

**Order of the**  
**Inter-American Court of Human Rights**  
**of April 29, 2009**  
**Case of Chaparro-Alvarez and Lapo-Iñiguez v. Ecuador**  
***(Monitoring Compliance with Judgment)***

**HAVING SEEN:**

1. The Judgment on Merits, Reparations, and Costs (hereinafter the “Judgment”) delivered by the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) on November 21, 2007, whereby it decided that:

[...]

8. The State [had to] eliminate forthwith the names of Mr. Juan Carlos Chaparro Álvarez and Mr. Freddy Hernán Lapo Iñiguez from the public records in which they still appear with a criminal record, under the terms of paragraphs 258 to 260 of the [...] Judgment.

9. The State [had to] immediately inform the relevant private institutions that they should eliminate from their records any reference to Mr. Juan Carlos Chaparro Álvarez and Mr. Freddy Hernán Lapo Iñiguez as authors or suspects of the criminal act of which they were accused in this case, in accordance with paragraph 260 of the [...] Judgment.

10. The State [had to] publicize the [...] Judgment, within six months from notification of the Judgment, under the terms of paragraphs 261 to 265 thereof.

11. The State [had to] adapt its legislation, within a reasonable timeframe, to the parameters of the American Convention on Human Rights, under the terms of paragraphs 266 to 269 of [the] Judgment.

12. The State [had to] adopt forthwith all the administrative or other measures necessary to eliminate *de oficio* the criminal record of those persons acquitted or whose cases are dismissed. Also, within a reasonable timeframe, it [had to] implement the pertinent legislative measures to this end, under the terms of paragraph 270 of [the] Judgment.

13. The State and Mr. Juan Carlos Chaparro Álvarez [had to] submit to an arbitration procedure to establish the amounts corresponding to pecuniary damage, under the terms of paragraphs 232 and 233 of [the] Judgment.

14. The State [had to] pay Mr. Juan Carlos Chaparro Álvarez and Mr. Freddy Hernán Lapo Iñiguez the amounts established in paragraphs 232, 234, 238, 240, 242, 245, 252, 253 and 281 of [the] Judgment, to compensate them for pecuniary and non-pecuniary damage and for reimbursement of costs and expenses, within one year from notification of the Judgment, under the terms of paragraphs 283 to 287 thereof.

[...]

2. The Judgment of Interpretation of the Judgment of Preliminary Objections, Merits, Reparations, and Costs issued by the Court on November 26, 2008, whereby it decided:

1. To declare inadmissible the request for interpretation of the Judgment of Preliminary Objections, Merits, Reparations and Costs delivered on November 21, 2007, under the terms of paragraphs 20 and 21 of the ruling.

[...]

3. The communications of April 2, April 8, May 27, June 11, July 10, September 17, November 14, December 10, December 12, and December 22, 2008, whereby the State referred to compliance with the Judgment.

4. The briefs of March 25, May 12, and October 9, 2008, and March 25, 2009, whereby the representatives presented information regarding compliance with the Judgment as well as their observations on the information submitted by the State (*supra* Having Seen 3).

5. The communications of May 14, June 12, August 27, and December 2, 2008, and February 13, 2009, whereby the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") presented its observations of the information submitted by the State and the representatives' observations (*supra* Having Seen 3 and 4).

#### **CONSIDERING:**

1. That it is an inherent power of the judicial functions of the Court to monitor compliance with its decisions.

2. That Ecuador has been a State Party to the American Convention on Human Rights (hereinafter, the "Convention" or the "American Convention") since December 28, 1977, and that it recognized the jurisdiction of the Court on July 24, 1984.

3. That Article 68(1) of the American Convention stipulates that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." Therefore, the States must ensure that the rulings set out in the decisions of the Court are implemented at the domestic level.<sup>1</sup>

4. That, considering Article 67 of the American Convention, which stipulates that the judgment of the Court shall be final and shall not be subject to appeal, such judgment shall be fully and promptly complied with by the State.

5. That the obligation to comply with the rulings of the Court corresponds to a basic principle of law on the international responsibility of the State, supported by international jurisprudence, according to which the States must comply with their international conventional obligations in good faith (*pacta sunt servanda*) and, as previously held by the Court and pursuant to Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot, for domestic order reasons, avoid the international responsibility which has already been established.<sup>2</sup> The conventional obligations of the States Parties bind all powers and organs of the State.<sup>3</sup>

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 applies not only in connection with the substantive provisions of human rights

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<sup>1</sup> Cf. *Case of Baena Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 131; *Case of Baldeón García v. Perú*. Monitoring Compliance with Judgment. Order of the Court of April 3, 2009, Considering clause three; and *Case of the Mayagna (Sumo) Awás Tingni Community v. Nicaragua*. Monitoring Compliance with Judgment. Order of the Court of April 3, 2009, Considering clause three.

<sup>2</sup> Cf. *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (Arts. 1 and 2 American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35; *Case of Baldeón García v. Perú*, *supra* note 1, Considering clause five, and the *Case of the Mayagna (Sumo) Awás Tingni Community v. Nicaragua*, *supra* note 1, Considering clause five.

<sup>3</sup> Cf. *Case of Baena Ricardo et al.*, *supra* note 1, para. 60; *Case of Baldeón García v. Perú*, *supra* note 1, Considering clause five; and *Case of the Mayagna (Sumo) Awás Tingni Community v. Nicaragua*, *supra* note 1, Considering clause five.

treaties (*i.e.* those dealing with provisions on protected rights) but also in connection with procedural rules, such as the ones concerning compliance with the decisions of the Court. Such obligations are intended to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, taking into account the special nature of human rights treaties.<sup>4</sup>

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7. That regarding the duty to eliminate forthwith the names of Mr. Juan Carlos Chaparro Álvarez and Mr. Freddy Hernán Lapo Íñiguez (hereinafter “Mr. Chaparro”, “Mr. Lapo” or “the victims”, as appropriate) from the public records in which they still appear with a criminal record, especially the records of the National Police, Superintendence of Banks, and INTERPOL (*operative paragraph eight of the Judgment*), the State submitted a brief from the National Directorate of the Judicial Police which certifies that Mr. Chaparro and Mr. Lapo “no longer have active the personal criminal records registered on November 14, 1997 for illicit trafficking.”<sup>5</sup> Additionally, it indicated that “the National INTERPOL Central Office, in general, and the Chief Narcotics Officer and INTERPOL Guayas specifically, share information from the Central Archive records with the Judicial Police, body which issues the ‘criminal record certificate[s]’ known as police records in which the names of Mr. Chaparro and Mr. Lapo [...] no longer appear.” Likewise, it reported that Mr. Lapo and Mr. Chaparro received their criminal record certificates on January and November 2007, respectively. Finally, it submitted a brief from the Superintendence of Banks and Insurance, which specifies that that body “does not receive or disclose to the public” information related to criminal records.<sup>6</sup>

8. That the representatives informed that having seen the reports from the Judicial Police, INTERPOL, and CONSEP, which were provided to them by the “Subsecretaría de Derechos Humanos y Coordinación de la Defensoría” “manif[est] their conformity with the measures taken by the State.”<sup>7</sup>

9. That the Commission assessed the measures taken by the State.

10. That the Court considers, in conformity with the evidence provided, and taking into account the reports by the parties, that the State has fully complied with operative paragraph eight of the Judgment.

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11. That regarding the State’s duty to immediately inform the corresponding private institutions that they must delete from their records all reference to Mr. Chaparro and Mr. Lapo as authors or suspects of the criminal act of which they were accused in this case (*operative paragraph nine of the Judgment*), the State submitted a communication from the

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<sup>4</sup> Cf. *Case of Ivcher Bronstein*. Competence. Judgment of September 24, 1999. Series C No. 54, para. 37; *Case of Baldeón García v. Perú*, *supra* note 1, Considering clause six, and *Case of the Mayagna (Sumo) Awas Tingni Community v. Nicaragua*, *supra* note 1, Considering clause six.

<sup>5</sup> Official letter No. 2008-455-DNPJel issued by the National Police of Ecuador, National Directorate of the Judicial Police and Investigations, on February 1, 2008 (file on monitoring compliance, Vol. I, folio 201).

<sup>6</sup> Official letter No. SBS-INJ-2008-0155 issued by the Superintendence of Banks and Insurance on February 12, 2008 (file on monitoring compliance, Vol. I, folio 203).

<sup>7</sup> Official letter No. 3427/OCNI/08 issued by the National Police of Ecuador, National Directorate of the Judicial Police and Investigations, National INTERPOL Central Office, on December 16, 2008, and Official letter No. 2009-367-DNPJel issued by the National Police of Ecuador, National Directorate of the Judicial Police and Investigations, on January 5, 2009.

Association of Private Banks which indicates that on two occasions “the Associates were notified” of the request to inform all member entities of the Judgment issued by this Court in the instant case.<sup>8</sup> Likewise, it submitted a brief from the Superintendence of Banks whereby that institution “ordered the distribution of [the Court Judgment] to the financial institutions so that they would eliminate from their records all reference to Mr. Chaparro and Mr. Lapo as authors or suspects of a crime as a consequence of the ‘Operación Antinarcótica Rivera’ (Rivera Anti-narcotics Operation), and to note that they were processed by the State in violation of their human rights, and released of all responsibility by the national judicial authorities themselves.”<sup>9</sup>

12. That the representatives indicated that “the only communication that [the State] has sent to a private institution was to the Private Bank Association, but that they consider this measure insufficient, therefore during the following days they will submit to the State a list of private institutions to whom the victims wish the communications to be delivered.” Subsequently, in the last report from March 25, 2009, they indicated that they are “waiting for the [State] to demand of the different private institutions identified by the victim to eliminate all records where Mr. Chaparro appears as accused of a crime.”

13. That the Commission indicated that it was awaiting the information from the State regarding “other effective measures for compliance with the obligation to eliminate the criminal records of the victims from the records of private entities.”

14. That the Court recognizes that the State has performed advances regarding compliance with this obligation and that both the Association of Private Banks and the Superintendence of Banks have communicated to the institutions in the financial system the decision of this Court.

15. That the representatives have not informed the Court which are the other private institutions to which the State must request elimination of any reference to Mr. Chaparro and Mr. Lapo as accused of a crime.

16. That following the foregoing explanation, the Court declares that the State has partially complied with operative paragraph nine, and orders that the representatives must communicate to the Court, within the term established in the operative paragraphs of the present Order, which are the other private institutions which they refer to. Additionally, the State must inform, within the term established in the operative paragraphs of this Order, which are the additional measures that it has taken to comply with this operative paragraph.

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17. That the order of the Court to publicize the Judgment issued in the instant case, in conformity with operative paragraph ten of that Judgment, entails four obligations of the State, namely: a) publish the parts pertinent to the Judgment in the Official Gazette; b) publish the parts pertinent to the Judgment in another newspaper of ample national circulation; c) disseminate the Judgment by radio and television, and d) perform a publication which specifically shows the information ordered by the Court in paragraph 263 of the Judgment.

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<sup>8</sup> Communication PE-058-2008 issued by the Executive President of the Association of Private Banks of Ecuador on January 31, 2008 (file on monitoring compliance, Vol. I, folio 200).

<sup>9</sup> Official letter No. SBS-INJ-2008-0155, *supra* note 6 (file on monitoring compliance, Vol. I, folio 204).

18. That regarding the first obligation, the State submitted a copy of the publication in the Official Registry No. 268 of February 8, 2008.<sup>10</sup>

19. That regarding the second obligation, the State submitted a copy of the publication in the newspaper "El Telégrafo" on March 15, 2008.<sup>11</sup>

20. That regarding the third obligation, both the State and the representatives informed the Court that they are coordinating the conditions under which the Judgment will be disseminated by radio and television.

21. That regarding the fourth obligation, the State published on March 18, 2008 in the newspaper "El Telégrafo"<sup>12</sup> and on August 7, 2008 in the journal "El Universo"<sup>13</sup> the following text:

**THE ECUADOREAN STATE OFFERS PUBLIC APOLOGIES TO JUAN CARLOS CHAPARRO ÁLVAREZ AND FREDDY HERNÁN LAPO ÍÑIGUEZ**

The Ecuadorean State, in compliance with orders issued by the Inter-American Court of Human Rights in the judgment from November 21, 2007, presents its public apology to Juan Carlos Chaparro Álvarez and Freddy Hernán Lapo Íñiguez for the violation of their human rights.

Juan Carlos Chaparro Álvarez and Freddy Hernán Lapo Íñiguez were illegally deprived of their freedom by agents of the Ecuadorean state, they experienced imprisonment conditions that were incompatible with their dignity as human beings, they were dismissed by the judge of the cause after an unreasonable term, their presumption of innocence was not respected, their detentions caused material and immaterial damages to their lives, and their honor was seriously affected, all of which was determined by the judgment issued by the Inter-American Court of Human Rights.

To repair the damages caused and clean the good names of Mr. Chaparro Álvarez and Mr. Lapo Íñiguez, the Inter-American Court of Human Rights ordered, among other measures, the elimination of the public and private files of their criminal records and other records that could contain erroneous information on the participation of Chaparro and Lapo in a crime they did not commit.

**THE ECUADOREAN STATE REITERATES THAT JUAN CARLOS CHAPARRO ÁLVAREZ AND FREDDY HERNÁN LAPO ÍÑIGUEZ ARE INNOCENT OF ALL THE CHARGES OF WHICH THEY WERE ACCUSED.**

The Ecuadorean State regrets everything that has happened with Mr. Chaparro Álvarez and Mr. Lapo Íñiguez, and, in accordance with its democratic nature, manifests its firm commitment to promote, respect and guarantee the full exercise of the rights and guarantees of every individual subject to its jurisdiction.

22. That the representatives manifested their satisfaction with the publications performed by the State, and established that these "have generated interest in the Ecuadorean community and have complied in some measure with the need to vindicate the good name of the victims of the instant case."

23. That the Commission recognized compliance with this aspect of the Judgment and valued "the good faith of the State."

24. That, additionally, the State informed that on December 10, 2008 "on the occasion of the 60th Anniversary of the Universal Declaration of Human Rights," the Minister of Justice and Human Rights, on national television broadcast, "included a request for pardon for the

<sup>10</sup> Official Record No. 268 of February 8, 2008 (file on monitoring compliance, Vol. I, folios 87 to 105).

<sup>11</sup> "El Telégrafo" Newspaper from March 15, 2008 (file on monitoring compliance, Vol. I, folios 332 to 337).

<sup>12</sup> "El Telégrafo" Newspaper from March 18, 2008 (file on monitoring compliance, Vol. I, folio 84).

<sup>13</sup> "El Telégrafo" Newspaper from August 7, 2008 (file on monitoring compliance, Vol. I, folio 239).

State of Ecuador for Human Rights violations committed in the past and thus decided by the Inter-American Court [...], as well as reference to the friendly settlement reached under the framework of the Inter-American Commission [...] and the other cases in which the Ecuadorean State has accepted its responsibility.” The Minister of Justice expressed, *inter alia*, the following:

Today the international community commemorates 60 years of the Universal Declaration of Human Rights. This Declaration turned human rights into an ethics project for all of the countries and into the fundamental standards of human coexistence.

Every [S]tate has the obligation of achieving the translation of these standards into true commitments with public policy, of truly guaranteeing them, in order for human rights not to remain as mere proposed regulations.

In our efforts to have these standards reach their full potential, if there is one thing that we should be brave about pursuing, and that we should defend at all costs, is the truth: without it there is no justice, without it there can be no true peace.

Defending human rights is not only the State's first responsibility, it is its reason for being and that of its institutions. State institutions sustain themselves with the effort, work and resources of its citizens. Therefore there is no graver betrayal than when governors and government employees direct the State and its devices to endanger the human rights of its inhabitants, betraying its reason for being.

Disgraceful acts have occurred in our country, sad, dark pages that we, as a society, should have never experienced, family tragedies that are national tragedies, unbearable abuses that cannot and must not remain unpunished, they cannot remain silent.

The National Government understands that the best way to commemorate the 60 years of the [U]niversal [D]eclaration of [H]uman [R]ights is by complying with a pending international obligation before the Inter-American System of Human Rights, which is: public apologies to the men and women whose human rights were violated by an action or omission by the Ecuadorean State.

This memory exercise is not only an obligation contained in international judgments, but it should also allow us, in this time of change, in this era of self-construction, to create exemplifying memories of those acts that cannot and must not be repeated.

Presentation of the apologies case by case:

The national government, in complying with international obligations and the obligations of its democratic and humanist convictions, presents public apologies on behalf of the Ecuadorean State:

[...]

6. To Mr. Juan Carlos Chaparro and Mr. Freddy Lapo Íñiguez, entrepreneurs detained, in solitary confinement, and involved in offensive acts that were not proven.

[...]

In this manner the State complies with the judgments issued by the Inter-American Court of Human Rights.

[...]

The apologies to the victims will never be sufficient, no indemnity can compensate, but we can never relinquish the truth. Truth defeats impunity, truth makes us understand that society suffers in each victim.

[...]

25. That finally the representatives informed that the Minister of Justice and Human Rights “contracted the making of a documentary on the personal history of the victims of the human rights violations, and this documentary includes interviews of the victims and representatives of the instant case. The aforementioned documentary, named ‘El derecho a la memoria’ (‘The right to memory’), was presented in a ceremony where the victims of various cases, attorneys, judges, and other guests participated.” The representatives expressed their conformity with “the efforts shown by the Ministry of Justice and Human Rights to disseminate the case, for vindication of the memory of the victims and for these

acts to contribute towards the guarantee that they will not be repeated." This documentary has not been submitted to the Court.

26. That following the foregoing explanation, the Court declares that the State has fully complied with the first, second, and fourth obligations of operative paragraph ten of the Judgment, and that more information on advances with compliance of the third obligation of the aforementioned operative paragraph.

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27. That the order of the Court to adapt the internal legislation, in conformity with operative paragraph 11, entails two obligations by the State, namely: a) to adapt the internal legislation to the parameters of the Convention, so that it is a judicial authority who decides on the assets presented by those detained in conformity with the stipulations of Article 7(6) of the American Convention, and b) to modify the Narcotic Drugs and Psychotropic Substances Act and pertinent regulatory resolutions, so that charges will cease to be made for the deposit and handling of the assets seized in conformity with that Law from individuals who have not been convicted by final judgment.

28. That regarding the first obligation, the State informed that "on April 7, 2008, the Attorney General's Office submitted to the National Constitutional Assembly, a brief in which it mentions constitutional and legal provisions which need to be harmonized with the American Convention, [including] that which regulates the constitutional guarantee of habeas corpus, with the goal to stop relying on the Mayor for consideration of the first instance of the writ, and have a constitutional judge resolve it."

29. That the representatives expressed their "conformity with the constitutional reform implemented on the guarantee of habeas corpus, given that as of this date such action is being considered by judicial employees, which the representatives of the victims can attest, who have already filed writs of Habeas Corpus before the Chambers of the Superior Court of Justice of Guayaquil, with positive results."

30. That although the State has not submitted to the Court the new Political Constitution, it is a notorious and public fact that Ecuador adopted a new Constitution, which this Court incorporated into the official case file, and which Article 89 orders:

The writ of habeas corpus is intended to recover the freedom of someone who has been illegally, arbitrarily or illegitimately deprived of it, by orders of public authority or any person, as well as to protect life and the physical integrity of those deprived of freedom.

Immediately after the writ is placed, the judge will call a hearing that should be held in the following twenty-four hours, in which the detention order should be presented with all of the formalities indicated by law, and justifications of fact and law that sustain this measure. The judge will order the appearance of the person deprived of liberty, the authority to whom the detained person is subject, the public defender, and the party who disposed or provoked it, depending on the case. If necessary, the hearing will be held in the place where the person was deprived of liberty.

The judge will issue an order in the twenty four hours following the end of the hearing. If the deprivation was illegitimate or arbitrary, freedom will be decreed. The ruling that orders the release will be effective immediately.

If any sort of torture, inhumane, cruel or degrading treatment is verified, the victim's freedom will be decreed, as well as integral and specialized attention and the imposition of alternate measures to the deprivation of liberty when applicable.

When the order of detention was ordered in a criminal proceeding, the writ will be filed before the Provincial Court of Justice.

31. That the amendment to the constitution is compatible with the American Convention and with what has been ordered by this Court in the Judgment delivered in the instant case,

and the Court values the advance this represents in the process for compliance with this Judgment.

32. That with regards to the second state obligation, [the State of] Ecuador manifested that “it was not necessary to modify the Ecuadorean Narcotic Drugs and Psychotropic Substances Act given that the stipulations regarding costs for warehousing, deposit, and management of assets seized, withheld or confiscated, were exclusively regulatory.” According to the State, the modification to the Rules on the application of the Narcotic Drugs and Psychotropic Substances Act delivered in Executive Decree No. 985, would suffice. The aforementioned Decree establishes in Article 1 that:

Below Article 80 [Narcotic Drugs and Psychotropic Substances Act] add the following:

80(1)- If the accused owner of the assets withheld, seized or expropriated is temporarily or definitively dismissed or absolved, the assets will be returned by CONSEP when the competent authority thus decides. In this case, the owner of the assets will not be forced to pay costs relating to warehousing, deposit, custodian fees or remunerations, depositaries-administrators, supervisors, in which CONSEP incurred while managing, depositing or guarding the assets.<sup>14</sup>

33. Additionally, the State informed that it “has urged the National Council on Narcotic Drugs and Psychotropic Substances [Consejo Nacional de Sustancias Estupefacentes y Psicotrópicas or CONSEP] to reform their internal regulations, as indicated by the Court and by the Executive Decree.”

34. That the representatives indicated that the compliance with this obligation is incomplete, given that “the exhortation to the CONSEP is insufficient,” and that the obligation may be considered fulfilled only “when the CONSEP has reformed its internal regulations and there is no regulatory contradiction between the internal legislation of the State and that ordained by the [...] Court.” Subsequently, they added that “they [have] no proof that the rights of deposit will no longer be charged, under the terms demanded by the Judgment.”

35. That the Commission assessed the modification performed through Executive Decree No. 985, and indicated that “it awaits information regarding the pending modifications to the internal regulations of the [CONSEP].”

36. That in view of the matters presented in the above paragraphs, the Court reiterates its conformity with the constitutional amendment carried out and declares that the State has fully complied with the obligation to adapt to the American Convention its internal regulations pertaining to the writ of habeas corpus. It also declares that the State has partially complied with the obligation to adapt its internal regulations in relation to the ceasing of charges for deposit and handling of the assets seized from individuals who have not been convicted by a final judgment. The Court awaits information from the State on the internal reforms conducted by CONSEP on this matter.

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37. That with regards to the duty to adopt forthwith all legislative, administrative or other measures necessary to eliminate *de officio* all of the criminal records of the persons who are definitively acquitted or dismissed (*operative paragraph eleven of the Judgment*), the State informed that “the Attorney General’s Office has sent an official letter to public institutions involved whereby it requests the creation of an integrated information system and encourages the pertinent regulatory reforms to have the ‘cleaning’ of certain documents

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<sup>14</sup> Executive Decree No. 985 issued by the Constitutional President of the Republic of Ecuador on March 27, 2008 (file on monitoring of compliance, Volume I, folio 141).



in favor of acquitted and dismissed persons in criminal proceedings be conducted *de officio* and not by petition from the party.”

38. That the representatives observed that “nothing has been mentioned by the State in its communications on compliance, thus it is necessary that the [...] State inform on any administrative, judicial or legislative actions it has taken in this regard.” The Commission did not present observations.

39. That the Court declares that this point is pending compliance and, consequently, that the State must report, within the term established in the operative section of this Order, the results of the official letter sent by the Attorney General’s Office or any other measure conducted toward its fulfillment.

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40. That in relation to the State’s duty and that of Mr. Chaparro to submit to an arbitration procedure to establish the amounts corresponding to pecuniary damage (*operative paragraph thirteen of the Judgment*), the State has not submitted any information.

41. That the representatives informed that they have agreed with the State to “make all necessary efforts to arrive at a friendly agreement,” and that the Ministry of Justice and Human Rights has contracted an external consultant to determine the amount of the damages. On the other hand, they stated that “without detriment to the aforementioned efforts, while the parties are willing to arrive at a friendly solution, [...] the arbitration process [...] has not begun.”

42. That the Commission expressed its “concern” over the State’s lack of information.

43. That the Court declares that his paragraph of the Judgment is pending compliance, and, consequently, that the State must inform the Court, within the term established in the operative section of this Order, on all the measures it has adopted to fulfill it.

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44. That with regards to the payment of compensations for pecuniary and non-pecuniary damages and the reimbursement of costs and expenses, the State indicated that it paid Mr. Chaparro and Mr. Lapo on August 19, 2008. The State attached supporting documentation indicating that a deposit of US\$352.940,47 (three hundred and fifty-two thousand nine hundred forty with 47/100 US dollars) was made on the aforementioned date to the account belonging to Mr. Chaparro’s wife, and a deposit of US\$91.176,77 (ninety one thousand one hundred seventy-six with 77/100 US dollars) was made in Mr. Lapo’s and his wife’s joint account.<sup>15</sup>

45. That the representatives expressed their “satisfaction with the payment of the amounts awarded in the Judgment within the established term.” However, they observed that Mr. Chaparro has not been awarded the amount corresponding to the late fees ordered by the Court in paragraph 245 of the Judgment.

46. That the Commission evaluated “the advances made in terms of the payments due to Mr. Chaparro and Mr. Lapo and is awaiting information on the completion of this obligation.”

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<sup>15</sup> Official Letters No. 148-DNF-2008 and 149-DNF-2008 issued by the Financial Director of the Attorney General’s Office, on August 21, 2008 (file on monitoring of compliance, Volume I, folios 296 and 297), and details of the electronic transfer from the Central Bank of Ecuador to the bank accounts of Cecilia Merced Aguirre Mollet and Yenny Díaz and Freddy Lapo (file on monitoring of compliance, Volume I, folios 237 and 238).

47. That the Court, in conformity with the evidence provided, and considering reports by the parties, declares that the State has completely fulfilled the fourteenth paragraph relating to the payment made to Mr. Lapo. That with regards to Mr. Chaparro, the Court declares that the State has partially complied with the present operative paragraph, and that the late bank interest in Ecuador, indicated in paragraph 245 of the Judgment, is still pending payment.

**THEREFORE:**

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

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

**DECLARES:**

1. That the State has fully complied with operative paragraph eight of the Judgment issued in the instant case, regarding the elimination of the names of Mr. Chaparro and Mr. Lapo from the public records in which they appear with criminal records.
2. That the State has taken the following concrete actions, which implies partial compliance with the corresponding operative paragraphs:
  - a) communicated to the Association of Private Banks and the Superintendence of Banks that they must eliminate from their records all reference to Mr. Chaparro and Mr. Lapo as authors or suspects of the criminal act of which they were accused in this case (*operative paragraph nine of the Judgment*);
  - b) published the parts pertinent to the Judgment in the Official Registry and the newspaper "El Telégrafo", and also published the specific information contained in paragraph 263 of the Judgment in the newspapers "El Telégrafo" and "El Universo" (*operative paragraph ten of the Judgment*);
  - c) adapted its internal legislation which regulates the writ of habeas corpus to the American Convention, and exhorted the National Council on Narcotic and Psychotropic Substances to reform their internal regulations (*operative paragraph eleven of the Judgment*);
  - d) paid the total amount awarded in the Judgment to Mr. Lapo, as well as the majority of the compensations awarded to Mr. Chaparro (*operative paragraph fourteen of the Judgment*).
3. That the following obligations are pending compliance:
  - a) inform the other private institutions indicated by the victims that they must eliminate from their records all reference to Mr. Chaparro and Mr. Lapo as authors or suspects of the criminal act of which they were accused of in this case (*operative paragraph nine of the Judgment*);
  - b) disseminate the Judgment by radio and television (*operative paragraph ten of the Judgment*);

- c) adapt its internal legislation so that charges will cease to be made for the deposit and handling of the assets seized from individuals who have not been convicted by final judgment (*operative paragraph eleven of the Judgment*);
- d) adopt forthwith all the administrative or other measures necessary to eliminate *de officio* the criminal records of those persons acquitted or whose cases are definitely dismissed (*operative paragraph twelve of the Judgment*);
- e) submit to an arbitration procedure to establish the amounts corresponding to pecuniary damage for Mr. Chaparro (*operative paragraph thirteen of the Judgment*), and
- f) pay Mr. Chaparro the late bank interest in Ecuador indicated in paragraph 245 of the Judgment (*operative paragraph fourteen of the Judgment*).

4. That it will maintain open the instant monitoring procedure until the obligations indicated in the declaration paragraph above are fully complied.

#### **AND DECIDES:**

5. To require the State to adopt forthwith all of the measures necessary to effectively and promptly comply with the pending issues, in conformity with the stipulations of Article 68(1) of the American Convention.

6. To request the State to submit to the Inter-American Court, by July 10, 2009 at the latest, a detailed and updated report in which it indicates all of the measures adopted to comply with all reparations ordered by this Court which are pending compliance. Specially, the State must submit the information required in considering paragraphs **¡Error! No se encuentra el origen de la referencia.**, **¡Error! No se encuentra el origen de la referencia.**, **¡Error! No se encuentra el origen de la referencia.**, **¡Error! No se encuentra el origen de la referencia.** and **¡Error! No se encuentra el origen de la referencia.** of this Order.

7. To request the representatives of the victims, by May 29, 2009 at the latest, to submit to the Court the information required in considering paragraph 16 of this Order.

8. To require the representatives of the victims, as well as the Inter-American Commission, to present their observations on the state report mentioned in operative paragraph six within four and six weeks, respectively, from the date the report is received.

9. To require the Secretariat of the Court to notify this Order to the State, the Inter-American Commission, and to the representatives of the victims.

Done, in Spanish and English, the Spanish text being authentic, at Santiago de Chile, on April 29, 2009.

Cecilia Medina Quiroga  
President

Diego García-Sayán

Sergio García Ramírez

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri  
Secretary

So ordered,

Cecilia Medina Quiroga  
President

Pablo Saavedra Alessandri  
Secretary