Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Saul Isaac Cantoral-Huamani and Consuelo Trinidad Garcia-Santa Cruz v. Peru
Doc. Type:	Judgement (Interpretation of the Judgment on Preliminary Objection, Merits, Reparations and Costs)
Decided by:	President: Sergio Garcia Ramirez Vice President: Cecilia Medina Quiroga; Judges: Manuel E. Ventura Robles; Leonardo A. Franco; Margarette Mac Macaulay; Rhadys Abreu Blondet Judge Diego Garcia-Sayan, a Peruvian national, excused himself from hearing this case, in accordance with Articles 19(2) of the Statute and 19 of the Rules of Procedure of the Court; his decision was accepted by the Court. Consequently Judge Garcia-Sayan did not take part in the deliberation and signature of this judgment.
Dated:	28 January 2008
Citation:	Cantoral-Huamani v. Peru, Judgement (IACtHR, 28 Jan. 2008)
Represented by:	APPLICANT: the Asociacion Pro Derechos Humanos
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In the case of Cantoral Huamaní and García Santa Cruz,

the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court"), pursuant to Article 67 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Article 59 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), decides the application for interpretation filed by the State of Peru (hereinafter "the State" or "Peru") on October 31, 2007, concerning the judgment on preliminary objection, merits, reparations and costs delivered by the Court on July 10, 2007, in the case of Cantoral Huamaní and García Santa Cruz,

I. INTRODUCTION OF THE REQUEST FOR INTERPRETATION AND PROCEEDINGS BEFORE THE COURT

1. On October 31, 2007, the State submitted an application for interpretation of the judgment on preliminary objection, merits, reparations and costs delivered by the Court on July 10, 2007 (hereinafter "the judgment"), in accordance with Articles 67 of the Convention and 59 of the Rules of Procedure. In its application, the State indicated that "the required clarification or interpretation […] refers to the following points":

(a) "Consultation on whether the appeal for review is applicable" if the Peruvian Judiciary "[…] reaches a different conclusion to that of the responsibility of State agents for the acts against Saúl Cantoral Huamaní and Consuelo García Santa Cruz";
(b) "Integration or correction of paragraph 187 of the judgment: regarding the return to Pelagia Mélida Contreras Montoya de Cantoral of the sum of US$7,500.00 given to Saúl Cantoral Huamaní by the National Federation of Mining, Metallurgy and Steel Workers of Peru, instead of to the said Mining Federation"; and
(c) "Clarification of paragraph 185 of the judgment […] concerning the factual or legal status of Elisa Huamaní Infanzón […]".

2. On November 6, 2007, pursuant to the provisions of Article 59(2) of the Rules of Procedure and on the instructions of the President of the Court (hereinafter "the President"), the Secretariat of the Court (hereinafter "the Secretariat") forwarded a copy of the application for interpretation to the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") and to the representatives of the victims and their next of kin (hereinafter "the representatives"). It also informed the Commission and the representatives that they could submit any written arguments they deemed pertinent by December 10, 2007, at the latest. Finally, it reminded the State that, as established in Article 59(4) of the Rules of Procedure, "[a]n application for interpretation shall not suspend the effect of the judgment."

3. On December 7, 2007, the representatives submitted their written arguments and asked the Court "to reject all aspects of the application for interpretation."

4. On December 10, 2007, the Commission submitted its written arguments and stated that "the scope and the content of the operative paragraphs of the judgment are clear; consequently the questions raised in the request made by the Peruvian State are inadmissible."

II. COMPETENCE AND COMPOSITION OF THE COURT

5. Article 67 of the Convention establishes that:

The judgment of the Court shall be final and not subject to appeal. In case of disagreement as to the meaning or scope of the judgment, the Court shall interpret it at the request of any of the parties, provided the request is made within ninety days from the date of notification of the judgment.

6. According to this article, the Court has competence to interpret its judgments. In order to examine the application for interpretation and take the respective decision, it should, if possible, have the same composition it had when delivering the respective judgment, according to Article 59(3) of the Rules of Procedure. On this occasion, the Court is composed of those judges who delivered the judgment whose interpretation has been requested by the State.

III. ADMISSIBILITY

7. The Court must verify whether the application for interpretation complies with the requirements established in the norms applicable, which are Article 67 of the Convention and the pertinent parts of Article 59 of the Rules of Procedure which establish that:

1. The request for interpretation, referred to in Article 67 of the Convention, may be made in connection with judgments on the merits or on reparations and shall be filed with the Secretariat. It shall state with precision the issues relating to the meaning or scope of the judgment of which the interpretation is requested.
[…]
4. A request for interpretation shall not suspend the effect of the judgment.
5. The Court shall determine the procedure to be followed and shall render its decision in the form of a judgment

8. Furthermore, Article 29(3) of the Rules of Procedure establishes that "[j]udgments and orders of the Court may not be contested in any way."

9. The Court has verified that the State filed its application for interpretation within the time established in Article 67 of the Convention, since it was submitted on October 31, 2007, and the judgment had been notified to the parties on August 3, 2007.

10. Moreover, as the Court has previously decided in its consistent case law based clearly on the applicable laws, a request for interpretation of judgment should not be used in order to contest the decision whose interpretation is requested. The purpose of the application is exclusively to clarify the meaning of a ruling when one of the parties claims that the text of its operative paragraphs or of its findings lacks clarity or precision, provided that these findings have an impact on the said operative paragraphs. Accordingly, the modification or annulment of the respective judgment cannot be requested by an application for interpretation. [FN1]

[FN1] Cf. IACourtHR. Loayza Tamayo v. Perú. Interpretation of judgment on merits. Order of the Court of March 8, 1998. Series C No. 47, para. 16; IACourtHR. Dismissed Congressional Employees (Aguado Alfaro et al.) v. Perú. Request for interpretation of the judgment on preliminary objections, merits, reparations and costs. Judgment of November 30, 2007. Series C No. 174, para. 11; and IACourtHR. La Cantuta v. Perú. Interpretation of judgment on merits, reparations and costs. Judgment of November 30, 2007. Series C No. 173, para. 9.
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11. In this regard, the Court has established that the application for interpretation of judgment cannot consider factual and legal matters that have already been brought up at the appropriate procedural moment, and regarding which the Court has adopted a decision. [FN2]

[FN2] Cf. IACourtHR. Loayza Tamayo v. Perú. Interpretation of the judgment on reparations. Judgment of June 3, 1999. Series C No. 53, para. 15; IACourtHR. Dismissed Congressional Employees (Aguado Alfaro et al.) v. Perú. Request for interpretation of the judgment on preliminary objections, merits, reparations and costs, supra note 1, para. 12; and IACourtHR. La

Cantuta v. Perú. Interpretation of judgment on merits, reparations and costs, supra note 1, para. 32.

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12. The Court will proceed to examine the application for interpretation submitted by the State and, if applicable, clarify the meaning or scope of the judgment. To this end, it will examine the three questions raised in the said application separately, and also the observations of the Inter-American Commission and the representatives.

IV. REGARDING THE POSSIBILITY OF FILING AN APPEAL FOR REVIEW OF JUDGMENT

13. In its application for interpretation, the State asked the Court to rule on the possibility of filing an appeal for review as follows: "[s]upposing that, once the investigations into the facts that are the grounds for the instant case are concluded, the State, through the Judiciary […] reaches a different conclusion as regards authorship by non-State agents, would [the State] be fully authorized to file an appeal for review of judgment before the Inter-American Court, citing as a precedent the case of Genie Lacayo?"

14. The Inter-American Commission indicated that "the State has not raised legal facts or questions that fall within the scope of the application for interpretation established in Article 67 of the Convention." It also maintained that "according to the Court's decision in the Genie Lacayo case, even though 'the appeal for review is not contemplated in the American Convention, or in the Statute or in the Rules of Procedure of the Inter-American Court,' it would be admissible 'in some special cases.'"

The Commission added that "the Court's case law refers to the possibility of an appeal for review under very limited hypotheses, and these have not been submitted to the Court on this occasion[; consequently,] it consider[ed] that the presentation of hypothetical assumptions d[id] not constitute adequate grounds for submitting additional observations at this time." Lastly, the Commission noted that the State had expressly asserted that it reserved the right to file an appeal for a review of judgment in the instant case.

15. The representatives stated that they "did not understand the intentions of the Peruvian State in this respect, […] because their application brief does not include any concerns regarding the lack of clarity or precision of the said findings, or the meaning or purpose of the Court's judgment." To the contrary, "the only thing that is clear is that the Peruvian State does not agree with the Court's decisions, in particular its assessment of the evidence concerning the hypotheses in relation to the authorship of the facts on which its ruling was based." Since, according to the representatives, the State did not agree with the Court's decisions, "the State is consulting the Court about whether an appeal for review of the judgment is applicable if the domestic investigations conclude that State agents did not take part in the facts on which the judgment is based." The representatives stated that "the State cannot ask the Court to rule on a future fact, because [this] is not consistent with the purpose of an application for interpretation of judgment." They also indicated their "immense surprise that the State should consult the Court about whether the filing of an appeal for review of the judgment was applicable, and then,

contradicting its own claim, expressly assert its right to file an appeal for review of judgment if the Judiciary should conclude that the State was not the author of the crime [perpetrated against] Saúl Cantoral Huamaní and Consuelo García Santa Cruz." Based on the above, the representatives indicated that "the questions raised by the State lack a purpose, because the request for interpretation is evidently unfounded."

16. The Court notes that the purpose of the question asked by the State in its application for interpretation is not to clarify or to define more accurately the content of a point of the judgment, or to clarify the meaning of the judgment owing to the lack of sufficient clarity or precision in its operative paragraphs or findings. To the contrary, the application for interpretation refers to the future possibility of filing an appeal that has not been established in the American Convention, or in the Court's Statute or Rules of Procedure. As both the Inter-American Commission and the representatives have observed, the Court notes that the issue raised by the State relates to a potential event; that is, to a situation that the State supposes could occur in the future: a decision of the domestic courts absolving State agents of responsibility in this case. Positing abstract or hypothetical situations bears no relationship to the purpose of an application for interpretation of judgment. The Court also recalls that, during the proceedings on merits, based on the proven facts and after examining the arguments of the parties and the body of evidence, it determined the international responsibility of the State in this case, and not the individual criminal responsibility of those allegedly responsible for the facts.

17. Consequently, in this regard, this application for interpretation is not in keeping with the provisions of the American Convention and the Rules of Procedure, and the Court therefore declares it inadmissible.

V. REGARDING THE MEASURES OF RESTITUTION ORDERED IN THE JUDGMENT

18. The State indicated that the Court "has considered a measure of restitution in a separate section from the pecuniary damage[;] however, it ordered the return of the sum of US$7,500.00 [(seven thousand five hundred United States dollars)] to Pelagia Mélida Contreras Montoya de Cantoral 'so that she may dispose of it as she deems pertinent,' so that, for all practical effects, the rules of pecuniary damage seem to have been applied, whereas they are not applicable, because, as has been acknowledged, this amount corresponds to the Mining Federation, of which Mr. Cantoral was the Secretary General."

19. The Commission considered that "since the scope and meaning of the provisions of paragraph 187 of the judgment are clear, the requested interpretation is not in order."

20. The representatives indicated that this aspect of the judgment "cannot be interpreted" and that "[w]hen ordering the delivery of US$7,500.00 [(seven thousand five hundred United States dollars)] to Pelagia Contreras, the Court considered that she would hand over this sum to the Mining Federation, as she had stated to the representatives."

21. The Court considers that the question raised by the State contains a doubt about the meaning or scope of the judgment on this aspect; accordingly, it will proceed to interpret it.

When establishing the reparations corresponding to the instant case, the Court determined the persons who should be considered "injured party" in the terms of the American Convention and the reparations due. In the chapter of the judgment on reparations, the Court expressly differentiated the compensation corresponding to pecuniary and non-pecuniary damage (in section "B. Compensation") and a measure of restitution (in section "C. Measure of restitution"). Under the latter heading, in paragraph 187 of the judgment, the Court ordered the following:

C) Measure of restitution

187. Finally, regarding the sum of US$7,500.00 (seven thousand five hundred United States dollars) delivered by the Mining Federation to Saúl Cantoral-Huamaní, which moments before his death, he left in the hotel where he was staying, and which was seized and judicially deposited by the authorities investigating the case, the Court notes that it was never restituted, but was lost or stolen while in judicial custody. This assumption is supported by the allegations of the representatives and also by the evidence presented by the State, advising that, on May 8, 1995, a prosecutor's office ordered that the case file be forwarded to the acting prosecutor because of "indications of a crime against the property (theft) of the Certificate of Judicial Deposit of the National Bank No. […], dated April 18, 1989, for a total of US$7,500.00." The loss of this sum of money under the State's custody has a direct causal connection to the events of this case and, consequently, must be restituted. Therefore, if this sum of money has not been returned already, the Court orders that it should be restituted to Pelagia Mélida Contreras-Montoya de Cantoral, who may dispose of it as she sees fit.

22. The Court considered it proved that the sum delivered to Saúl Cantoral Huamaní by the Mining Federation was mislaid or stolen while in the custody of the State; consequently, it should be restituted. Given that Saúl Cantoral Huamaní had this amount in his possession when he was executed, the Court ordered that Pelagia Mélida Contreras Montoya, Mr. Cantoral's widow, who is a party to these proceedings, and not an entity that is not a party to them such as the Mining Federation, should receive this sum so that she could then "dispose of it as she considered pertinent."

23. Based on the above, the Court has determined the meaning and scope of the provisions of paragraph 187 of the judgment on preliminary objection, merits, reparations and costs in the instant case.

VI. REGARDING THE STATUS OF ELISA HUAMANÍ INFANZÓN

24. In its application for interpretation, the State advised that, according to its records, "Elisa Huamaní de Cantoral […] is alive; however, according to the judgment of the Court, she is deceased. In this regard, […] the Court is requested to define her actual status, since this aspect of the judgment could be incorrect."

25. The Inter-American Commission observed that, "as was proved before the Court by pertinent documentary, testimonial and expert evidence, [Elisa Huamaní de Cantoral] died on August 17, 1989; in other words, after her son's extrajudicial execution and, according to the testimony [given in this case], as a result of the suffering caused by this fact." The Commission

"emphasized that the death certificate that was forwarded was not contested while the case was being litigated before the Court." Therefore, the Commission concluded that, "since the scope and meaning of the decision in paragraph 185 of the judgment are clear, the requested interpretation is not admissible."

26. The representatives stated that "no interpretation is in order regarding the status of beneficiary of Elisa Huamaní Infanzón." They also indicated that they "sent the death certificate of Elisa Huamaní Infanzón to the Court, and it shows that she died on August 17, 1989; that is six months after the death of Saúl Cantoral. This documentation was submitted to the Court by the victims' representatives as helpful evidence, together with the written arguments presented in a communication dated February 23, 2007. This fact was also mentioned by Ulises Cantoral Huamaní at the public hearing held in the instant case." Accordingly, they considered that the State's argument "constituted a questioning of a decision taken by the Court […], and is thus incompatible with the purpose of the application for interpretation of judgment."

27. Regarding the matter questioned by the State - that the information about the death of the mother of Saúl Cantoral Huamaní could "be erroneous" - the Court understands that Peru had the adequate time and procedural opportunity to exercise its right to defense in this regard. As can be seen from note CDH-10.435/099 sent to the State Agent by the Secretariat of the Court on March 14, 2007, and received by the Embassy of Peru in Costa Rica the following day, the State received, among other documentation, a copy of the death certificate of Elisa Huamaní Infanzón which states that she died on August 17, 1989. The Court notes that, at no time, did the State object to this death certificate or contest other evidence that proved her death on this date, including the testimonial evidence given at the public hearing held in this case.

28. The Court found it had been proved that, at the time of her son's death, Elsa Infazón Huamaní was still alive and that she died after the execution of Saúl Cantoral Huamaní, based on the appropriate documentary evidence issued by the State itself: her death certificate, and testimonial and expert evidence in the file of this case, which was not contested by the State during the proceedings on the merits of the case.

29. The State's allegation in this regard is made in a totally inadmissible manner and seeks to dispute a question of fact that was already considered at the appropriate procedural occasion and regarding which the Court has already adopted a decision; consequently it does not merit being admitted at the current stage of interpretation of judgment. The Court considers that this aspect of the application for interpretation is inadmissible.

VII. OPERATIVE PARAGRAPHS

30. Based on the foregoing,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

pursuant to Article 67 of the American Convention on Human Rights and Articles 29(3) and 59 of the Rules of Procedure,

DECIDES:

Unanimously,

1. To declare inadmissible the application for interpretation of the judgment on preliminary objection, merits, reparations and costs in the case of Cantoral Huamaní and García Santa Cruz filed by the State in relation to the first and third points (supra para. 1(a) and (c), because is it not in keeping with the provisions of Articles 67 of the Convention and 29(3) and 59 of the Rules of Procedure, as indicated in paragraphs 16 and 17 and 27 to 29 of this judgment.
2. To declare admissible the application for interpretation of the judgment on preliminary objection, merits, reparations and costs in the case of Cantoral Huamaní and García Santa Cruz filed by the State in relation to the second point (supra para. 1(b); that is, regarding the "[i]ntegration or correction of paragraph 187 of the judgment [on merits]," the meaning and scope of which have been determined by the Court in paragraphs 21 to 23 of this judgment on interpretation.
3. To require the Secretariat of the Inter-American Court of Human Rights to notify this judgment to the State, the Inter-American Commission and the representatives of the victims and their next of kin.

Sergio García Ramírez
President

Cecilia Medina Quiroga
Manuel E. Ventura Robles
Leonardo A. Franco
Margarette May Macaulay
Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Sergio García Ramírez
President

Pablo Saavedra Alessandri
Secretary