

**RULING OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS ***

FEBRUARY 7, 2006

**CASE OF THE CONSTITUTIONAL COURT
(AGUIRRE ROCA, REY TERRY AND REVOREDO MARSANO)
V. PERU**

COMPLIANCE WITH JUDGMENT

CONSIDERING:

1. The Judgment issued by the Inter-American Court of Human Rights (hereinafter "the Court", "the Inter-American Court", or "the Tribunal") on January 31, 2001, through which it:

1. [found] that the State violated the right to a fair trial embodied in Article 8 of the American Convention on Human Rights, with regard to Manuel Aguirre Roca, Guillermo Rey Terry and Delia Revoredo Marsano.

2. [found] that the State violated the right to judicial protection embodied in Article 25 of the American Convention on Human Rights, with regard to Manuel Aguirre Roca, Guillermo Rey Terry and Delia Revoredo Marsano.

3. [found] that the State failed to comply with the general obligation of Article 1(1) of the American Convention on Human Rights, with regard to the violation of the substantive rights indicated in the previous operative paragraphs of the [...] judgment.

4. decid[ed] that the State must order an investigation to determine the persons responsible for the human rights violations referred to in [the] judgment and also publish the results of this investigation and punish those responsible.

5. decid[ed] that the State [should] pay the amounts corresponding to the arrears of salary and other benefits that, by law, correspond[ed] to Manuel Aguirre Roca, Guillermo Rey Terry and Delia Revoredo Marsano [...].

6. decid[ed] that, in fairness, the State must reimburse the victims in the instant case, for costs and expenses [...] the following amounts: Manuel Aguirre Roca, US\$25,000.00 (twenty-five thousand United States dollars) or the equivalent in Peruvian money when the payment is made; Guillermo Rey Terry, US\$25,000.00 (twenty-five thousand United States dollars) or the equivalent in Peruvian money when the payment is made; and Delia Revoredo Marsano, US\$35,000.00 (thirty-five thousand United States dollars) or the equivalent in Peruvian money when the payment is made.

7. decid[ed] that it w[ould] monitor that th[e] judgment is complied with and only then w[ould] it close the case.

* The Judge Diego García-Sayán informed the Court that, due to reasons of force majeure, he could not be present in the deliberation and signing of the present Ruling.

2. The Court's Ruling of November 27, 2003 on the compliance with judgment in the present case, in which it stated in its seventh and eighth whereas clauses that:

7. [...] when supervising the comprehensive compliance of the judgments on merits and reparations issued in the present case, and after analyzing the information provided by the State, the victims, and the Inter-American Commission, the Court [...] prove[d] that the State ha[d] paid the compensations for costs and expenses to the victims ordered by the Tribunal, pursuant to the sixth operative paragraph of the Judgment on reparations.

8. [...] after analyzing the information provided by the State, the victims, and the Inter-American Commission, the Tribunal consider[ed] it was indispensable that the State inform the Court regarding the compliance of the following:

- a) on the result of the investigations to determine the people responsible for the violations of the human rights committed against the victims of the case and their punishment [...] (*Fourth operative paragraph of the Judgment of November 27, 2003*); and
- b) on the payment of the arrears of salary and other benefits that, by domestic law, correspond to Messrs. Manuel Aguirre Roca, Guillermo Rey Terry, and Delia Revoredo Marsano (*Fifth operative paragraph of the Judgment of November 27, 2003*).

In this sense, the Tribunal decided to:

3. Urge the State to adopt all the measures necessary to give effect and prompt compliance to the reparations ordered in the Judgment of January 31, 2001 and that whose compliance was still pending, pursuant to that stated in Article 68(1) of the American Convention on Human Rights.

3. The Court's Ruling of November 17, 2004 on the compliance with judgment in the present case, in which it stated in its eighth and ninth whereas clauses that:

8. [...] when supervising the comprehensive compliance of the Judgment of January 31, 2001, and after analyzing the information provided by the State, the victims, and the Commission in its briefs on the compliance with the reparations [...] the Tribunal warn[ed] that it did not have enough information on the following matters pending of compliance:

- a) the current status of the investigations to determine the people responsible for the violations of the human rights committed against the victims of the case and their punishment [...] (*Fourth operative paragraph of the Judgment of January 31, 2001*); and
- b) the payment of the arrears of salary and other benefits that, by domestic law, correspond to Messrs. Manuel Aguirre Roca, Guillermo Rey Terry, and Delia Revoredo Marsano (*Fifth operative paragraph of the Judgment of January 31, 2001*).

9. [...] this Court [...] establish[ed] that the State responsible that incurs in a delay regarding payment of the compensations ordered by the Tribunal must [...] pay an interest over the amount due. It is an obligation of the State responsible to comply with payment of the compensations ordered by the Tribunal in its judgments within the time period established for said payment, and failure to comply with this obligation brings about consequences for the State. When payment is made after the time period has expired, the consequent obligation to pay interests over the amounts due arises for the State, thus, maintaining the value of the compensation and ensuring that said amounts maintain the purchasing power. The Court [...] declare[d] that the States have the mentioned obligation to pay interests even when in the judgment in which the Tribunal stated the reparations it did not establish said obligation expressly.

In this sense, the Tribunal decided to:

2. Require that the State determine and pay, pursuant to the domestic law applicable most favorable for the victims and observing the guarantees of the due process, the interests generated during the time in which it incurred in delays with regard to the payment of the arrears of salary and other benefits of Messrs. Manuel Aguirre Roca, Guillermo Rey Terry, and Delia Revoredo Marsano.
3. Request that the State present, no later than January 31, 2005, a detailed report in which it indicates the actual state of the investigations to determine the people responsible for the violations of human rights committed against the victims of the case and their punishment – as well as the measures carried out for the payment of the arrears of salary, other benefits, and the corresponding interests that, pursuant to domestic legislation, correspond to Messrs. Manuel Aguirre Roca, Guillermo Rey Terry y Delia Revoredo Marsano – as stated in the eighth and ninth whereas clauses of the present Ruling.
4. The brief of January 10, 2005, through which Mrs. Herlinda Ibáñez viuda de Aguirre declared that the State (hereinafter the “State” or “Peru”) had not complied with the compensation of the arrears of salary set at S/ 839,496.22 new soles.
5. The brief of January 14, 2005, through which Mrs. Delia Revoredo Marsano de Mur informed that the State had partially complied with the compensatory payment regarding the arrears of salary and had delivered three checks for the amount of S/ 300,000.00, S/ 20,000.00, and S/ 2,000.00 new soles which totaled S/ 322,000.00 new soles equal to US \$100,000.00 (one hundred thousand dollars of the United States of America), leaving an outstanding balance of S/ 517,496.22 new soles.
6. The brief of February 21, 2005, through which Mrs. Pilar Vega Alvear viuda de Rey informed that the State had partially complied with the compensatory payment regarding the arrears of salary through a check for the amount of S/ 322,000.00 new soles equal to US \$100,000.00 (one hundred thousand dollars of the United States of America). However, the State had not referred to the opportunity on which it would comply with the outstanding amount, or with regard to the interests for delayed payments earned.
7. The report of February 25, 2005, through which the State declared, *inter alia*, that
 - a) regarding the investigation of the facts, information had been requested to the Congress of the Republic, without having received any response. On the other hand, the Ombudsman had stated that the Political Constitution acknowledged the Congress’ power to apply sanctions for essentially political constitutional infractions, which could be applied in the present case. On February 21, 2005 the State requested that the Ombudsman precise how said measure would be implemented, since the Congress of the Republic had decided to file the claim, and
 - b) regarding the payment of the arrears of salaries and other benefits, the State had paid Mrs. Delia Revoredo Marsano and Sara del Pilar Alvear viuda de Rey the amount of S/ 322,000.00 new soles each for the concept of the arrears of salary, being in process the payment of the successors of Mr. Manuel Aguirre Roca, as well as the outstanding balance of the other two people for the amount of S/ 517,496.22 new soles corresponding to the arrears of salary. Besides, on November 11, 2004 the Ministry of Justice requested the Ministry of Economics and Finances that it adopt the measures necessary to comply with the

execution of the Court's judgment "through the allocation of funds pursuant to Article 7 of Law 27775." Finally, the Ministry of Justice had informed that the Special Fund for the Administration of Money Obtained Illegally in detriment of the State (hereinafter "FEDADOI") informed that it was not authorized to attend to the requests of money to comply with the payment of the reparations ordered by judgments of the Inter-American Court.

8. The brief of March 11, 2005, through which Mrs. Herlinda Ibáñez viuda de Aguirre Roca informed that on March 7, 2005 she had received a check from the Ministry of Justice for an amount of S/322,000.00 new soles, which corresponds to the third part of the amount due by the State. Likewise, she stated her dissatisfaction before the State's omission to pay the totality of the compensatory amount and the lack of determination of Peru regarding the amount for interests and the date on which the pending payments would be made.

9. The brief of March 15, 2005, through which the State informed that the Ministry of Justice had paid Mrs. Delia Revoredo Marsano and Pilar Vega Alvear viuda de Rey the amount of S/ 322,000.00 new soles, and that payment to the successors of Mr. Manuel Aguirre Roca was in process. On the other hand, on February 21, 2005 the Ministry of Justice had requested the General Director of Administration that it set the date on which payment of the remaining balance corresponding to the arrears of salary would be made, to which it responded that it could not state the date on which it would comply with the remaining balance, since there must be a prior coordination between the National Council of Human Rights and the General Office of Economy and Development regarding budget availability. Therefore, on February 23, 2005 a request was made to the Ministry of Economy and Development so that it would coordinate with the General Office of Economy and Development in order to comply with the remaining balance of the back pay and to inform of the actions carried out. Besides, on November 11, 2004 the Ministry of Justice requested to the Ministry of Economy and Finances that it adopt the measures necessary to comply with the execution of the Court's judgment, through the allocation of funds.

10. The brief of April 1, 2005, through which Mrs. Herlinda Ibáñez viuda de Aguirre Roca stated that on March 7, 2005 she had received a check from the Ministry of Justice for the amount of S/ 322,000.00 new soles "as an advance payment corresponding to the third part of the compensatory amount set by the Constitutional Court itself and accepted by the State on April 18, 2001." Besides, she reiterated her lack of conformity with having received the amount mentioned, since "now four years after the judgment was issued, the State [...] had unilaterally decided to pay a third of the compensatory amount [...], avoiding besides all reference to the interests earned due to the delay in the compliance of the judgment."

11. The brief of April 11, 2005, through which Mrs. Delia Revoredo Marsano de Mur stated, *inter alia*, that:

- a) in what refers to the investigation of the facts, it is possible to punish the members of congress for the constitutional infraction of removing Senior Judges of the Constitutional Court for opinions issued in the exercise of their position, and
- b) regarding payment of the balance of the compensation plus interests, Law 27775 states that the funds required to comply with the judgments

of the Court "will have to be provided by the Ministry of Economy pursuant to the procedure for the execution of judgments issued by Supranational Courts." She added that said law is not applicable to the present case since it was enacted more than one year and a half after the Judgment issued by the Inter-American Court. On the other hand, if the compensatory amounts (without interests) were correctly set by the Constitutional Court just two months after the judgment of the Court was issued and notified, the correct thing to do would be to use funds from the FEDADOI, which do not require budget availability to be used in compliance of the judgments of the Inter-American Court. Besides, it is the State's obligation to pay the victim in a complete and timely manner and, if it is the case, with interests.

12. The brief of April 20, 2005, through which Mrs. Delia Revoredo Marsano de Mur informed that she had received from the State "a check in soles equal to \$100,000.00 dollars [of the United States of America], amount that constitutes one third of the amount it was ordered to pay as compensation." However, Peru had not referred to the interests for delayed payments or to the date on which it would pay the outstanding balance.

13. The brief of April 22, 2005, through which Mrs. Herlinda Ibáñez viuda de Aguirre Roca stated that she agreed with the arguments of Mrs. Revoredo expressed in her brief of April 11, 2005 (*supra* Consideration 11). She added that the reasons for her lack of conformity were: the fractioned payment of the debt, the fact that the judgment of the Court, which should have been complied with in a prompt and comprehensive manner by the State, was not being fulfilled; the omission of the payment of the interests earned for the delay in the compliance with the judgment; and the lack of seriousness of the state bodies in charge of the case. Finally, she expressed her lack of conformity before the little interest to determine and punish those responsible for the destitution of the Senior Judges.

14. The brief of May 2, 2005, through which the Inter-American Commission of Human Rights (hereinafter "the Commission" or "the Inter-American Commission") presented its observations to the state's report of March 14, 2005 (*supra* Consideration 9). The Commission, *inter alia*, requested that the Court urge the State to:

- a) immediately take effective measures for the investigation, processing, and punishment of the facts of the case, and
- b) complete the procedures required for the compliance of the obligation to pay the amounts due with its corresponding interests for delayed payment.

15. The note of September 9, 2005, through which the Secretariat asked Peru, following the instructions of the full Court, to present a detailed report on the progress reached in the compliance with the Judgment, for which it granted it time until November 9, 2005.

16. The brief of November 11, 2005, through which the State informed of the actions carried out for compliance of the pending matters of the Judgment. In this sense it stated, *inter alia*, that:

- a) it had requested information to the Congress of the Republic regarding the actions carried out in virtue of the claim forwarded by the Public Prosecutor's Office and it also requested the those responsible for the destitution of the former Senior Judges of the Constitutional Court be investigated and punished, and
- b) it had asked the Ministry of Economy and Finances, after the partial payment made corresponding to arrears of salary, that it make a modification to its budget in order to comply with the payments ordered by the Court, pursuant to Law 27775. On the other hand, on May 10, 2005, it had asked the President of the FEDADOI that it dispose of the funds necessary for the payment of the reparations ordered by the Court. Likewise, it had requested the estimation of the legal interests in the present case and it had requested a work meeting in order to present a proposal for a one-year timetable of payments. In an official letter of July 26, 2005 addressed by the State's agent to the Ministry of Justice, he states that the outstanding balance of the arrears of salary reached the amount of S/ 1,552,488.66 new soles and the interests for delayed payments reached the amount of S/ 122,295.96 new soles, for a total of S/1,664,784.72 new soles.

17. The brief of December 23, 2005, through which the Inter-American Commission presented observations to the state's report (*supra* Consideration 16), and considered, *inter alia*, that:

- a) the situation that had been brought forward in its observations of May 2, 2005 had not changed since the State limited itself, once more, to consign the actions of domestic inquiry without there being any element that would let it determine any progress in the compliance, and
- b) the State is urged to immediately pay the totality of the amounts due to the victims and their successors.

18. The brief of December 27, 2005, through which Mrs. Herlinda Ibáñez viuda de Aguirre Roca informed that the reason for her delay in sending observations to the State's report (*supra* Consideration 16) was because she was waiting for the State to pay the totality of the debt in those days, as it had offered to do so.

19. The brief of December 29, 2005, through which Mrs. Delia Revoredo Marsano de Mur, Herlinda Ibáñez viuda de Aguirre Roca, and Pilar Vega Alvear de Rey stated that in a meeting summoned by the Ministry of Justice they agreed on the amount to be paid and that with the payment made to them at the beginning of the year it settled the amount due of S/ 839,496.22 new soles. However, they did not agree with the amount of interests due because, pursuant to that established in the Judgment of the Court (*supra* Consideration 1), the State had a six-month term, as of its notification, to comply with the corresponding payment. Therefore, not having complied with this obligation the computing of the interests should start as of August 1, 2001, as stated in the ninth whereas clause of the ruling on the compliance with judgment of November 17, 2004 (*supra* Consideration 3).

20. The brief of January 12, 2006, through which Mrs. Delia Revoredo Marsano, Herlinda Ibáñez viuda de Aguirre, and Pilar Vega Alvear de Rey stated, *inter alia*, that:

- a) in a meeting summoned on December 28, 2005 the State made effective the payment of S/ 517,496.20 new soles with which it paid the totality of the compensatory amount set at S/ 839,496.22 new soles for each of the Senior Judges, without considering the interests, and
- b) they do not agree with Peru regarding the amount of legal interests generated due to delay in payment since their estimates do not coincide with those made by the Accounting Department of the Ministry of Justice.

21. The brief of January 18, 2006, through which Peru consulted the Court about the payment of the reparations and the date on which the interests for delayed payments should be computed, since the State considers that payments for the concept of compensation that it must pay the former Senior Judges generate interests as of the date on which the amount of said compensation was determined, that is, as of the Ruling of July 1, 2003, reason for which it proceeded to issue a check corresponding to the interests for delayed payments for the period that goes from July 2, 2003 through December 15, 2005. On the other hand, the beneficiaries stated that the Judgment of the Court includes the obligation to pay the reparations and, therefore, their payment should have been complied with six months after its issuing, thus the interests for delayed payments must be computed as of the expiration of said term.

22. The brief of January 19, 2006, received on the 25th of the same month and year, through which the Inter-American Commission referred to the consultation made by the State (*supra* Consideration 20), and declared that the interests for delayed payments must be computed as of the expiration of the 6 months as of the notification of the Judgment of the Court of January 31, 2001.

23. The brief of January 10, 2006, received on the 26th of the same month and year, through which Mrs. Delia Revoredo Marsano de Mur stated that on December 31, 2005 she had received from the State the amount of S/ 517,496.20 new soles, which she first applied to the payment of the interests due and then to the capital pursuant to Article 1257 of the Peruvian Civil Code, which grants the creditor the right to apply partial payment to the interests, and due to the disagreement with the State in this sense. Likewise, she considers that the amount for interests for delayed payments amounts to S/152,523.84 new soles, equal to US\$ 44,859,95, since they must be computed from August 1, 2001 up to September 25, 2005. However, the State plans on acknowledging legal interests only for the amount of S/ 44,000.90 new soles, based on their calculation as of the moment in which the Peruvian court communicated to the Ministry of Justice that it should pay the senior judges the arrears of salary and other compensations in the year 2003.

24. The brief of January 19, 2006, received on the 26th of the same month and year, through which Mrs. Delia Revoredo Marsano de Mur informed that the previous week she had received the amount of S/ 45,749.06, equal to US\$ 13,455.76, which she assigned to the amount of the interests due.

25. The brief of January 31, 2006, through which Mrs. Herlinda Ibáñez viuda de Aguirre Roca repeated her disagreement regarding the amount of the legal interests generated due to the delay in which the State has incurred, since it intended to consider that the delay period started in the year 2003 and not as of the peremptory time period stated in the Court's judgment and, therefore, she had not accepted the

check the State had offered her. On the other hand, she informed that Peru has recently, in 2005, paid her the equivalent to one third of the compensatory amount (S/ 322,000.00 new soles) and that in December 2005 they had paid the outstanding balance, leaving the payment of the legal interests generated by the delay incurred in pending. Finally, she repeated her request that the Court clarify to the State that the interests must be computed as of the month of August 2001 and therefore that it maintain the value of the compensation and its purchasing power.

WHEREAS:

1. That the supervision of the compliance of its decisions is a power inherent to the jurisdictional functions of the Court.

2. That Peru is a State Party in the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") since July 28, 1978 and it acknowledged the Court's competence on January 21, 1981.

3. That Article 68(1) of the American Convention states 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." For this the States must ensure the implementation at a domestic level of that ordered by the Tribunal in its decisions.¹

4. That in virtue of the definitive and unappealable nature of the judgments of the Court, pursuant to that established in Article 67 of the American Convention, these must be complied with in a prompt manner by the State in a comprehensive manner.

5. That the obligation to comply with that stated in the decisions of the Court correspond to a basic principle of law on the State's international responsibility, backed up by the international jurisprudence, according to which the States must comply with their international conventional obligations with good faith (*pacta sunt servanda*) and, as has already been stated by this Court and in Article 27 of the Vienna Convention on the Law of the Treaties of 1969, they may not, due to reasons of domestic law, ignore the international responsibility already established.² The conventional obligations of the States Parties are binding for all the powers and bodies of the State.

6. That the States Parties to the Convention must guarantee compliance of the conventional stipulations and their effects (*effet utile*) in the realm of their respective domestic law. This principle is applied not only in relation to the substantive norms of the human rights treaties (that is, those that include stipulations regarding the protected rights), but also in relation to procedural norms, such as those that refer to the compliance of the decisions of the Court. These obligations must be interpreted

¹ Cfr. *Case of Cantos*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of November 28, 2005, third whereas clause; *Case of Barrios Altos*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of September 22, 2005, third whereas clause, and *Case of Herrera Ulloa*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of September 12, 2005, third whereas clause.

² Cfr. *Case of Cantos*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of November 28, 2005, fifth whereas clause; *Case of Barrios Altos*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of September 22, 2005, fifth whereas clause, and *Case of Herrera Ulloa*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of September 12, 2005, fifth whereas clause.

and applied in such a way that the protected guarantee is actually practical and efficient, having present the special nature of the human rights treaties.³

7. That the States Parties to the Convention that have acknowledged the Court's obligatory jurisdiction have the duty to comply with the obligations established by the Tribunal. In this sense, Peru must adopt all the necessary measures in order to effectively comply with that ordered by the Court in its Judgment of January 31, 2001 (*supra* Consideration 1).

8. That when supervising the comprehensive compliance of the Judgment on merits and reparations issued in the present case, and after analyzing the information provided by the State, the Commission, and by the victims or their next of kin, the Tribunal has verified that Peru made several payments in the concept of the arrears of salary and other benefits ordered in favor of the victims: as can be concluded from the briefs presented by Mrs. Delia Revoredo Marsano de Mur, Pilar Vega Alvear de Rey, and Herlinda Ibáñez viuda de Aguirre Roca on January 14, 2005, February 21, 2005, and March 11, 2005 (*supra* Considerations 4, 6, and 8), respectively; the State made a partial payment of S/ 322,000.00 new soles, equal to US\$ 100,000.00 (one hundred thousand dollars of the United States of America), in favor of these women, in the concept of compensation for the arrears of salary. Likewise, on January 12, 2006 the mentioned victim and the next of kin informed the Court that on December 28, 2005 the State made a payment in the amount of S/ 517,496.20 new soles, in favor of each of them, in the concept of said compensation. Mrs. Revoredo Marsano, Vega Alvear viuda de Rey, and Ibáñez viuda de Aguirre Roca stated that with this last payment, added to the aforementioned partial payment, the State had paid the totality of the compensation, which had been set at S/ 839,496.22 new soles in favor of each of the former senior judges, without taking into consideration the interests for delayed payments. Finally, through a brief received on January 26, 2006, Mrs. Delia Revoredo Marsano de Mur informed that in the month of January 2006 the State had paid her the amount of S/ 45,749.06 new soles, equal to US \$13,455.76 [dollars of the United States of America] in the concept of interests (*supra* Consideration 24).

9. That Mrs. Delia Revoredo Marsano de Mur, Pilar Vega Alvear viuda de Rey, and Herlinda Ibáñez viuda de Aguirre Roca have stated that, even though they did receive the compensatory payment, the amount of the interests for delayed payments has not yet been determined or paid since there is a disagreement with the State regarding the date as of which they should start to be computed. Besides, Mrs. Delia Revoredo Marsano de Mur stated that the payment received on December 28, 2005, as well as the last payment received in the month of January 2006, was assigned to the payment of interests until their amount is determined, since Article 1257 of the Peruvian Civil Code grants the creditor the power to assign the partial payment to the interests due and then to the capital. In relation to the above, the victims also stated their disagreement with the State, in the sense that, according to the latter, the funds required to make the pending payments had to be provided by the Ministry of Economy, in application of law 27775 (Law that regulates the procedure for the

³ *Cfr. Case of Cantos*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of November 28, 2005, sixth whereas clause; *Case of Barrios Altos*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of September 22, 2005, sixth whereas clause, and *Case of Herrera Ulloa*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of September 12, 2005, sixth whereas clause. In this sense, *cfr. Klass and others v. Germany, (Merits) Judgment of 6 September 1978, ECHR, Series A no. 28, para. 34; y Permanent Court of Arbitration, Dutch-Portuguese Boundaries on the Island of Timor, Arbitral Award of June 25, 1914.*

execution of judgments issued by supranational courts), since they considered that those payments should come from the FEDADOI, where they have not been budgeted and they do not require the authorization of the Ministry of Economy and Finances for the corresponding "budgetary availability".

10. That the State presented a request of opinion before the Court in order to determine the exact date as of which the interests for delayed payments should be computed. In this sense, the State mentioned that, according to the Peruvian Ministry of Justice, "the amount it must pay the former senior judges as compensation generates interests as of the date in which the amount of the compensation was determined," that is, as of the date on which the ruling of July 1, 2003 was issued by the 64^o Court Specialized in Civil Matters of Lima, for which it proceeded to issue the check corresponding to the interests for delayed payments for the period from July 2, 2003 to December 15, 2005. On its part, the victims or their next of kin considered that the interests for delayed payments should be computed as of August 1, 2001, that is, six months after the expiration of the term given to comply with the payments set in the Judgment of January 31, 2001 issued in the present case. At the same time, the Inter-American Commission estimated that said interests should be computed as of the moment in which the six-month period after the Judgment was notified had expired.

11. That in the last ruling of supervision of the Judgment issued in the present case, the Court mentioned, the same as in other cases,⁴ that the State responsible that incurs in delays regarding the payment of the compensations ordered by the Tribunal must pay interests over the amount due. It is an obligation of the State responsible to comply with payment of the compensations ordered by the Tribunal in its judgments within the time period established for it, and failure to comply with this obligation brings about consequences for the State. When payment is made after the period has expired, the consequent obligation arises for the state to pay interests over the amounts due, thus maintaining the value of the compensation and ensuring that said amounts maintain their purchasing power. The Court has declared that the States have the mentioned obligation to pay interests even when said obligation is not expressly established in the judgment in which the Tribunal ordered the reparations.⁵

12. That according to the fifth operative paragraph of the Judgment of January 31, 2001, the State should pay the compensatory amounts corresponding to the arrears of salary and other compensations that, pursuant to their legislation, corresponded to the victims, which should be set following the corresponding domestic procedures, and payments should be made within a six-month period as of the date on which the Judgment was notified. According to the information provided by the parties, the Court observes that the State has made some payments, in a differed manner, in the concept of the compensations owed to the victims, that in their totality add up to the whole amount determined through the domestic procedures mentioned.

⁴ Cfr. *Case of the Constitutional Court*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of November 17, 2004, ninth whereas clause; *Case of Tibi*. Judgment of September 7, 2004. Series C No. 114, para. 278, and *Case of the "Juvenile Reeducation Institute"*. Judgment of September 2, 2004. Series C No. 112, para. 338.

⁵ Cfr. *Case of the Constitutional Court*. Compliance with Judgment. Ruling of the Inter-American Court of Human Rights of November 17, 2004, ninth whereas clause; *Case of Baena Ricardo et al.* Compliance with Judgment. Ruling of the Court of November 22, 2002, 12 Whereas clause, and *Case of Velásquez Rodríguez*. Interpretation of the Compensatory Damages Judgment (Art. 67 American Convention on Human Rights). Judgment of August 17, 1990. Series C No. 9, para. 40, operative paragraph 4.

13. That even though the amounts of the compensations were set afterwards, it was the State's obligation to determine and pay the corresponding compensations within a 6-month term as of the notice of the Judgment, that is, prior to August 7, 2001. Therefore, the calculation of the interests for delayed payments must be computed as of the expiration of the term mentioned in order to comply with the Judgment, regardless of when the compensatory amounts were set. Likewise, as stated in the previous Ruling of supervision of compliance with judgment in this case (*supra* Consideration 3), the State must determine and pay the interests generated during the time in which it incurred in delay regarding the payment of the arrears of salary and other benefits of Messrs. Manuel Aguirre Roca, Guillermo Rey Terry, and Delia Revoredo Marsano, pursuant to the most favorable domestic law applicable to the victims and observing the guarantees of the due process. The amount that the State already paid Mrs. Revoredo Marsano de Mur must be deducted from that determination.

14. That in relation to the obligation to investigate and punish the people responsible for the violations of human rights committed in the present case, the victims, their next of kin, and the Commission consider that the State has not complied with the due investigation, since it has not proven effective progress in this sense. On its part, the State has mentioned that in April 2005 the Peruvian Ombudsman considered that it corresponded to the Congress of the Republic to decide the initiation of the political trial against certain public officials, in order to apply political sanctions for violations to the Constitution. To this effect, the State had requested information in this regard to the Congress' Council of Directors, without there being evidence of the results of that procedure. The Court considers that from the information provided no important progress can be concluded on the State's part in compliance of that obligation to investigate and punish those responsible, since it simply reiterates that stated in previous reports, reason for which the supervision regarding this point of the Judgment must be kept open.

15. That the Court will once again supervise the general state of compliance of its Judgment of January 31, 2001, as well as of its Rulings of November 27, 2003 and November 17, 2004, and the present Ruling, once it has received the corresponding information on the matters where compliance is still pending.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its powers of supervision of compliance with its decisions, pursuant to Articles 33, 62(1), 62(3), 65, 67, and 68(1) of the American Convention on Human Rights, 25(1) and 30 of the Statutes and 29(2) of its Rules of Procedures,

DECLARES:

1. That the State has complied with the totality of payment of the compensations for the arrears of salary and other benefits that, pursuant to domestic legislation,

correspond to Messrs. Manuel Aguirre Roca, Guillermo Rey Terry y Delia Revoredo Marsano de Mur (*fifth operative paragraph of the Judgment of January 31, 2001*).

2. That it will maintain the procedure of supervision of compliance of the pending matters in the present case open, specifically:

- a) investigation to determine the people responsible for the violations of human rights against the victims of the case and their punishment (*fourth operative paragraph of the Judgment of January 31, 2001*), and
- b) the determination and payment, pursuant to the most favorable domestic legislation applicable to the victims and observing the guarantees of the due process, of the interests generated during the time in which it incurred in delay regarding the payment of the arrears of salary and other benefits of Messrs. Manuel Aguirre Roca, Guillermo Rey Terry, and Delia Revoredo Marsano (*fifth operative paragraph of the Judgment of January 31, 2001 and ruling of Compliance with Judgment of November 17, 2004*).

AND DECIDES:

1. To urge the State to adopt all the measures necessary to give effect and prompt compliance to the matters pending of compliance that were ordered by the Tribunal in the Judgment of January 31, 2001, as well as that stated in the Rulings of November 27, 2003 and November 17, 2004 (*supra* Considerations 1 through 3) and the Eighth to Fourteenth Whereas Clauses of the present Ruling, pursuant to that stipulated in Article 68(1) of the American Convention on Human Rights.

2. To request the State to present, no later than May 26, 2006, a detailed report on the status of compliance of the pending matters mentioned.

3. To ask the Inter-American Commission, as well as Mrs. Delia Revoredo Marsano and the next of kin and/ or representatives of the deceased victims, to present their observations to the State report mentioned in the previous operative paragraph within the term of six and four weeks, respectively, as of its receipt.

4. To continue to supervise compliance with the Judgment of January 31, 2001.

5. To notify the present Ruling to the State, the Inter-American Commission of Human Rights, as well as the victims and their next of kin or representatives.

Sergio García Ramírez
President

Alirio Abreu Burelli

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina Quiroga

Manuel E. Ventura Robles

Pablo Saavedra Alessandri
Secretary

So ordered,

Sergio García Ramírez
President

Pablo Saavedra Alessandri
Secretary