be complied with fully and promptly by the State.
5. That the treaty obligations of the States Parties are binding for all the powers and organs of the State.
6. That the obligation to comply with the decisions in 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 internal law as justification for its failure to perform a treaty.¹

7. That, in the judgment on reparations, the Court ratified the pecuniary reparation set out in the reparations agreement² and approved the method for complying with the reparations proposed in this agreement³. Consequently, the Court indicated that the State must adopt all necessary measures to make all the payments corresponding to pecuniary reparations during the first quarter of the 2002 fiscal year, as the parties had agreed.⁴

8. That, bearing in mind the arrangement reached by the parties in this agreement, the Court stated in the judgment on reparations of November 30, 2001, that:

35. As regards the manner of payment, article five of the agreement [...] states that the payment will be made directly to the surviving victims and directly to each of the beneficiaries of the reparations, "in the proportions set forth in the respective Declaration of Heirship" and that, in the case of reparations to minors, the State will deposit the indemnification in a "trust fund under the most favorable conditions according to Peruvian banking practices."

9. That, according to the information forwarded to the Court, the minors who are beneficiaries of the reparations are: Luis Alvaro León Flores, son of the victim Luis Antonio León Borja; Cristina and Ingrid Elizabeth, both Ríos Rojas, daughters of the victim, Manuel Isaías Ríos Pérez; and Rocío Rosales Capillo, daughter of the victim Alejandro Rosales Alejandro.

10. That the manner in which the State must comply with the payment of the compensation corresponding to the beneficiaries who are minors consists in placing the compensation amounts in a trust fund "under the most favorable conditions according to Peruvian banking practices" (*supra* eighth considering paragraph).

11. That, according to the law, it is the State that should defray the expenses arising from the trust fund rather than the beneficiaries of the reparation⁵.

12. That, as part of the fair compensation referred to in Article 63(1) of the Convention, it is reasonable that the victims or their successors should receive the

¹ Cf. *Benavides Cevallos case. Compliance with judgment*. Order 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; and "*The Last Temptation of Christ*" case (*Olmedo Bustos et al.*). *Compliance with judgment*. Order of the Inter-American Court of Human Rights of November 28, 2002, third considering paragraph.

² The agreement on reparations in this case was signed by the representatives of the victims and their next of kin and the State on August 22, 2001; it was also agreed to by the Inter-American Commission on Human Rights. Cf. *Barrios Altos case. Reparations* (Art. 63(1) of the American Convention on Human Rights). Judgment of November 30, 2001. Series C No. 87, paras. 11, 17, 18, 21 and 38.

³ Cf. *Barrios Altos case. Reparations*, *supra* nota 2, para. 39.

⁴ Cf. *Barrios Altos case. Reparations*, *supra* nota 2, paras. 35 and 38.

⁵ Cf. *Suárez Rosero case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of December 4, 2001, first operative paragraph

amounts that correspond to them in full and effectively.⁶ The State may not deduct any percentage of the compensation corresponding to the beneficiaries who are minors for the administrative or financial expenses incurred by the trust company, to the detriment of the capital deposited in the trust fund.

13. That the State must deposit the amounts of the compensation corresponding to the beneficiaries who are minors in a trust fund during the first quarter of the 2002 fiscal year;⁷ in other words, the time limit expired more than a year ago and the State has still not set up a trust fund.

14. That it is the State's obligation to pay compensatory interest on the arrears for the period during which it failed to make the deposit in the trust fund of the compensation amounts corresponding to the beneficiaries who are minors, and this should be calculated on the basis of the interest rate established by the Central Bank [*Banco Central de Reserva*] of Peru.⁸

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15. That, in the course of monitoring full compliance with the judgments on merits and reparations in this case, and after examining the information contributed by the State, the Inter-American Commission and the representatives of the victims and their next of kin in the briefs on compliance with reparations, the Court has verified that Peru has complied with:

a) Payment of compensation to the following surviving victims: Natividad Condorcahuana Chicaña, Felipe León León, Tomás Livias Ortega and Alfonso Rodas Alvítez (or Albitres, Albites or Alvitrez) (*subparagraph (a) of the second operative paragraph of the judgment on reparations of November 30, 2001*);

b) Payment of compensation to the following beneficiaries of the deceased victims (*subparagraphs (b) and (c) of the second operative paragraph of the judgment on reparations of November 30, 2001*): for the victim Placentina Marcela Chumbipuma Aguirre to Luis Angel Tolentino Chumbipuma (son), Alfredo Roberto Tolentino Chumbipuma (son) and Rocío Victoria Obando Chumbipuma (daughter); for the victim Luis Alberto Díaz Astovilca to Caterin Díaz Ayarquispe (daughter), Virginia Ayarquispe Larico (companion), María Astovilca Tito de Díaz (mother) and Albino Díaz Flores (father); for the victim Octavio Benigno Huamanyauri Nolazco to Félix Huamanyauri Nolazco (brother); for the victim Luis Antonio León Borja to Elizabeth Raquel Flores Huamán (companion), Estela Borja Rojas (mother) and Fausto León Ramírez (father); for the victim Filomeno León León to Severina León Luca (mother), Bernabé León León and Melania León León (the relationship was not indicated); for the victim Máximo León León to Maribel León Lunazco (daughter), Sully León Lunazco (son) and Eugenia Lunazco

⁶ Cf. *Baena Ricardo et al. case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of November 22, 2002, tenth considering paragraph; and *Loayza Tamayo case. Interpretation of the Judgment on Reparations* (Art. 67 of the American Convention on Human Rights). Judgment of June 3, 1999. Series C No. 53, para. 24.

⁷ Cf. *Barrios Altos case. Reparations, supra nota 2*, para. 35 y punto resolutivo segundo *in fine*.

⁸ Cf. *Barrios Altos case. Reparations, supra nota 2*, para. 36 y punto resolutivo segundo *in fine*.

Andrade (wife); for the victim Lucio Quispe Huanaco to Sonia Martha Quispe Valle (daughter), Norma *Haydee*⁹ Quispe Valle (daughter), Walter Raúl Quispe Condori (son), Juan Fidel Quispe Condori (son), Amalia Condori Lara (wife) and Crisosta Valle Chacmana (companion); for the victim Teobaldo Ríos Lira to Isabel Estelita Ríos Pérez (niece); for the victim Manuel Isaías Ríos Pérez to Rosa Rojas Borda (wife); for the victim Javier Manuel Ríos Rojas to Rosa Rojas Borda (mother); for the victim Alejandro Rosales Alejandro to Giovanna Rosales Capillo (daughter), Elías Cirilo Rosales Medina (or Caurino) (son), Gregoria Medina Caurino (wife) and Celestina Alejandro Cristóbal (mother); for the victim Nelly María Rubina Arquíñigo to Leonarda Arquíñigo Huerta (mother), Gladys Sonia Rubina Arquíñigo (sister) and Virgilia Arquíñigo Huerta (aunt); and for the victim Odar *Mender Sifuentes Minez*¹⁰ to Teholulo Isidoro Sifuentes Ocampo (father) and Juliana Minez de Sifuentes (mother); and

c) Finding the next of kin of the victims Odar Mender Sifuentes Minez, Benedicta Yanque Churo and Tito Ricardo Ramírez Alberto, in order to grant them the reparations ordered with regard to the facts of this case (*sixth operative paragraph of the judgment on reparations of November 30, 2001*).

16. That, after examining the information provided by the State and by the Inter-American Commission and the representatives of the victims and their next of kin in their briefs on compliance with the reparations, the Court considers it essential that the State of Peru provide the Court with information on the following issues that are pending compliance:

a) Investigation of the facts to determine the identity of those responsible for the human rights violations referred to in the judgment on merits, and on the public dissemination of the results of this investigation and the punishment of those responsible (*fifth operative paragraph of the judgment on merits of March 14, 2001*);

b) Payment of the compensation owed to the beneficiaries of Benedicta Yanque Churo and Tito Ricardo Ramírez Alberto, who were still being sought when the judgment on reparations was delivered (*subparagraph (b) of the second operative paragraph of the judgment on reparations of November 30, 2001*);

c) Payment of compensation to Martín León Lunazco¹¹, son of the victim Máximo León León (*subparagraph (c) of the second operative paragraph of the judgment on reparations of November 30, 2001*);

⁹ The judgment on reparations indicated that the name of this beneficiary of the reparations was Norma Haydé Quispe Valle. However, after examining the briefs and evidence in the file on monitoring compliance with judgment, it was determined that the correct name of this beneficiary is Norma Haydee Quispe Valle.

¹⁰ The judgments on merits and on reparations indicated that the name of this victim was Odar Mender (or Méndez) Sifuentes Nuñez. However, after examining the briefs and evidence in the file on monitoring compliance with judgment, it was determined that the correct name of this beneficiary is Odar Mender Sifuentes Minez.

¹¹ In its report of June 17, 2002 (*supra* fifth having seen paragraph), the State indicated that it had paid the beneficiaries of the victim Máximo León León, without providing details. In its comments of August 1, 2002 (*supra* seventh having seen paragraph), the National Human Rights Coordinator did not mention that the compensation corresponding to the beneficiary Martín León Lunazco had been paid. Consequently, in the Order of November 22, 2002, the Court requested the State to provide information on payment of the

- d) Deposit of the compensation amount corresponding to the beneficiaries of reparations who are minors in a "trust fund under the most favorable conditions according to Peruvian banking practices," in accordance with the provisions of paragraph 35 of the judgment on reparations and the eighth, ninth, tenth, eleventh and twelfth considering paragraphs of this Order;
- e) Payment of the compensatory interest on the arrears for the period during which it failed to deposit the compensation amounts corresponding to the beneficiaries who are minors in a trust fund, as stipulated in paragraph 36 of the judgment on reparations;
- f) The provision of educational and health services (*third and fourth operative paragraphs of the judgment on reparations of November 30, 2001*);
- g) Implementation of the Court's ruling in its judgment on interpretation of the judgment on merits in this case "regarding the meaning and scope of the declaration of ineffectiveness of Laws No. 26479 and [No.] 26492" (*subparagraph (a) of the fifth operative paragraph of the judgment on reparations of November 30, 2001*), should the State have any additional information to that which it has already forwarded to the Court;
- h) Progress in including "the most suitable legal classification" to define the crime of extrajudicial executions (*subparagraph (b) of the fifth operative paragraph of the judgment on reparations of November 30, 2001*);
- i) Progress regarding accession to and ratification of the International Convention on the Non-applicability of Statutory Limitations to War Crimes and Crimes against Humanity (*subparagraph (c) of the fifth operative paragraph of the judgment on reparations of November 30, 2001*);
- j) Publication of the judgment of the Court in the official gazette *El Peruano* and dissemination of its contents in other media (*subparagraph (d) of the fifth operative paragraph of the judgment on reparations of November 30, 2001*);
- k) Inclusion in the Supreme Resolution ordering publication of the agreement of "a public expression of apology to the victims for the grave damages caused" and ratification of the determination not to allow this type of event to occur again (*subparagraph (e) of the fifth operative paragraph of the judgment on reparations of November 30, 2001*); and
- l) The memorial to be erected (*subparagraph (f) of the fifth operative paragraph of the judgment on reparations of November 30, 2001*).
17. That this Court considers that it is not pertinent to request any further information with regard to the aspects that Peru has already complied with (*supra* fifteenth considering clause).

compensation to Martín León Lunazco as the beneficiary of the victim, Máximo León León (*supra* subparagraph (c) of the ninth having seen paragraph). To date, no information has been provided on this matter.

18. That the State must comply with the aspects that remain to be fulfilled (*supra* sixteenth considering paragraph) forthwith. Accordingly, Peru must submit a report on the pending aspects indicated by the Court and, subsequently, the representatives of the victims and their next of kin, and also the Inter-American Commission, must present their comments on the State's report.

19. That the Court will consider the general status of compliance with its judgments on merits (March 14, 2001) and on reparations (November 30, 2001) when it has received the said report of the State and the corresponding comments on the above-mentioned measures of reparation (*supra* sixteenth considering paragraph).

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 on Human Rights, Article 25(1) of its Statute, and Article 29(2) of its Rules of Procedure,

DECLARES:

1. That, in accordance with the arrangements made by the parties in the reparations agreement, subsequently ratified by the Court in the judgment on reparations of November 30, 2001, the manner in which the State must make the payment of the compensation corresponding to the beneficiaries who are minors is by depositing the compensation amounts in a trust fund "under the most favorable conditions according to Peruvian banking practices."

2. That the State must defray any expenses arising from the trust fund. The State may not deduct any percentage of the compensation corresponding to the minors for the administrative or financial expenses incurred by the trust company, to the detriment of the capital deposited in the trust fund.

3. As stated in the fifteenth considering paragraph of this Order, the State has complied in full with the aspects indicated in subparagraph (a) of the second operative paragraph and the sixth operative paragraph of the judgment on reparations delivered by the Court on November 30, 2001, as regards:

a) Payment of compensation to the following surviving victims: Natividad Condorcahuana Chicaña, Felipe León León, Tomás Livias Ortega and Alfonso Rodas Alvítez (or Albitres, Albites or Alvitrez) (*subparagraph (a) of the second operative paragraph of the judgment on reparations of November 30, 2001*); and

b) Finding the next of kin of the victims Odar Mender Sifuentes Minez, Benedicta Yanque Churo and Tito Ricardo Ramírez Alberto, in order to grant them the reparations ordered with regard to the facts of this case (*sixth operative paragraph of the judgment on reparations of November 30, 2001*).

4. That, as stated in the fifteenth considering paragraph of this Order, the State has complied partially with the contents of subparagraphs (b) and (c) of the second

operative paragraph of the judgment on reparations delivered by the Court on November 30, 2001, in relation to payment of compensation to the following beneficiaries of the deceased victims (*subparagraphs (b) and (c) of the second operative paragraph of the judgment on reparations of November 30, 2001*): for the victim Placentina Marcela Chumbipuma Aguirre to Luis Angel Tolentino Chumbipuma (son), Alfredo Roberto Tolentino Chumbipuma (son) and Rocío Victoria Obando Chumbipuma (daughter); for the victim Luis Alberto Díaz Astovilca to Caterin Díaz Ayarquispe (daughter), Virginia Ayarquispe Larico (companion), María Astovilca Tito de Díaz (mother) and Albino Díaz Flores (father); for the victim Octavio Benigno Huamanyauri Nolazco to Félix Huamanyauri Nolazco (brother); for the victim Luis Antonio León Borja to Elizabeth Raquel Flores Huamán (companion), Estela Borja Rojas (mother) and Fausto León Ramírez (father); for the victim Filomeno León León to Severina León Luca (mother), Bernabé León León and Melania León León (the relationship was not indicated); for the victim Máximo León León to Maribel León Lunazco (daughter), Sully León Lunazco (son) and Eugenia Lunazco Andrade (wife); for the victim Lucio Quispe Huanaco to Sonia Martha Quispe Valle (daughter), Norma Haydee Quispe Valle (daughter), Walter Raúl Quispe Condori (son), Juan Fidel Quispe Condori (son), Amalia Condori Lara (wife) and Crisosta Valle Chacmana (companion); for the victim Teobaldo Ríos Lira to Isabel Estelita Ríos Pérez (niece); for the victim Manuel Isaías Ríos Pérez to Rosa Rojas Borda (wife); for the victim Javier Manuel Ríos Rojas to Rosa Rojas Borda (mother); for the victim Alejandro Rosales Alejandro to Giovanna Rosales Capillo (daughter), Elías Cirilo Rosales Medina (or Caurino) (son), Gregoria Medina Caurino (wife) and Celestina Alejandro Cristóbal (mother); for the victim Nelly María Rubina Arquiñigo to Leonarda Arquiñigo Huerta (mother), Gladys Sonia Rubina Arquiñigo (sister) and Virgilia Arquiñigo Huerta (aunt); and for the victim Odar Mender Sifuentes Minez to Teholulo Isidoro Sifuentes Ocampo (father) and Juliana Minez de Sifuentes (mother).

5. That it will keep open the procedure to monitor compliance with the aspects pending fulfillment in the instant case, as indicated in the sixteenth considering paragraph of this Order.

AND DECIDES:

6. To urge the State to adopt any necessary measures to comply promptly and effectively with the reparations ordered in the judgments of March 14 and November 30, 2001, which are pending fulfillment, pursuant to the provisions of Article 68(1) of the American Convention on Human Rights.

7. To call upon the State to present to the Inter-American Court of Human Rights, by April 1, 2004, at the latest, a detailed report indicating all the measures adopted to comply with the obligation to investigate the facts in order to identify those responsible for the human rights violations referred to in the judgment on merits, and also to publish the results of this investigation and punish those responsible, and to comply with the other reparations ordered by this Court that are pending fulfillment, as indicated in the sixteenth considering paragraph of this Order.

8. To call upon the representatives of the victims and their next of kin and the Inter-American Commission on Human Rights to submit their comments on the State's report mentioned in the preceding operative paragraph within two months of receiving it.

9. To continue monitoring the aspects of the judgment of March 14, 2001 (merits), and November 30, 2001(reparations) that are pending compliance.

10. To notify this Order to the State, the Inter-American Commission on Human Rights and the representatives of the victims and their next of kin.

Antônio A. Cançado Trindade
President

Sergio García-Ramírez

Hernán Salgado-Pesantes

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