

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

**CASE OF TIBI V. ECUADOR**

**MONITORING COMPLIANCE WITH JUDGMENT**

**HAVING SEEN:**

1. The judgment on merits, reparations and costs delivered by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court", "the Court" or "the Tribunal") on September 7, 2004, wherein it ruled that:

[...]

10. The State must, within a reasonable term, investigate the facts of the [...] case effectively, in order to identify, prosecute and punish all the perpetrators of the violations committed against Mr. Daniel Tibi. The outcome of this process shall be published pursuant to paragraphs 254 to 259 of the [...] Judgment.

11. The State shall publish, at least once, in the Official Gazette and in another newspaper of national circulation within Ecuador, the Chapter on Proven Facts and operative paragraphs 1 to 16 of the [...] Judgment, without the corresponding footnotes. Likewise, the State shall publish the foregoing, translated into French, in a newspaper of wide circulation within France, specifically in the area where Mr. Daniel Tibi resides, pursuant to paragraph 260 of the [...] Judgment.

12. The State must publish a formal written statement, prepared by high-level state authorities, acknowledging its international responsibility for the facts of the [...] case, and apologize to Mr. Tibi and the other victims mentioned in the [...] Judgment, pursuant to paragraph 261 thereof.

13. The State must establish an education and training program on the principles and rules of protection of human rights in the treatment afforded to inmates, intended for judicial, police and prison personnel, as well as for personnel of the public prosecutor's office, including medical, psychiatric and psychological staff. The design and implementation of the training program shall include the allocation of specific resources to achieve its goals, and shall take place with the participation of the civil society. To this end, the State shall set up an interinstitutional committee in order to define and execute training programs on human rights and treatment of inmates. The State shall report to this Court on the creation and operation of this committee, within six months, pursuant to paragraphs 262 to 264 of the [...] Judgment.

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\* Judge Oliver Jackman did not take part in the deliberation and signing of this Order, since he informed the Court that, for reasons beyond his control, he would not be able to attend the Seventy-second Regular Session of the Tribunal.

14. The State must pay a total amount of €148,715.00 (one hundred forty-eight thousand, seven hundred and fifteen euros) as compensation for pecuniary damage, pursuant to paragraphs 235 to 238 of the [...] Judgment, distributed as follows:

a) to Daniel Tibi, the amount of €57,995.00 (fifty-seven thousand, nine hundred and ninety-five euros), pursuant to paragraphs 235, 236, 237.b, 237.c, 237.d and 238 of the [...] Judgment;

b) the State must return to Mr. Daniel Tibi the property seized at the time of his detention, within six months as of the date of the [...] Judgment. Should this be impossible, the State shall pay him €82,850.00 (eighty-two thousand, eight hundred and fifty euros), pursuant to paragraphs 237.e and 238 of the [...] Judgment; and

c) to Beatrice Baruet, the amount of €7,870.00 (seven thousand, eight hundred and seventy euros), pursuant to paragraphs 237.a and 238 of the [...] Judgment.

15. The State must pay a total amount of €207,123.00 (two hundred seven thousand, one hundred and twenty-three euros) as compensation for non pecuniary damage, pursuant to paragraphs 244 to 250 of the [...] Judgment, distributed as follows:

a) to Daniel Tibi, the amount of €99,420.00 (ninety-nine thousand, four hundred and twenty euros), pursuant to paragraphs 244 to 246, 249 and 250 of the [...] Judgment;

b) to Beatrice Baruet, the amount of €57,995.00 (fifty-seven thousand, nine hundred and ninety-five euros), pursuant to paragraphs 247, 248 and 250 of the [...] Judgment;

c) to Sarah Vachon, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros), pursuant to paragraphs 247, 248 and 250 of the [...] Judgment;

d) to Jeanne Camila Vachon, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros), pursuant to paragraphs 247, 248 and 250 of the [...] Judgment;

e) to Lisianne Judith Tibi, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros), pursuant to paragraphs 247, 248, 250 and 275 of the [...] Judgment; and

f) to Valerian Edouard Tibi, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros), pursuant to paragraphs 247, 248 and 250 of the [...] Judgment.

16. The State must pay Mr. Daniel Tibi a total amount of €37,282.00 (thirty-seven thousand, two hundred and eighty-two euros) for costs and expenses incurred in domestic proceedings and in international proceedings before the inter-American system of protection of human rights, pursuant to paragraphs 268 to 270 of the [...] Judgment.

17. The State must meet its pecuniary obligations by making payments in euros.

18. The payments for pecuniary and non-pecuniary damages and for costs and expenses established in the [...] Judgment may not be affected, reduced or conditioned for current or future fiscal reasons, pursuant to paragraph 277 of the [...] Judgment.

19. The State must comply with the reparation and expense reimbursement measures set forth in the [...] Judgment, within a year as of the notification thereof, unless different terms are established.

20. It will monitor full compliance with the [...] Judgment. The case will be closed once the State has faithfully complied with the provisions of the [...] court decision. Within one year as of the notification of [the] Judgment, the State shall submit its first report to the Court describing any measures taken to comply with [the] Judgment.

[...]

2. The briefs of the State of Ecuador (hereinafter "Ecuador" or "the State") of November 26, 2004, February 10, March 28, April 8 and 18 and July 1, 2005, and April 19, 2006, wherein it reported on measures adopted to comply with the Judgment delivered by the Court on September 7, 2004 (*supra* Having Seen clause No. 1). In this respect, it stated, *inter alia*, that:

a) as regards to the effective investigation into the facts: the *Dirección Nacional de Patrocinio* (National Representation Board) filed three complaints with the Public Prosecutor's Office, in order to have the corresponding investigations initiated and identify those responsible for the violations perpetrated against Mr. Daniel David Tibi. The first complaint, regarding the arbitrary detention, was filed with the Government Attorney's Office of Pichincha; and the other two, regarding violations of due process and torture respectively, with the State Solicitor General;

b) as regards to the publication of the extract of the Judgment delivered by the Court in the Official Gazette and in newspapers of national circulation within Ecuador and France:

i. it attached a copy of Official Registry No. 458 of Wednesday, November 10, 2004, wherein the State Attorney General's Office published the extract of the Judgment delivered by the Court on September 7, 2004;

ii. it forwarded an issue of the newspaper *El Comercio* (Quito) of December 17, 2004, wherein it published the extract of the Judgment of September 7, 2004, delivered by this Tribunal in the instant case;

iii. the Director of the National Representation Board of the State Attorney General's Office informed "that the Ecuadorian Embassy in France quoted the prices for publication [of the extract of the Judgment delivered on September 7, 2004 in the case of Tibi in a French newspaper,] in the newspapers [*Le Monde* and *Le Figaro*] mentioned by the representatives". The State considered that the cost of publishing in those newspapers was too high; hence, it requested that said publication be made in a local newspaper of wide circulation in France, specifically in the area where Daniel Tibi resides, and

iv. subsequently, it pointed out that it had been informed by the representatives of publication costs in a French newspaper, which, apparently, were more adequate from the economic point of view. Therefore, the State Attorney General's Office will request the Foreign Office to instruct the Ecuadorian Embassy in France to take such steps as may be necessary to comply with this measure.

c) As regards to payment of compensations:

i. the State Attorney General's Office has requested the Ministry of Economy to transfer the necessary resources to effect such payment, and

ii. the amount of the compensation ordered by the Court was credited to the accounts of the State Attorney General's Office by the Ministry of Economy and Finance. The Finance Board of the Attorney General's Office is currently taking relevant actions to have the money

credited to the accounts of each beneficiary of the compensation in the near future.

d) As regards to the return of property and other items seized from Mr. Daniel David Tibi at the time of his detention:

i. in relation to the Volvo vehicle, plate number PGN-244:

i.a. on September 5, 1996, the automobile was bailed with the *Consejo Nacional de Control de Sustancias Estupefacientes y Psicotrópicas* (National Control Council of Narcotics and Psychotropic Substances). On April 17, 2001, the *Comisión de Calificación y Adjudicación para la Venta en Pública Subasta de Vehículos* (Qualification and Award Committee for Sale by Public Auction of Vehicles) auctioned off said piece of property for US\$ (US dollars) 2,530.00;

i.b. the State Attorney General's Office informed that "[in] relation [to] the Volvo vehicle, plate number PGN 244[,] which was auctioned off and the money seized, checks to order of Mr. Tibi have been drawn;

i.c. it has found no legal basis for a new expert's appraisal to establish an amount different from that specified by appraising experts; hence, it will proceed to pay the amount collected for this item, which is deposited in *Banco Central del Ecuador*;

ii. as regards to other property:

ii.a. the property that belongs to Mr. Tibi has been located and is ready to be returned;

ii.b. the State Attorney General's Office informed that "after checking the property and appraising the stones [...], it has been ordered that the property be returned". Said return must be effected pursuant to the Court's Judgment, which included the phrase "color stones...", without any specification as to shape, size, dimensions or any other element to identify the stones. For this reason, the State hired gemologist Paul Ceballos-Abad to give an expert opinion on the seized stones. Consequently, it expressed that "there are no legal or factual reasons not to return these stones pursuant to the orders of the Court", and

ii.c. "in view of the victim's reluctance to receive this property, the State deems it appropriate to have the Tribunal decide as to how to effect the delivery".

3. The briefs of the representatives of the victims and his next of kin (hereinafter "the representatives") of January 17, April 29, July 21 and December 9, 2005, and May 19, 2006, whereby they forwarded their comments on the reports of the State (*supra* Having Seen clause No. 2) and remarked, *inter alia*, that:

a) as regards to the effective investigation into the facts:

i. the State must proceed to investigate Judge Angela Albán, who heard Mr. Daniel David Tibi's case and was appointed as a judge for the Supreme Court of Justice of Ecuador, which could hinder

investigations against her. Additionally, Ecuador must initiate prompt and effective investigations, guaranteeing their fairness, as well as that of investigators and judges, notwithstanding the many problems that the Ecuadorian Judiciary currently faces, and

ii. the State is obliged to investigate the specific facts of the Court's decision diligently and within a reasonable term, as well as to produce detailed and updated reports on the fulfillment of said measure. The excessively long time elapsed implies a serious risk of not being able to retrieve the evidence that would help to identify, prosecute and punish the perpetrators of the facts. On the other hand, the complaints were not filed with the Government Attorney's Office that corresponded to the place where the facts had taken place (Guayaquil), but with the State Solicitor General, in Quito, which obstructs the investigation process, insofar as the evidence is mainly located in a city different from the forum before which the case is pending.

b) as regards to the written statement wherein the State is to acknowledge international responsibility and apologize to the victims: the State has not reported on the publication of the formal written statement regarding the facts mentioned in the Judgment prepared by high-level state authorities.

c) as regards to the education and training program: the State has not reported on the fulfillment of this reparation measure. This program has not been implemented; no contact has even been established with organizations of the civil society to coordinate the creation of the committee.

d) as regards to the publication of the extract of the Judgment delivered by the Court in the Official Gazette, and in newspapers with national circulation in Ecuador and France:

i. the publication in the Official Registry of Ecuador that the State submitted to the Court does not comply with the aforementioned guideline, inasmuch as only operative paragraphs 1 to 10 were published;

ii. in relation to the publication of the extract of the Judgment in France, they suggest that the State should ask for a quotation in another newspaper called *Libération*. Additionally, they suggest that the State should propose other newspapers that meet the requirement of wide circulation in France, especially in the area where Mr. Daniel David Tibi resides, and provide the corresponding quotations, and

iii. it has been more than ten months since the State informed that it would instruct its Embassy in France to take the necessary steps to comply with this part of the Judgment; however, it has failed to do so.

e) as regards to payment of compensations:

i. the State has fallen behind with the payment of compensations and they expect it to make said payment as soon as possible;

ii. it is necessary for the State to remember that the compensation includes future expenses for psychological and medical treatment of Mr. Tibi. Consequently, lack of payment has, among

other things, prevented Mr. Tibi from adequately seeing to his physical and psychological recovery, and

iii. the State has not paid any compensation for moral and pecuniary damages to Mr. Tibi and his family. Lack of compliance with this measure has caused them great suffering. Ever since Mr. Tibi went back to France, he has been unable to find a stable job, finance initial projects or rehabilitate into society. His financial condition is seriously deteriorated.

f) as regards to the return of property seized from Mr. Daniel David Tibi at the time of his detention:

i. in relation to the Volvo vehicle, plate number PGN-244:

i.a. the vehicle was auctioned off and its value was appraised while it was in the warehouse of the *Consejo Nacional de Sustancias Estupefacientes y Psicotrópicas (CONSEP)* (National Control Council of Narcotics and Psychotropic Substances), out of order, exposed to wind and weather and with several flaws; hence, it did not have the same commercial value it had when it was seized from Mr. Tibi. Therefore, the State must pay Mr. Tibi the amount in substitution ordered by the Court;

i.b. the State must pay Mr. Daniel David Tibi the amount corresponding to the market price of the vehicle in September 1995 and not the amount obtained at the auction sale;

ii. in relation to other property:

ii.a. the victim has expressed that "it is impossible for him to determine [by inspecting the videotape and the affidavit submitted by the State] whether the property shown is actually his[, since] the affidavit describes the property only superficially and the videotape shows it from a long distance";

ii.b. in relation to the stones appraised by Mr. Paul Cevallos-Abad in his report, Mr. Tibi has remarked that "the stones described there are not his stones". Mr. Tibi expressed that "the shape, size and weight of most of the stones does not coincide with the quality, size and weight of the stones he had when he was deprived of his freedom". Therefore, Mr. Tibi refrains from receiving the stones described in Mr. Cevallos-Abad's report. We suggest that the stones be sent to the Ecuadorian Embassy in France so that Mr. Tibi can personally verify their quality, size and purity, and, if they are not his stones, that the Court order Ecuador to comply with the provisions of paragraph 237 of the Judgment delivered by the Tribunal on September 7, 2004, and

ii.c. they requested the Court to decide whether or not compliance with said measure implies, as the State has expressed it, returning the amount of US\$ 2,530 (two thousand five hundred US Dollars) paid at the auction sale of the vehicle and the stones examined by Mr. Paul Cevallos-Abad and described in his report. The State must pay the amount set forth in the Judgment, since, in practice, returning all the property that was taken from Mr. Tibi when he was illegally detained has proved impossible.

- g) as regards to the submission of the first report of the State on the measures adopted to comply with the Judgment: the State has given notice of several actions that have been taken in order to comply with the measures ordered by the Court; however, it has not yet submitted its first report on compliance, and
- h) they requested the Court to hold a public hearing to analyze the monitoring process of the Judgment delivered in the instant case.
4. The briefs of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of February 2, May 3 and August 24, 2005 and June 8, 2006, wherein it submitted its comments on the reports submitted by the State (*supra* Having Seen clause No. 2) and expressed, *inter alia*, that:
- a) as regards to the effective investigation into the facts:
- i. compliance with this measure is still pending, as well as with the measure ordering the publication of the outcome of the investigations and punishment of those responsible. The State has failed to provide specific information regarding measures adopted to effectively comply with this reparation measure;
  - ii. it should be assessed whether, during this period, the results of the actions of the State aimed at conducting relevant investigations have made it possible to infer that, within a reasonable term, the requirements of the Tribunal will be met, and
  - iii. the State must allow the victim "to have full access to and act in all the stages and instances of the investigation and the corresponding trial".
- b) as regards to the written declaration wherein the State should acknowledge its international responsibility and apologize to the victims: the State has not apologized to Mr. Tibi and the other victims. The Commission expresses its concern for the lack of information and apparent contempt of the Judgment in this respect.
- c) as regards to the education and training program: the State has not created the education and training program on rules and principles for protection of human rights yet. Moreover, the Commission notes the lack of information about actions aimed at complying with this obligation, and emphasizes and reiterates how necessary and significant it is that the Court instruct the State to adopt, forthwith, measures aimed at fulfilling, in good faith, the international obligations that arise from the Judgment of the Tribunal;
- d) as regards to the publication of the extract of the Judgment delivered by the Court in the Official Gazette and in newspapers of national circulation in Ecuador and France:
- i. the Commission acknowledges that, at first, the publication was not duly made at the domestic level. The obligation was subsequently fulfilled by the State with a publication on December 17, 2004.

Therefore, the Commission acknowledges that this aspect of the reparation has been fulfilled, and

ii. in relation to the publication in France, the Commission urges the State to take into account the information furnished by the victim to comply with said obligation and make the publication.

e) as regards to payment of compensations: the State has not complied with this obligation and the Commission is waiting for it to be fulfilled.

f) as regard the return of property seized from Mr. Daniel David Tibi at the time of his detention:

i. it is essential for Mr. Daniel David Tibi to have direct access to the jewels described in the aforementioned affidavit, and the State should facilitate said access;

ii. it is necessary to return the amount corresponding to the value of the stones and the Volvo vehicle at the time they were seized from Mr. Tibi, and

iii. in light of the difficulties faced in returning the property, the Commission deems it relevant to resort to the option included in the Judgment according to which Mr. Tibi must be compensated for the property and other items that were seized from him, as soon as possible.

#### **CONSIDERING:**

1. That one of the powers inherent to the jurisdictional functions of the Court is to monitor compliance with its decisions.

2. That Ecuador has been a State Party to the American Convention since December 28, 1977 and recognized the adjudicatory jurisdiction of the Court on July 24, 1984.

3. That Article 68(1) of the American Convention provides 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 of the Court at the domestic level.<sup>1</sup>

4. That, in view of the final and unappealable nature of the judgments of the Court, as established in Article 67 of the American Convention, the State should comply with them fully and promptly.

5. That the obligation to comply with the decisions contained in the judgments of the Court dovetails with a basic principle of the law of the international responsibility of the State, supported by international case law, according to which a State must

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<sup>1</sup> Cf. *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.

abide by its international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has already noted and pursuant to Article 27 of the 1969 Vienna Convention on the Law of Treaties, may not invoke the provisions of its internal law to prevent itself from assuming international responsibility that has already been established.<sup>2</sup> The treaty obligations of States Parties are binding for all the powers and organs of the State.

6. 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 in relation to the substantive norms of human rights treaties (that is, those which contain provisions concerning protected rights), but also in relation to procedural norms, such as those referring to compliance with the decisions of the Court. These obligations must be interpreted and applied so that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.<sup>3</sup>

7. That the States Parties to the American Convention that have accepted the compulsory jurisdiction of the Court must abide by the obligations established by the Tribunal. This obligation includes the State's duty to report to the Court on the measures adopted to comply with its decisions. The reporting obligation is twofold in nature and effective compliance therewith requires the formal submission of a document within the allotted time and with specific, true, updated and detailed information on the issues to which this obligation refers. Timely observance of the State's obligation to report to the Court on how its orders are being fulfilled is essential to assess the degree of compliance with the judgment taken as a whole.

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8. That operative paragraph No. 11 of the Judgment delivered by the Court on September 7, 2004 provides for the publication, at least once, in the Official Gazette and in another newspaper of national circulation within Ecuador, of the chapter on Proven Facts and operative paragraphs No. 1 to 16 of the Judgment, without the corresponding footnotes, and that in paragraph 260 of the aforementioned Judgment it was stipulated that the State had to publish "[...] operative paragraphs No. 1 to 13". This Court observes that, although the State made the first publication in the Official Gazette under Official Registry No. 458 of Wednesday, November 10, 2004, pursuant to the aforementioned paragraph 260 of the Judgment, later, when it published the extract of the Judgment in the newspaper *El Comercio* (Quito) on December 17, 2004, it did so pursuant to operative paragraph No. 11 of the Judgment. The Tribunal analyzed said publications and, in this respect, considers that what was ordered in the Judgment has been complied with.

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<sup>2</sup> Cf. *Case of the "Five Pensioners"*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 7; *Case of Bámaca-Velásquez*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 5; *Case of the "Juvenile Reeducation Institute"*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 5.

<sup>3</sup> Cf. *Case of the "Five Pensioners"*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 8; *Case of Bámaca-Velásquez*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 6; *Case of the "Juvenile Reeducation Institute"*. Monitoring Compliance with Judgment, *supra* note 1, Considering clause No. 6.

9. As regards to the publication of the extract of the Judgment in France, the Court notes that the State must publish the chapter on Proven Facts, without footnotes, and operative paragraphs No. 1 to 16 of the Judgment of September 7, 2004 (*supra* Having Seen clause No. 1), as established in operative paragraph No. 11.

10. That, as regards to the property and other items seized from Mr. Tibi at the time of his detention, the Court ordered "the restitution of said property and items by the State, [...] and, if this turned out to be impossible, it establish[ed], on grounds of equity, [an...] amount to be paid to Mr. Daniel Tibi for the property that was seized from him, which include the Volvo vehicle [...]", as well as his "stones". With regard to this, and taking into account the dispute between the parties as to the manner in which said order should be complied with, the Court observes that Ecuador is willing to give Mr. Tibi the proceeds of the auction sale of the Volvo vehicle that was seized from him; however, the victim refuses to accept said amount, for he considers that the price at which the vehicle was auctioned off falls below the commercial price it had at the time of the seizure. As regards to the "stones", the State proceeded to identify some stones, and it alleges that they are the same that were seized at the time of Mr. Tibi's detention, according to the report prepared by Mr. Paul Ceballos-Abad. The victim maintains that they are not his "stones" and refuses to accept them. In view of the foregoing, it was requested that the Tribunal solve the situation, either in relation to the manner in which the State must return the property to the victim (*supra* Having Seen clause No. 2(d)(ii)(c)) or to whether or not the State must pay the amount set forth in paragraph 237.e of the Judgment (*supra* Having Seen clause No. 3(f)(ii)(c)).

11. That in light of the dispute between the State and the victim in relation to the "stones" that were seized from Mr. Daniel Tibi and their value, as well as in relation to the Volvo vehicle, and in light of the difficulty they are facing in reaching an agreement regarding said property, this Tribunal believes that the State must comply with the subsidiary obligation established by the Court in operative paragraph No. 14 (c), according to which, if restituting the property seized from Mr. Tibi should prove impossible, "the State shall pay an amount of €82,850.00 (eighty-two thousand, eight hundred and fifty euros), pursuant to paragraphs 237.e and 238 of the [...] Judgment". Said amount covers all the property seized from Mr. Tibi at the time of his detention, including the value of the Volvo vehicle, which was auctioned off.

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12. That, upon monitoring full compliance of the Judgment on merits and reparations delivered in the instant case, and after analyzing the information furnished by the State, the Inter-American Commission and the representatives in their briefs (*supra* Having Seen clauses No. 2, 3 and 4), the Court notes that it lacks sufficient information on the following measures, which have not been fully complied with:

- a) effective investigation into the facts of the instant case within a reasonable term, in order to identify, prosecute and punish all the perpetrators of the violations against Mr. Daniel Tibi. The outcome of this process shall be published (*operative paragraph No. 10 of the Judgment of September 7, 2004*);

- b) publication, at least once, of the chapter on Proven Facts and operative paragraphs No. 1 to 16 of the Judgment, without the corresponding footnotes, translated into French, in a French newspaper (*operative paragraph No. 11 of the Judgment of September 7, 2004*);
- c) publication of a formal written statement prepared by high-level state authorities acknowledging international responsibility for the facts of the instant case and apologizing to Mr. Tibi and the other victims mentioned in the Judgment (*operative paragraph No. 12 of the Judgment of September 7, 2004*);
- d) implementation of an education and training program on the principles and rules of protection of human rights in the treatment afforded to inmates, intended for judicial, police and prison personnel, as well as for personnel of the public prosecutor's office, including medical, psychiatric and psychological staff. The design and implementation of the training program shall include the allocation of specific resources to achieve its goals, and shall take place with the participation of the civil society. To this end, the state shall set up an interinstitutional committee in order to define and execute training programs on human rights and treatment of inmates. The State shall report to this Court on the creation and operation of this committee (*operative paragraph No. 13 of the Judgment of September 7, 2004*);
- e) payment of a total amount of €148,715.00 (one hundred and forty-eight thousand, seven hundred and fifteen euros) as compensation for pecuniary damage, distributed as follows: a) to Daniel Tibi, the amount of €57,995.00 (fifty-seven thousand, nine hundred and ninety-five euros); b)[...] the State shall pay [Mr. Daniel Tibi] the amount of €82,850.00 (eighty-two thousand, eight hundred and fifty euros) pursuant to paragraphs 237.e and 238 of the [...] Judgment; and c) to Beatrice Baruet, the amount of €7,870.00 (seven thousand, eight hundred and seventy euros) (*operative paragraph No. 14 (a) and (c) of the Judgment of September 7, 2004*);
- f) payment of a total amount of €207,123.00 (two hundred seven thousand, one hundred and twenty-three euros), as compensation for non-pecuniary damage, distributed as follows: a) to Daniel Tibi, the amount of €99,420.00 (ninety-nine thousand, four hundred and twenty euros); b) to Beatrice Baruet, the amount of €57,995.00 (fifty-seven thousand, nine hundred and ninety-five euros); c) to Sarah Vachon, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros); d) to Jeanne Camila Vachon, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros); e) to Lisianne Judith Tibi, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros); and f) to Valerian Edouard Tibi, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros) (*operative paragraph No. 15 of the Judgment of September 7, 2004*); and
- g) the State must pay Mr. Daniel Tibi €37,282.00 (thirty-seven thousand, two hundred and eighty-two euros), for costs and expenses incurred in domestic proceedings and in international proceedings before the inter-American system of protection of human rights (*operative paragraph No. 16 of the Judgment of September 7, 2004*).

13. That the Court is concerned that almost two years have elapsed since it delivered the judgment on merits and reparations in this case (*supra* Having seen clause No. 1), without said judgment having been fully complied with.

14. That the Court will consider the overall situation of compliance with its Judgment on merits and reparations (*supra* Having Seen clause No. 1), as well as with this Order, once it receives the pertinent information on measures pending compliance. Consequently, pursuant to its usual practice, the Court is empowered to continue monitoring compliance with the Judgment of September 7, 2004 until it considers that the State has fully complied with the provisions contained in said Decision.

**NOW THEREFORE:**

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

by virtue of its authority to monitor compliance with its decisions, pursuant to Articles 33, 62(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, Articles 25(1) and 30 of its Statute, and Article 29(2) of its Rules of Procedure,

**DECLARES:**

1. That, in accordance with Considering clause No. 8 hereof, the State has complied with the publication, at least once, in the Official Gazette and in another newspaper of national circulation in Ecuador.

2. That, in accordance with Considering clause No. 11, the State shall pay Daniel Tibi €82,850.00 (eighty-two thousand, eight hundred and fifty euros), to cover the value of all seized property, including the stones and the Volvo vehicle.

3. That it shall keep open the proceedings to monitor compliance with the measures that are pending compliance in the instant case, to wit:

a) effective investigation into the facts of the instant case within a reasonable term, in order to identify, prosecute and punish all the perpetrators of the violations against Mr. Daniel Tibi. The outcome of this process shall be published;

b) publication, at least once, of the chapter on Proven Facts and operative paragraphs No. 1 to 16 of the Judgment, without the corresponding footnotes, translated into French, in a French newspaper;

c) publication of a formal written statement prepared by high-level state authorities acknowledging international responsibility for the facts of the instant case and apologizing to Mr. Tibi and the other victims mentioned in the Judgment;

d) implementation of an education and training program on the principles and rules of protection of human rights in the treatment afforded to inmates, intended for judicial, police and prison personnel, as well as for personnel of the public prosecutor's office, including medical, psychiatric and psychological

staff. The design and implementation of the training program shall include the allocation of specific resources to achieve its goals, and shall take place with the participation of the civil society. To this end, the State shall set up an interinstitutional committee in order to define and execute training programs on human rights and treatment of inmates. The State shall report to this Court on the creation and operation of this committee;

e) payment of a total amount of €148,715.00 (one hundred and forty-eight thousand, seven hundred and fifteen euros) as compensation for pecuniary damage, distributed as follows: a) to Daniel Tibi, the amount of €57,995.00 (fifty-seven thousand, nine hundred and ninety-five euros); b)[...] the State shall pay [Mr. Daniel Tibi] the amount of €82,850.00 (eighty-two thousand, eight hundred and fifty euros) pursuant to paragraphs 237.e and 238 of the [...] Judgment; and c) to Beatrice Baruet, the amount of €7,870.00 (seven thousand, eight hundred and seventy euros);

f) payment of a total amount of €207,123.00 (two hundred seven thousand, one hundred and twenty-three euros), as compensation for non-pecuniary damage, distributed as follows: a) to Daniel Tibi, the amount of €99,420.00 (ninety-nine thousand, four hundred and twenty euros); b) to Beatrice Baruet, the amount of €57,995.00 (fifty-seven thousand, nine hundred and ninety-five euros); c) to Sarah Vachon, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros); d) to Jeanne Camila Vachon, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros); e) to Lisianne Judith Tibi, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros); and f) to Valerian Edouard Tibi, the amount of €12,427.00 (twelve thousand, four hundred and twenty-seven euros); and

g) the State must pay Mr. Daniel Tibi a total amount of €37,282.00 (thirty-seven thousand, two hundred and eighty-two euros), for costs and expenses incurred in domestic proceedings and in international proceedings before the inter-American system of protection of human rights.

#### **AND DECIDES:**

1. To call upon the State to take such steps as may be necessary to comply promptly and effectively with the measures pending compliance ordered by the Tribunal in the Judgment on merits and reparations delivered in the instant case (*supra* Considering clauses No. 11 and 12), pursuant to Article 68(1) of the American Convention on Human Rights.

2. To call upon the State to submit to the Inter-American Court, by no later than January 19, 2007, a detailed report, pursuant to Considering clause No. 12 hereof, describing the steps taken to comply with all the reparation measures ordered by this Court that are still pending compliance (*supra* Considering clause No. 11 and 12), as well as the corresponding supporting documents.

3. To call upon the representatives of the victim and his next of kin, and the Inter-American Commission on Human Rights to submit their comments on the report of the State mentioned in the preceding operative paragraph, within four and six weeks, respectively, of receiving it.

4. To continue monitoring the measures contained in the Judgment on merits and reparations that are still pending compliance.
5. To request the Secretariat of the Court to give notice of this Order to the State, the Inter-American Commission on Human Rights, and the representatives of the victim and his next of kin.
6. That it will continue monitoring compliance with the Judgment of September 7, 2004, and only after it has been fully complied with will it close the case.

Sergio García-Ramírez  
President

Alirio Abreu-Burelli

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Pablo Saavedra-Alessandri  
Secretary

So ordered,

Sergio García-Ramírez  
President

Pablo Saavedra-Alessandri  
Secretary