

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF SEPTEMBER 22, 2006***

CASE OF THE GÓMEZ PAQUIYURI BROTHERS v. PERU

MONITORING COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The Judgment on the merits of the case, reparation and costs, passed on July 8, 2004 (hereinafter the "Judgment") by the Inter-American Court of Human Rights (hereinafter, the "Court", the "Inter-American Court" or the "Tribunal"), in which the Court found *inter alia* that:

1. the State violated the Right to Life set forth in Article 4(1) of the American Convention on Human Rights, in combination with Article 1(1) of this same Convention, to the detriment of Rafael Samuel and Emilio Moisés Gómez Paquiyauri, under the terms set forth in paragraphs 124 to 133 of the [...] Judgment.

2. the State violated the Right to Personal Liberty set forth in Article 7 of the American Convention on Human Rights, in combination with Article 1(1) of this same Convention, to the detriment of Rafael Samuel and Emilio Moisés Gómez Paquiyauri, under the terms set forth in paragraphs 81 to 100 of the [...] Judgment.

3. the State violated the Right to Humane Treatment set forth in Article 5 of the American Convention on Human Rights, in combination with Article 1(1) of this same Convention, and the obligations set forth in Articles 1, 6 and 9 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Rafael Samuel and Emilio Moisés Gómez Paquiyauri. The State also violated Article 5 of the American Convention on Human Rights, in combination with Article 1(1) of this same Convention, to the detriment of Marcelina Paquiyauri Illanes de Gómez, Ricardo Samuel Gómez Quispe, Marcelina Haydeé Gómez Paquiyauri, Ricardo Emilio Gómez Paquiyauri, Carlos Pedro Gómez Paquiyauri, Lucy Rosa Gómez Paquiyauri, Miguel Ángel Gómez Paquiyauri and Jacinta Peralta Allcarima, under the terms set forth in paragraphs 106 to 119 of the [...] Judgment.

4. the State violated the rights to Right to Fair Trial and to Judicial Protection enshrined in Articles 8 and 25, respectively, of the American Convention on Human Rights, in combination with Article 1(1) of this same Convention, to the detriment of Rafael Samuel and Emilio Moisés Gómez Paquiyauri, Ricardo Samuel Gómez Quispe, Marcelina Paquiyauri Illanes de Gómez, Ricardo Emilio Gómez Paquiyauri, Carlos Pedro Gómez Paquiyauri, Marcelina Haydeé Gómez Paquiyauri, Lucy Rosa Gómez Paquiyauri, and Miguel Ángel Gómez Paquiyauri, under the terms set forth in paragraphs 140 to 156 of the [...] Judgment.

* Judge Oliver Jackman did not take part of nor affix his name to this Order, as he reported to the Court that for reasons beyond his control, he could not participate in the Seventy-second Ordinary Sessions of the Court. Judge Diego García-Sayán, a Peruvian citizen, advised the Court of his disqualification to hear this instant case, pursuant to Article 19(2) of the Court's Statute, and Article 19 of the Court's Rules of Procedure.

5. the State violated the obligations set forth in Article 8 of the Inter-American Convention to Prevent and Punish Torture, to the detriment of Rafael Samuel and Emilio Moisés Gómez Paquiyaui, under the terms set forth in paragraphs 153 to 156 of the [...] Judgment.

6. the State violated Article 19 of the American Convention on Human Rights, in combination with Article 1(1) of this same Convention, to the detriment of Rafael Samuel and Emilio Moisés Gómez Paquiyaui under the terms set forth in paragraphs 161 to 173 of the [...] Judgment.

7. the State violated Article 11 of the American Convention on Human Rights, in combination with Article 1(1) of this same Convention, to the detriment of the members of the family of Rafael Samuel Gómez Paquiyaui and Emilio Moisés Gómez Paquiyaui, mentioned in paragraphs 67.t and 67.u of this ruling, under the terms set forth in paragraphs 178 to 182 of the [...] Judgment.

8. this Judgment is per se a form of reparation, as set forth in paragraph 215 of the [...] Judgment.

[and the Court decided that:]

9. The State must, within a reasonable term, effectively investigate the facts of the instant case, with the aim of identifying, trying, and punish all the perpetrators of the violations against Rafael Samuel and Emilio Moisés Gómez Paquiyaui. The outcome of this proceeding must be made known to the public, under the terms set forth in paragraphs 227 to 233 of the [...] Judgment.

10. The State must carry out a public act of acknowledgment of its responsibility in connection with the facts of this case and of apology to the victims, under the terms set forth in paragraph 234 of the instant Judgment.

11. The State must publish once in the official gazette, Diario Oficial and in another national coverage daily the chapter of this Judgment on proven facts, without the respective footnotes, and the operative paragraphs of this Judgment, under the terms set forth in paragraph 235 of the [...] Judgment.

12. The State must officially name a school in the province of El Callao after Rafael Samuel Gómez Paquiyaui and Emilio Moisés Gómez Paquiyaui, in a public ceremony and in the presence of the next of kin of the victims, under the terms set forth in paragraph 236 of the [...] Judgment.

13. The State must establish a scholarship up to university level, in favor of Nora Emely Gómez Peralta, and facilitate her registry as the daughter of Rafael Samuel Gómez Paquiyaui, under the terms set forth in paragraphs 237 and 238 of the [...] Judgment.

14. The State must pay the total sum of US\$240,500.00 (two hundred and forty thousand five hundred United States dollars) or its equivalent in Peruvian currency, for pecuniary damages, under the terms set forth in paragraphs 206, 208 and 210 of the [...] Judgment, distributed as follows:

a) to Ricardo Samuel Gómez Quispe and Marcelina Paquiyaui Illanes de Gómez, as parents of Emilio Moisés Gómez Paquiyaui, US\$ 100,000.00 (one hundred thousand United States dollars) or their equivalent in Peruvian currency, under the terms set forth in paragraphs 206 and 199 of the [...] Judgment;

b) to Ricardo Samuel Gómez Quispe and Marcelina Paquiyaui Illanes de Gómez, as parents of Rafael Samuel Gómez Paquiyaui; and to Nora Emely Gómez Peralta, as daughter of Rafael Samuel Gómez Paquiyaui, US\$ 100,000.00 (one hundred thousand United States dollars) or their equivalent in Peruvian currency, under the terms set forth in paragraphs 206 and 200 of the [...] Judgment; and

c) to Ricardo Samuel Gómez Quispe and Marcelina Paquiyaui Illanes de Gómez, US\$ 40,500.00 (forty thousand five hundred United States dollars) or their equivalent in Peruvian currency, under the terms set forth in paragraph 208 of the [...] Judgment.

15. The State must pay US\$500,000.00 (five hundred thousand United States dollars) or their equivalent in Peruvian currency, as compensation for non-pecuniary damages, under the terms set forth in paragraphs 217, 219 and 220 of the [...] Judgment, distributed as follows:

a) to Ricardo Samuel Gómez Quispe and Marcelina Paquiyaui Illanes de Gómez, as parents of Emilio Moisés Gómez Paquiyaui, US\$ 100,000.00 (one hundred thousand United States dollars) or their equivalent in Peruvian currency, under the terms set forth in paragraphs 217 and 199 of the [...] Judgment;

b) to Ricardo Samuel Gómez Quispe and Marcelina Paquiyaui Illanes de Gómez, as parents of Rafael Samuel Gómez Paquiyaui; and to Nora Emely Gómez Peralta, as daughter of Rafael Samuel Gómez Paquiyaui, US\$ 100,000.00 (one hundred thousand United States dollars) or their equivalent in Peruvian currency, under the terms set forth in paragraphs 217 and 200 of the [...] Judgment;

c) to Ricardo Samuel Gómez Quispe and Marcelina Paquiyaui Illanes de Gómez, US\$ 200,000.00 (two hundred thousand United States dollars) or their equivalent in Peruvian currency, under the terms set forth in paragraph 219 of the [...] Judgment;

d) to Jacinta Peralta Allcarima, US\$ 40,000.00 (forty thousand United States dollars) or their equivalent in Peruvian currency, under the terms set forth in paragraph 220 of the [...] Judgment; and

e) to Nora Emely Gómez Peralta, US\$ 60,000.00 (sixty thousand United States dollars) or their equivalent in Peruvian currency, under the terms set forth in paragraph 220 of the [...] Judgment.

16. The State must pay US\$30,000.00 (thirty thousand United States dollars) or their equivalent in Peruvian currency, which must be given to Ricardo Samuel Gómez Quispe and Marcelina Paquiyaui Illanes de Gómez, for costs and expenses in the domestic proceeding and in the international proceeding before the inter-American system for protection of human rights, under the terms set forth in paragraph 243 of the [...] Judgment.

17. The State must deposit the compensation ordered in favor of the child Nora Emely Gómez Peralta in a banking investment in her behalf at a solid Peruvian institution, in United States dollars, within one year's time and under the most favorable financial conditions allowed by banking practices and legislation while she is a minor, under the terms set forth in paragraph 248 of the [...] Judgment.

18. The State must pay the total amount ordered as compensation for pecuniary damages, non-pecuniary damages, costs and expenses established in the instant Judgment, without any of its items being subject to existing taxes, levies or charges, or any that may be decreed in the future.

19. The State must carry out the measures of reparation and of reimbursement of expenses listed in operative paragraphs 10 to 17 of the instant Judgment within one year's time, counted from the date this Judgment is notified, under the terms set forth in paragraph 244 of the [...] Judgment.

20. If the State were to be in arrears, it must pay interest on the amount owed, and the interest will be at the banking rate in Peru, under the terms set forth in paragraph 251 of the [...] Judgment.

21. If due to causes attributable to the beneficiaries of the compensations it were not possible for them to receive those compensations within the one-year term that has been set, the State will deposit those amounts on behalf of the beneficiaries in a deposit

certificate or account at a solid Peruvian banking institution, under the terms set forth in paragraph 247 of the [...] Judgment.

22. The Court will oversee execution of this Judgment and will close this case once the State has fully complied with its provisions. Within one year from the date when notice is served of this Judgment, the State must submit a report to the Court on steps taken to comply with it, pursuant to paragraph 252 of the [...] Judgment.

2. The Order of the Court of November 17, 2005, on compliance with Judgment, in which the Court decided:

1. To order the State to present a report on the stage of compliance with Judgment on the merits, reparations and costs, passed on July 8, 2004, not later than January 16, 2006;

2. To require the victims, their next of kin or their representative, as well as the Inter-American Commission on Human Rights to submit their observations to the State's report referred to in the preceding operative paragraph within a term of four and six weeks, respectively, next following receipt of said report; and

3. To continue monitoring compliance with Judgment on the merits, reparations and costs, passed on July 8, 2004.

[...]

3. The submissions presented by the Illustrated State of Peru (hereinafter, the "State" or "Peru") on February 2, 2006; February 9, 2006; and June 20, 2006; in which the State reported as follows:

a) Regarding the obligation to effectively investigate the facts of this present case, the State "has successfully followed up on the notification of the Court's Judgment, by means of the Ministry of Foreign Office, an agency that in due course will notify the Supreme Court of the Republic, so that it would then be sent to the Superior Court of Justice of Callao and eventually to the relevant Court," and stated that "it will prosecute this case, in conjunction with the aggrieved parties' direct interest, as they are now in unrivalled conditions to seek enforcement of effective procedural protection;"

b) regarding the obligation to perform a public act as acknowledgment of its responsibility, on July 15, 2005, the State held a ceremony as acknowledgment of its responsibility and in amends for the referenced incidents, with the presence of the Vice-Ministry of Justice —today's Ministry of Justice— as well as the representatives of civil society, clergymen, means of communication and victims' next of kin. In such ceremony, Ms. Jacinta Peralta Allccarima held the floor and addressed the audience;

c) regarding the obligation to publish the relevant parts of the [referenced] Judgment in the Official Newspaper and another national coverage daily, the State so published it on December 22, 2005, in "El Peruano", an official newspaper; and on December 30, 2005, in "El Comercio", a domestic newspaper;

d) regarding the obligation to officially name an educational center of the province of El Callao after "Rafael Samuel Gómez Paquiyaury y Emilio Moisés Gómez Paquiyaury," at a public ceremony and in the presence of the victims' next of kin, this issue must be dealt with in conjunction with the Ministry of Education and the civil society, within an appropriate social context;

- e) regarding the duty to grant a scholarship in favor of Nora Emely Gómez Peralta until she reaches university studies and to facilitate her registry as daughter of Rafael Samuel Gómez Paquiyauri, "all Peruvians wanting to further their education have the right to so proceed, and there is no limitation" to it. Furthermore, the State requested that the Court clarify the fact whether the State's obligation comprised the granting of a scholarship for university studies. Regarding the change in name of the minor Nora Emely, the State pointed out that it can facilitate, but not perform, all the processes and filings, as her relatives themselves have to perform some of such acts; and
- f) regarding the obligation to pay the victims' next of kin an amount as compensation for pecuniary and non-pecuniary damages, including the deposit of compensation in favor of Nora Emely Gómez Peralta in a bank investment, as well as costs and expenses, the State had complied with said obligation by making payments in the national legal tender. The State reported that the victim's next of kin had waived their right to interest accrued as a result of the delay in payment of said sums.
4. The communication statements presented by Ms. Mónica Feria Tinta, the former representative of the victims and their next of kin, dated January 20, 2006; January 23, 2006; February 27, 2006; and March 2, 2006; whereby she stated that:
- a) Under an agreement signed on August 20, 2004, Ricardo Samuel Gómez Quispe and Marcelina Paquiyauri Illanes de Gómez, in the name and stead of the other victims' next of kin, they had undertaken to deliver to Ms. Feria Tinta the sum of US\$30,000 dollars, payment of which was ordered in the Judgment as expenses and costs, as refund for the expenses incurred by said representative. In said agreement, they also undertook to pay an additional sum of US\$148,000 as expenses and representative's fees in connection with the lawsuit. The Gómez Paquiyauri had already paid US\$30,000 ordered by the Court, but had not paid the additional sum of US\$148,000, under the agreement of August 20, 2004. Therefore, she requested that the Court take part in this dispute; and
- b) In December 2005, the State had made pull payment of the compensation ordered by the Court, as well as payment of costs and expenses.
5. The communication presented by Ms. Marcelina Paquiyauri de Gómez and Mr. Ricardo Samuel Gómez Quispe, on May 4, 2006; wherein they reported that the Gómez Paquiyauri family had granted a power of attorney to Douglass Cassel, Esq., and Sean O'Brien, Esq., appointing them to act and appear before the Court in any matter relating to this issue.
6. The communication submitted by the current representatives of the Gómez Paquiyauri family —Mr. Douglass Cassel and Sean O'Brien— on August 2, 2006, wherein they requested that the Court —on the basis of the powers inherent in its jurisdiction to monitor compliance with its judgments [...] issue instructions for the defense of the victims in the Case of Gómez Paquiyauri, who are facing a complaint filed with the Inter-American Court by their prior attorney seeking payment in her favor of an additional amount of US\$148,000, plus damages for US\$7,000, although

the Court had ordered payment of only US\$30,000 as costs and expenses —a sum which has already been paid to said attorney.”

7. The notes of the Secretariat CDH-11.016/687 and 688, of June 15, 2006, addressed to the representatives of the Gómez Paquiyaury family and to Ms. Jacinta Peralta Allccarima, wherein they were informed once again that the due date for their submissions of observations to the report filed by the State on compliance with Judgment had expired on March 29, 2006 and April 3, 2006, respectively, and wherein they were requested to file their observations to said report, if any, as soon as practicable.

8. The communication filed by the Inter-American Commission on Human Rights (hereinafter, the “Commission” or the “Inter-American Commission”) on August 4, 2006, wherein the Commission pointed out that overall assessment of compliance with Judgment called for the observations of the aggrieved party as a priority; however, it considered it worrying that the State did not submit concrete information regarding most of the reparations ordered by the Court, and particularly it expressed as follows:

a) in connection with the obligation to effectively investigate the events relating to this present case, two years after the passing of Judgment it seems that no action has been taken so as to comply with said State’s obligation;

b) concerning the obligation to perform a public ceremony as acknowledgment of the State’s responsibility, the State has informed that it had complied with this aspect of reparation, and attached a videotape of said event. The Commission reported not to have received the referenced videotape or complete information about the organization and performance of the referenced ceremony, and believed, therefore, that the State had to provide further information on this topic;

c) concerning the obligation to publish the relevant parts of the Judgment in an official newspaper and in another domestic newspaper, the publication in “El Peruano” Official Newspaper to which the State referred in its report on compliance with Judgment was not attached to the report, and therefore compliance with the order of the Tribunal could not be inferred;

d) concerning the obligation to officially name an educational center of the province of El Callao after “Rafael Samuel Gómez Paquiyaury y Emilio Moisés Gómez Paquiyaury,” in a public ceremony and in the presence of the victims’ next of kin, the State expressed its willingness to comply with such obligation, but failed to report on effective fulfillment, and therefore the Commission considered it essential that the State would submit concrete information on this topic;

e) concerning the duty to grant a scholarship up to university levels in favor of Nora Emely Gómez Peralta and to facilitate her registry as the daughter of Rafael Samuel Gómez Paquiyaury, the Commission was worried about the lack of information on the endeavors taken by the State so as to comply with the reparation obligation imposed by the Court, as well as to contact the next of kin of Nora Emely Gómez so as to make necessary arrangements to that effect. Concerning the registry of Nora Emely as the

daughter of Rafael Samuel Gómez, absent any observation by the aggrieved party, the Commission refrained from making any comment on this topic until it was provided with all the essential elements of information to that effect; and

f) concerning the obligation to pay the victims' next of kin an amount of money as compensation for pecuniary and non-pecuniary damage, including the deposit of compensation in favor of minor Nora Emely Gómez Peralta in a banking investment, as well as to pay costs and expenses, the Commission acknowledged the advances described in the state's report on this aspect of compliance. However, the Commission believed that the observations by the aggrieved party are essential in order to form an opinion on whether this obligation has been met.

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 on Human Rights (hereinafter, the "American Convention" or the "Convention") since July 28, 1978, and had acknowledged the contentions jurisdiction of the Court on January 21, 1981;
3. That on July 8, 2004, the Court issued a Judgment on the merits, reparations and costs in this present case (*supra* Having Seen clause No. 1)
4. That Article 68(1) of the American Convention sets out 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." To this end, the States must ensure the implementation of the decisions in the Court's judgments at the domestic level.¹
5. 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.
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

¹ *Cfr. Case of the "Five Pensioners"*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 4, 2006; Considering clause No. 3; *Case of Bámaca-Velásquez*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 4, 2006; Considering Clause No. 3; and *Case of the "Juvenile Reeducation Institute"*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 4, 2006; Considering clause No. 3.

internal law as justification for its failure to perform a treaty.² The treaty obligations of the States Parties are binding for all the powers and organs of the State.

7. That the States Parties to the Convention must ensure compliance with its provisions and their inherent effects (*effet utile*) within their respective domestic legal systems. This principle is applicable not only with regard to the substantive norms of human rights treaties (that is, those which contain provisions concerning the protected rights), but also with regard to procedural norms, such as those referring to compliance with the decisions of the Court. These obligations shall be interpreted and applied so that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.³

8. That the State Parties to the Convention which have acknowledged the binding jurisdiction of the Court have the duty to comply with the obligations imposed by this Tribunal. In this respect, Peru has to adopt all the measures necessary to effectively comply with the orders passed by the Court in its Judgment of July 8, 2004 (*supra* Having Seen clause No. 1). This obligation includes the duty on the part of the State to report to the Court on the measures adopted to comply with the orders contained in the Court's Judgment. Timely compliance with the State's obligation to report to the Court on how the State is complying with each of the orders passed by the Court is fundamental to assess the status of compliance in the case under review.

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9. That, on monitoring comprehensive compliance with the Judgment in the present case, and after analyzing the information provided by the State, the Commission, the victims and their representatives, by way of their submissions on compliance with Judgment (*supra* Having Seen clauses No. 3, 4, 5, 6 and 8), The Court has identified the orders contained in the Judgment that have been complied with, as well as those which are still pending compliance.

10. That the State remitted a copy of the videotape recorded during the ceremony of acknowledgment of responsibility in amends for the events, held on July 15, 2005, evidencing the presence of the Vice-Minister of Justice, and the representatives of the civil society, clergymen, means of communication and the victims' next of kin in this present case, including the presence of Ms. Jacinta Peralta Allcarima, who held the floor and addressed the audience present at such event (*supra* Having Seen clause No. 3(b)).

11. That the State submitted copies of the publications of the relevant parts of the Judgment, on December 22, 2005, in "El Peruano" official newspaper, and on

² Cf. *Case of the "Five Pensioners"*, *supra* note 1, Considering clause No. 7; *Case of Bámaca-Velásquez*, *supra* note 1, Considering clause No. 5; and *Case of the Juvenile Reeducation Institute*, *supra* note 1, Considering clause No. 5.

³ Cf. *Case of the "Five Pensioners"*, *supra* note 1, Considering clause No. 8; *Case of Bámaca-Velásquez*, *supra* note 1, Considering clause No. 6; and *Case of the Juvenile Reeducation Institute*, *supra* note 1, Considering clause No. 6.

December 30, 2005, in "El Comercio" —a national coverage daily (*supra* Having Seen clause No. 3(c)).

12. That the State submitted evidence of payments made to the beneficiaries entitled to them, as ordered by this Tribunal as compensation for pecuniary and non-pecuniary damages, including the deposit of sums in a banking investment in favor of minor Nora Emely Gómez Peralta, as well as payments of costs and expenses (*supra* Having Seen clause No. 3(f)). Furthermore, the then representative of the victims' next of kin admitted the fact that the State had complied with this obligation (*supra* Having Seen clause No. 4(b)).

13. That, therefore, the State has complied with the obligation:

a) to perform a public act of acknowledgement of its responsibility in connection with the facts of this case and as apology to the victims (Operative Paragraph No. 10 of the Judgment of July 8, 2004) (*supra* Having Seen clauses No. 3(b) and 8(b));

b) to publish —for one day— in the Official Newspaper and in another national coverage daily, the chapter of that Judgment on proven facts, without the respective footnotes, and the operative paragraphs thereof (Operative Paragraph No. 11 of the Judgment of July 8, 2004) (*supra* Having Seen clauses No. 3(c) and 8(c)); and

c) to pay the victims' next of kin the amounts ordered as compensation for pecuniary and non-pecuniary damages, including the deposit of sums in a banking investment in favor of the minor Nora Emely Gómez Peralta, as well as costs and expenses (Operative Paragraphs No. 14, 15, 16 and 17 of the Judgment of July 8, 2004) (*supra* Having Seen clauses No. 3(f), 4(a), 4(b), 6 and 8(f)).

14. That the Court deems it indispensable that the State furnish additional information on the following points, in order to determine whether they have been complied with effectively and in full:

a) the obligation to effectively investigate the facts of the present case, with the aim of identifying, trying, and punishing all the perpetrators of the violations committed against Rafael Samuel and Emilio Moisés Gómez Paquiyauri (Operative Paragraph No. 9 of the Judgment of July 8, 2004);

b) the obligation to officially name an educational center in the province of El Callao after Rafael Samuel Gómez Paquiyauri and Emilio Moisés Gómez Paquiyauri, in a public ceremony and in the presence of the victims' next of kin (Operative Paragraph No. 12 of the Judgment of July 8, 2004); and

c) the duty to establish a scholarship up to university level, in favor of Nora Emely Gómez Peralta and to facilitate her registry as the daughter of Rafael Samuel Gómez Paquiyauri (Operative Paragraph No. 13 of the Judgment of July 8, 2004).

15. That the victims and their representatives have requested that the Court take part in a dispute between Ms. Mónica Feria Tinta, former representative of the

victims in the present case, and the Gómez Paquiyauri, in connection with an agreement they signed on August 20, 2004, in which the Gómez Paquiyauri family agreed to pay Ms. Mónica Fera Tinta the sum of US\$148,000 in addition to the sum of US\$30,000 ordered by this Court as payment of costs and expenses (*supra* Having Seen clauses No. 4(a) and 6).

16. That the Court lacks jurisdiction to hear and determine cases between individuals, as the powers of the Court are limited to the enforcement and interpretation of the American Convention —an instrument that exclusively deals with the rights and obligations of the States.

17. That in monitoring compliance with the Judgment passed in this case, this Tribunal has found that the State has complied with its obligation to pay the victims the amounts ordered in the Judgment as payment of costs and expenses (*supra* Having Seen clauses No. 3(f), 4(a), 4(b), 6 and 8(f), and Considering clause No. 13).

18. That the Secretariat requested on several occasions the victims' and their representatives' observations to the State's reports on compliance with Judgment, and that such observations have not been received by this Court as of the date hereof (*supra* Having Seen clause No. 7).

19. That timely submission of observations by the victims and their representatives is fundamental to assess the stage of compliance in this case.

20. That the Court will consider the general stage of compliance with the Judgment on the merits, reparations and costs of July 8, 2004, once the Court receives the report on the measures pending compliance.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its rulings and in accordance with Articles 33, 62(1), 65, 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, based on considering clause No. 13 of this Order, the State has complied with its obligation:

a) to perform a public act of acknowledgement of its responsibility in connection with the facts of this case and as apology to the victims (Operative Paragraph No. 10 of the Judgment of July 8, 2004);

b) to publish —for one day— in the Official Newspaper and in another national coverage daily, the chapter of this Judgment on proven facts, without respective footnotes, and the operative paragraphs thereof (Operative Paragraph No. 11 of the Judgment of July 8, 2004); and

c) to pay the victims' next of kin the amounts ordered as compensation for pecuniary and non-pecuniary damages, including the deposit of sums in a banking investment in favor of the minor Nora Emely Gómez Peralta, as well as costs and expenses (Operative Paragraphs No. 14, 15, 16 and 17 of the Judgment of July 8, 2004).

2. That the Court will continue monitoring compliance with the points pending compliance, namely:

a) to effectively investigate the facts of the present case, with the aim of identifying, trying, and punishing all the perpetrators of the violations committed against Rafael Samuel and Emilio Moisés Gómez Paquiyaury (Operative Paragraph No. 9 of the Judgment of July 8, 2004);

b) to officially name an educational center in the province of El Callao after Rafael Samuel Gómez Paquiyaury and Emilio Moisés Gómez Paquiyaury, in a public ceremony and in the presence of the victims' next of kin (Operative Paragraph No. 12 of the Judgment of July 8, 2004); and

c) to establish a scholarship up to university level, in favor of Nora Emely Gómez Peralta and to facilitate her registry as the daughter of Rafael Samuel Gómez Paquiyaury (Operative Paragraph No. 13 of the Judgment of July 8, 2004).

AND DECIDES:

1. To order the State to adopt all measures necessary to comply in the short term with the points pending compliance, which were ordered by this Tribunal in its Judgment on the merits, reparation and costs of July 8, 2004, pursuant to the provisions of Article 68(1) of the American Convention on Human Rights;

2. To order the State to submit to the Inter-American Court of Human Rights, not later than January 19, 2007, a report describing all the measures adopted to comply with the reparations ordered by this Court, which are still pending compliance, pursuant to the provisions of Considering clause No. 14 and in the Having Seen clause No. 2 of this Order.

3. To request that the representative of the victims' next of kin and the Inter-American Commission on Human Rights submit their observations to the State's report referred to in the preceding Operative Paragraph, within a term of four and six weeks, respectively, next following receipt of said report.

4. To continue monitoring the points pending compliance ordered in the Judgment on the merits, reparations and costs, of July 8, 2004.

5. To request the Secretariat of the Court to notify this Order to the State, the Inter-American Commission on Human Rights and the representatives of the victims and the victims' next of kin.

Sergio García-Ramírez
President

Alirio Abreu-Burelli

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