

**Order of the
Inter-American Court of Human Rights
of July 1, 2009
Case of Tibi v. Ecuador
(Monitoring Compliance with Judgment)**

Having Seen:

1. The judgment on preliminary objections, merits, reparations and costs (hereinafter "the judgment") delivered by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") on September 7, 2004, in which it decided that:

[...]

10. The State must, within a reasonable term, effectively investigate the facts of the [...] case, with the aim of identifying, prosecuting, and punishing all those responsible for the violations committed against Daniel Tibi. The results of this process must be publicly disseminated, in the terms set forth in paragraphs 254 to 259 of the [...] Judgment.

11. The State must publish, at least once, in the official gazette and in another Ecuadorean newspaper with national coverage, both the section on Proven Facts and operative paragraphs one to sixteen of the [...] Judgment, without the respective footnotes. The State must also publish the above, translated into French, in a widely read newspaper in France, specifically in the area where Daniel Tibi resides, in the terms set forth in paragraph 260 of the [...] Judgment.

12. The State must make public a formal written statement issued by senior State authorities, acknowledging the international responsibility of the State for the facts addressed in the [...] case, and apologizing to Mr. Tibi and to the other victims mentioned in the [...] Judgment, in the terms set forth in paragraph 261 of this Judgment.

13. The State must establish a training and education program for the staff of the judiciary, the public prosecutor's office, police and prison staff, including medical, psychiatric and psychological personnel, on principles and standards for the protection of human rights in the treatment of prisoners. The design and implementation of the training program must include the allocation of specific resources to attain its goals, and it will be conducted with the participation of civil society. To this end, the State must establish an inter-institutional committee to define and execute the training programs on human rights and the treatment of prisoners. The State must report to this Court on the establishment and functioning of the said committee within six months, as set forth in paragraphs 262 to 264 of the [...] Judgment.

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

- (a) To Daniel Tibi, €57,995.00 (fifty-seven thousand nine hundred and ninety-five euros), in the terms set forth in paragraphs 235, 236, 237.b, 237.c, 237.d and 238 of the [...] Judgment;
- (b) The State must return to Daniel Tibi the property seized when he was detained, within six months of the [...] Judgment. If this is not possible, the State must pay him €82,850.00 (eighty-two thousand eight hundred and fifty euros) in the terms set forth in paragraphs 237.e and 238 of the [...] Judgment; and
- (c) To Beatrice Baruet, €7,870.00 (seven thousand eight hundred and seventy euros), in the terms set forth in paragraphs 237 and 238 of the [...] Judgment.

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

- a) To Daniel Tibi, €99,420.00 (ninety-nine thousand four hundred and twenty euros), in the terms set forth in paragraphs 244 to 246, 249 and 250 of the [...] Judgment;
- b) To Beatrice Baruet, €57,995.00 (fifty-seven thousand nine hundred and ninety-five euros), in the terms set forth in paragraphs 247, 248 and 250 of the [...] Judgment;
- c) To Sarah Vachon, €12,427.00 (twelve thousand four hundred and twenty-seven euros), in the terms set forth in paragraphs 247, 248 and 250 of the [...] Judgment;
- d) To Jeanne Camila Vachon, €12,427.00 (twelve thousand four hundred and twenty-seven euros), in the terms set forth in paragraphs 247, 248, 250 and 275 of the [...] Judgment;
- e) To Lisianne Judith Tibi, €12,427.00 (twelve thousand four hundred and twenty-seven euros), in the terms set forth in paragraphs 247, 248, 250 and 275 of the [...] Judgment; and
- f) To Valerian Edouard Tibi, €12,427.00 (twelve thousand four hundred and twenty-seven euros), in the terms set forth in paragraphs 247, 248 and 250 of the [...] Judgment.

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

17. The State must pay its pecuniary obligations in euros.

18. Payments for pecuniary and non-pecuniary damage and costs and expenses ordered in the [...] Judgment may not be affected, diminished, or conditioned by current or future fiscal reasons, as set forth in paragraph 277 of the [...] Judgment.

19. The State must carry out the measures of reparation and the reimbursement of expenses, as ordered in the [...] Judgment, within one year of notification of the Judgment, save when different deadlines are set.

20. The Court will monitor full compliance with the [...] Judgment. The case will be closed once the State has complied fully with the provisions of the [...] ruling. Within one year of notification of this Judgment, the State must submit its first report to the Court on the steps taken to comply with the Judgment.
[...]

2. The Order on monitoring compliance with judgment issued by the Court on September 22, 2006, in which it declared:

[...]

1. That, in accordance with considering clause 8 [of the Order], 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 11, the State must 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 will keep open the proceedings in order to monitor compliance with the measures that are pending compliance in the instant case, namely:

- (a) Effective investigation into the facts of the instant case within a reasonable time, 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 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) Establishment of a training and education program for the staff of the judiciary, the public prosecutor's office, police and prison staff, including medical, psychiatric and psychological personnel, on principles and standards for the protection of human rights in the treatment of prisoners. The design and implementation of the training program must include the allocation of specific resources to achieve its goals, and be carried out with the participation of civil society. To this end, the State must set up an inter-institutional committee to define and execute training programs on human rights and the treatment of prisoners. The State must 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 [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 Daniel Tibi a total amount of €37,282.00 (thirty-seven thousand, two hundred and eighty-two euros), for costs and expenses incurred in the domestic proceedings and in the international proceedings before the inter-American system for the protection of human rights.
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3. The communications of the Republic of Ecuador (hereinafter "the State" or "Ecuador") of March 7, April 9 and July 17, 2007; and January 17, February 11, May 22 and September 9, 2008, submitting information concerning monitoring compliance with the judgment.

4. The communications of the victims' representatives (hereinafter "the representatives") of April 12, May 1 and August 2, 2007; and March 17, June 9 and November 17, 2008, with their observations concerning monitoring compliance with the judgment.

5. The communications of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of May 1 and September 13, 2007; and April 1, June 30 and December 29, 2008, with their observations concerning monitoring compliance with the judgment.

6. The communications of the Secretariat of the Court (hereinafter "the Secretariat") of February 8, March 14, April 12, July 19 and December 20, 2007; and January 21, February

18, May 19, May 28, September 17 and September 24, 2008, asking the State to provide information on the status of compliance with the judgment, and requesting the representatives and the Commission to forward their respective observations on monitoring compliance with the judgment.

CONSIDERING:

1. That an inherent attribute of 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 on Human Rights (hereinafter "the American Convention" or "the Convention") since December 28, 1977, and accepted the compulsory jurisdiction of the Inter-American 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." To this end, the State must ensure implementation at the national level of the Court's decisions in its judgments.¹

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 in the Court's judgments corresponds to a basic principle of the law of the international responsibility of the State, supported by international case law, according to which, a State must comply with its international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has already indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty. The treaty obligations of the States Parties are binding for all the powers and organs of the State.²

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 system. This principle is applicable not only with regard to the substantive norms of human rights treaties (that is, those which contain provisions concerning the protected rights), but also with regard to procedural norms, such as those referring to compliance with the decisions of the Court. These obligations shall be interpreted and applied so that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.³

¹ Cf. *Baena Ricardo et al. v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 131; *Case of Cantoral Huamani and García Santa Cruz v. Peru*. Monitoring compliance with judgment. Order of the Court of April 28, 2009, third considering paragraph; and *Chaparro Álvarez and Lapo Íñiguez v. Ecuador*. Monitoring compliance with judgment. Order of the Court of April 29, 2009, third considering paragraph.

² 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; *Cantoral Huamani and García Santa Cruz v. Peru*. Monitoring compliance with judgment, *supra* nota 1, fifth considering paragraph; and *Chaparro Álvarez and Lapo Íñiguez v. Ecuador*. Monitoring compliance with judgment, *supra* nota 1, fifth considering paragraph.

³ Cf. *Ivcher Bronstein v. Peru. Competence*. Judgment of September 24, 1999. Series C No. 54, para. 37; *Cantoral Huamani and García Santa Cruz v. Peru*. Monitoring compliance with judgment, *supra* nota 1, sixth considering paragraph; and *Chaparro Álvarez and Lapo Íñiguez v. Ecuador*. Monitoring compliance with judgment, *supra* nota 1, sixth considering paragraph.

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7. That, regarding the obligation to identify, prosecute and, if applicable, punish, within a reasonable time, all those responsible for violating the rights of Daniel David Tibi (hereinafter "Daniel Tibi" or "Mr. Tibi"), ordered by the Court in the tenth operative paragraph of the judgment (*supra* Having Seen paragraph 1), the State advised that the *Dirección Nacional de Patrocinio Internacional* [Translator's note: Department responsible for following up on cases against the State of Ecuador at the international level] had submitted three complaints to the Public Prosecutor's Office (*Ministerio Público*), in order to initiate the corresponding investigations and to determine those responsible for the violations of which Daniel Tibi was a victim. The first, concerning his arbitrary detention, was submitted to the Pichincha District Prosecutor's Office; and the other two, concerning violations of due process and torture, to the Office of the Prosecutor General (*Fiscalía General*) of the State. In a communication of March 7, 2007, the State indicated that July 6, 2007, had been established as the date for receiving Mr. Tibi's version of the facts during the criminal proceedings filed for torture. In a communication of July 17, 2007, the State indicated that, through the Attorney General's Office (*Procuraduría General*), a copy of the judgment of the Inter-American Court had been forwarded to the Second District Court of the National Police in order to investigate the actions of the agents who took part in the arrest of Daniel Tibi. In investigation report No. 2007-117-IGPN-DAI, the Internal Affairs Department of the National Police determined that Mr. Tibi had entered the Guayaquil Prison on October 5, 1995, by order of the First Criminal Court of Guayas, and, while there, he was in the custody and under the responsibility of the prison guards. In addition, it "indicated that no action had been taken against members of the Police for the violation of the rights of DANIEL TIBI." On July 29, 2008, the National Council of the Judicature ruled on the complaint filed by the National Director *de Patrocinio* of the Attorney General's Office against the First Criminal Judge of Guayas, based on irregularities in criminal proceeding No. 361-95 against Daniel Tibi, and sanctioned him with a fine of three basic salaries.

8. That the representatives indicated in a communication of April 12, 2007, that "[t]he information provided by the State [wa]s unclear and incomplete, because it did not specify to which judicial proceedings it was referring." They also stated that it was only clear that a criminal action had been filed for the offense of torture and that Mr. Tibi had not received any judicial notification to appear before the court and testify. In a communication of August 2, 2007, the representatives submitted observations on the investigation report of the Internal Affairs Department of the National Police, concluding that "as textually acknowledged [in the report presented by the State] no measures are being taken to investigate the conduct of the National Police agents who took part in the detention of Daniel Tibi." In a communication of November 17, 2008, the representatives observed that the sanction imposed on the First Criminal Judge of Guayas was neither "adequate nor proportionate to the violations committed in this case," and noted that the State had not submitted up-to-date information on progress in the three complaints filed by the *Dirección Nacional de Patrocinio* (*supra* considering paragraph 7). Lastly, they indicated that "initiation and promotion of the investigation in this type of case is the State's responsibility; [consequently] the State's judicial authorities must act promptly to take the necessary steps to advance these proceedings and avoid the prescription of the criminal action."

9. That, regarding the three complaints filed by the *Director Nacional de Patrocinio*, in a communication of May 1, 2007, the Commission observed that the State had not submitted any information that would permit determining whether concrete progress had been made towards complying with the obligation to investigate and punish all those responsible for the

violations of Daniel Tibi's rights. Nevertheless, on the positive side, it stressed the State's willingness to investigate and said that it was important "to have information on any actions taken by the State to ensure the respective investigations, and whether the latter had produced results that would allow it to be inferred that the Court's requirements would be satisfied within a reasonable time." The Commission made a similar comment in its observations of September 13, 2007. With regard to the decision issued by the Human Rights Commission of the National Council of the Judicature, in its observations of December 29, 2008, the Inter-American Commission "assessed the issues raised by that commission concerning the application and interpretation of the judgment of the Inter-American Court and the progress that this represents." However, it "consider[ed] it necessary to have detailed information on [the] investigations that had been conducted or that are being conducted in relation to the obligation to identify and investigate the responsibility of all the persons who could have taken part in the facts of the case."

10. That, based on the observations of the representatives and the Commission, as well as on the information provided by the State, the Court noted the investigation that concluded with the disciplinary sanction imposed on the First Criminal Judge of Guayas. However, although the Court appreciates the measures that the State has taken to comply with the tenth operative paragraph of the judgment, it also observes that the investigation into the facts of the instant case is still pending. Consequently, the Court finds it necessary that the State present updated information on the actions or procedures that it has implemented in order to identify, prosecute and, if applicable, punish those responsible for the violations committed against Daniel Tibi.

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11. That, regarding the eleventh operative paragraph of the judgment (*supra* Having Seen paragraph 1), in relation to the publication of the Proven Facts and the operative paragraphs of the judgment in a newspaper with widespread circulation in France, in a communication of April 9, 2007, the State reported that it would "continue making arrangements with the Ministry of Foreign Affairs to comply with the pending publication of the proven facts, operative paragraphs and public apology in a [French] newspaper with widespread circulation in the place where Mr. Tibi resides." In addition, regarding the eleventh point of the judgment (*supra* Having Seen paragraph 1), concerning the translation and publication of the acknowledgement of responsibility and apology in one newspaper in Ecuador and one in France, in the communication of March 7, 2007, the State indicated that this "had been complied with [...] by a publication in the "El Comercio" newspaper on February 26, 2006." However, on January 17, 2008, the State indicated that the cost of the publications in France requested by the Court was extremely high; it therefore requested the collaboration of the representatives to implement the operative paragraph in question. In a communication of May 22, 2008, the State indicated that it "considered that the proposal made by the representatives of the victim to publish in France only the text of the public apology was appropriate." On September 9, 2008, the State reported that, on August 13, 2008, it had asked "the Ministry of Foreign Affairs to ensure translation of the communication with the public apology to be published in a French newspaper and to assess the cost."

12. That, with regard to the eleventh operative paragraph of the judgment, in a communication of April 12, 2007, the representatives stated that the extracts on proven facts and the operative paragraphs of the judgment had not been published in a French newspaper. However, regarding the twelfth point of the judgment, the representatives expressed their satisfaction on the publication of the apology and the acknowledgement of

international responsibility made by the State in an Ecuadorean newspaper. Nevertheless, they indicated that this point would not be complied with until the text had been translated and published in a French newspaper with widespread circulation. Subsequently, in a communication of March 17, 2008, the representatives indicated that Mr. Tibi "ha[d] advised [...] that, in order to achieve compliance with the judgment issued by the Court, [...] he would be willing to accept that the publication ordered by the Court [...] be limited to the communication with the public apology issued by the State and the operative paragraphs of the judgment." According to information presented by the representatives in the communication of June 9, 2008, Daniel Tibi had approved the text of the apology presented by the State. Nevertheless, they indicted that the operative paragraphs of the judgment should be attached to this text. In a communication of November 17, 2008, the representatives advised that the State had not provided information concerning total compliance with the eleventh and twelfth operative paragraphs of the Court's judgment.

13. That, in its communication of May 1, 2007, the Commission assessed positively the publication of the apology that the State had made in a local newspaper. Despite this, the Commission indicated that it was awaiting its translation and publication in a newspaper in France. In a communication of June 30 2008, the Commission underscored the agreement reached by the parties with regard to publication of the text of the "public apology," and urged the State to publish it as soon as possible. On December 29, 2008, the Commission expressed its concern because the State had not implemented the measures of reparation, since the Court had stipulated in its judgment of September 7, 2004, that these reparations should be implemented within six months. In this regard, the Commission considered "that the publication [must] be made as soon as possible, in order to achieve the objectives declared by the Court of ensuring that society as a whole would know the truth of the case, that the reputation of the victim would be restored, and that similar facts would be prevented in future."

14. That, based on the information presented by the parties, the Court observes that, on February 26, 2006, the State published a declaration acknowledging its international responsibility and making a public apology for the violation of the human rights of Daniel Tibi and his next of kin in the local newspaper "*El Comercio*." Consequently, the Court finds that the twelfth operative paragraph of the judgment (*supra* Having Seen paragraph 1) has been complied with partially. In addition, it underscores the collaboration between the parties to comply with the obligations established in the judgment. In particular, the Court observes that Daniel Tibi has informed the State that he agrees that the translation and publication of the paragraphs ordered by the Court in a French newspaper be limited to the public apology, the acknowledgement of international responsibility and the operative paragraphs of the judgment. Nevertheless, the State has not submitted precise information on the measures it has taken in this regard. In view of the foregoing, the Court finds that the State must forward updated and detailed information on the measures taken to comply with the publication in a French newspaper of the points ordered in the eleventh and twelfth operative paragraphs of the judgment.

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15. That, regarding the thirteenth operative paragraph of the judgment ordering the State to "establish a training and education program for the staff of the judiciary, the public prosecutor's office, the police and prison staff, including medical, psychiatric and psychological personnel, on principles and standards for the protection of human rights in the treatment of prisoners [...]" (*supra* Having Seen paragraph 1), on April 9, 2007, the State advised that the Attorney General's Office would be responsible for implementing this

training program. It also indicated that "the organization of annual seminars and the distribution of manuals of procedures had been planned in order to ensure that the conduct [of public servants] was adapted to Inter-American and constitutional law."

16. That, in a communication of April 12, 2007, the representatives indicated that, in previous meetings with the State, it had been agreed to set up an inter-institutional committee and establish the educational and training program by means of a ministerial decree, for which the representatives had prepared and submitted a draft document. In their observations of November 17, 2008, the representatives indicated that, in July that year, they had held a meeting with officials of the Ecuadorean Ministry of Justice, who had informed them of a project to provide human rights training to public officials that would be implemented towards the end of 2008. However, the representatives stated that they had received no further information in this regard.

17. That, in its observations of May 1, 2007, the Commission expressed its concern owing to the delay in the implementation of the human rights training program for public officials. Subsequently, in observations of September 13, 2007, and December 29, 2008, the Commission noted that the reports on compliance with the judgment did not include any information concerning the thirteenth operative paragraph (*supra* Having Seen paragraph 1).

18. That, based on the information provided by the parties, the Court observes that although the State has taken some steps to implement the measures ordered by the Court concerning the establishment of a training program and the creation of the inter-institutional committee, it also finds that it has insufficient information to assess the current status of compliance with the thirteenth operative paragraph of the judgment. Consequently, the Court finds that the State must submit updated and detailed information on the steps taken in this regard.

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19. That, regarding the fourteenth operative paragraph, subparagraphs (a), (b) and (c) of the judgment (*supra* Having Seen paragraph 1) concerning compensation for pecuniary damage (*supra* Having Seen paragraph 1), the State advised that, by Resolution No. 100 of the National Human and Financial Resources Administrative Department of the Attorney General's Office, issued on May 17, 2006, it had ordered that "all necessary steps should be taken to proceed to pay the compensation ordered by the Court" ...]. Hence, the payment of compensation for pecuniary damage to Daniel Tibi and Beatrice Baruet had been ordered.

20. That, with regard to subparagraph (b) of the fourteenth operative paragraph of the judgment (*supra* Having Seen paragraph 1), concerning the return of the property that had been seized or the payment of €82,850.00 (eighty-two thousand eight hundred and fifty euros) in compensation for the seizure of Mr. Tibi's property, in the attachments to the information presented on September 9, 2008, the State substantiated that it had made a transfer of US\$117,137.55 (one hundred and seventeen thousand one hundred and thirty-seven United States dollars and fifty-five cents) to the account of Daniel Tibi for this concept.

21. That, in response to the fifteenth operative paragraph, subparagraphs (a), (b), (c), (d), (e) and (f), and the sixteenth operative paragraph of the judgment (*supra* Having Seen paragraph 1) concerning compensation for non-pecuniary damage, and the payment of costs and expenses, the State advised that, by means of the said Resolution No. 100, it had

also ordered the payment of compensation for non-pecuniary damage to Daniel Tibi, Beatrice Baruet, Sarah Vachon, Jeanne Camila Vachon, Lisianne Judith Tibi and Valerian Edouard Tibi, in the terms of paragraphs 268 to 270 of the judgment. Lastly, it had ordered the payment of costs and expenses in favor of Mr. Tibi. The State substantiated the said payments with processing orders and journal vouchers.

22. That, in the observations forwarded on April 12, 2007, the representatives assessed positively the State's partial compliance with the obligation to pay monetary compensation for pecuniary and non-pecuniary damage in favor of the victims. However, they stated that this compensation was paid eight and nine months outside the time frame stipulated by the Court and accordingly the State should pay the interest resulting from the delay in payment, "as the Court had established in its judgment." In addition, they indicated that the State had not paid the whole amount corresponding to the compensation for pecuniary damage established in subparagraph (b) of the fourteenth operative paragraph of the judgment, amounting to €82,850.00 (eighty-two thousand eight hundred and fifty euros) (*supra* Having Seen paragraph 1). In a communication of November 17, 2008, the representatives indicated that on April 25, 2008, the State had paid Mr. Tibi the sum of US\$117,137.55 (one hundred and seventeen thousand one hundred and thirty-seven United States dollars and fifty-five cents), as pecuniary compensation for the property that had been seized; that is, the State paid €73,210.97 (seventy three thousand two hundred and ten euros and ninety-seven cents). They also affirmed that "the amounts indicated were paid two and four years after the Court had delivered the judgment and, therefore, they had generated interest on arrears [...]." Consequently, they asked the Court to require the State to pay the difference owed for the property of Daniel Tibi that had been seized and the interest on arrears on the compensation.

23. That, in its communication of December 29, 2008, the Commission stated that it "appreciated the positive steps taken by the State and hoped that the obstacles to making the total payment could be overcome as soon as possible, because the time granted for this had expired a long time ago."

24. That, according to the information provided by the parties, the Court observes that the State paid the compensation for pecuniary damage to Daniel Tibi and Beatrice Baruet, in accordance with the fourteenth operative paragraph, subparagraphs (a) and (c) of the judgment. According to the representatives, since this payment was made after the time period indicated in the judgment, interest had been generated that the State has not paid. Consequently, the Court finds that the State has complied with the fourteenth operative paragraph, subparagraphs (a) and (c) of the judgment. As regards the corresponding interest owed by the State according to the representatives, the Court will refer to this below (*infra* considering paragraph 27).

25. That, regarding the fourteenth operative paragraph, subparagraph (b), concerning compensation for the seizure of Mr. Tibi's property, the State has not complied fully with the corresponding payment because, according to information presented by the representatives, the State has not paid all the €82,850.00 (eighty-two thousand eight hundred and fifty euros) ordered by this Court, or the corresponding interest that has been generated. Accordingly, the Court finds that the State must refer to the observations of the representatives and also provide information on the measures taken to comply with this operative paragraph.

26. That, despite the above, the Court appreciates positively the effort made by the State to pay the victims the non-pecuniary compensation and the costs and expenses of the proceedings on June 21 and July 31, 2006, respectively. That, based on the foregoing, the

Court finds that the State has complied fully with the obligation to pay the compensation for non-pecuniary damage in favor of the victims and the costs and expenses of the proceedings, pursuant to the fifteenth operative paragraph, sub-paragraphs (a), (b), (c), (d), (e), and (f), and the sixteenth operative paragraph. Regarding the said payments, the representatives argued that the State had not paid the corresponding interest and the Court will now refer to this matter.

27. That, as regards the payment of the interest corresponding to the amounts indicated in paragraphs 24, 25 and 26 of this Order, based on the observations of the representatives and the provisions established in paragraphs 278⁴ and 279⁵ of the judgment, according to which the State must “pay interest on the amount owed, in accordance with the bank interest rate on arrearages in Ecuador,” should the payment of compensation not be made within the year following notification of the judgment, the Court finds it essential that the State refer to the observations of the representatives on the alleged failure to pay interest and submit any information it deems pertinent in this regard.

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28. That the Court assesses that the fourteenth operative paragraph, subparagraphs (a) and (c), and the fifteenth and sixteenth operative paragraphs have been complied with totally, and that the twelfth operative paragraph has been complied with partially. It also recognizes the measures taken with regard to the thirteenth operative paragraph of the judgment, which constitute a relevant advance by the State in the execution and implementation of the Court’s judgment.

29. That the Court will consider the general status of compliance with the judgment on preliminary objections, merits, reparations and costs of September 7, 2004, when it has received pertinent information on the aspects of the reparations that are pending compliance.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions and in accordance with Articles 67 and 68(1) of the American Convention on Human Rights, 25(1) and 30 of its Statute, and 30(2) of its Rules of Procedure,⁶

⁴ It establishes that “[i]f the State incurs arrearages, it shall pay interest on the amount owed in accordance with the bank interest rate on arrearages in Ecuador.

⁵ It establishes that “[a]s was established and has been the practice in all the cases it has heard, the Court will oversee compliance with all aspects of this judgment. This oversight is inherent in the jurisdictional authority of the Court and is necessary for due observance, by the Court itself, of Article 65 of the Convention. The case will be closed once the State has fully complied with all aspects of the ruling. Within one year of notification of this judgment, the State shall submit its first report to the Court on measures taken to comply with the judgment.”

⁶ Adopted by the Court during its forty-ninth regular session held from November 16 to 25, 2000, and partially amended by the court at its eighty-second regular session held from January 19 to 31, 2009, which is applicable in the instant case.

DECLARES:

1. That, as indicated in this Order, the State has complied as pertinent with the following operative paragraphs of the judgment on reparations:

a) To pay the compensation established by the Court as compensation for pecuniary damage in favor of Daniel Tibi and Beatrice Baruet, in the terms of considering paragraph 24 of this Order (*fourteenth operative paragraph (a) and (c) of the judgment*), and

b) To pay the compensation established by the Court for non-pecuniary damage in favor of the victims, and to pay the costs and expenses of the proceedings, in the terms of considering paragraph 26 of this Order (*fifteenth operative paragraph (a), (b), (c), (d), (e), and (f) and sixteenth operative paragraph of the judgment*).

2. That, as indicated in this Order, the State has complied partially, as pertinent, with the following operative paragraphs of the judgment on reparations:

a) To publish in an Ecuadorean newspaper a statement acknowledging its international responsibility and apologizing to Daniel Tibi and the other victims, in the terms of considering paragraph 14 of this Order (*twelfth operative paragraph of the judgment*).

3. That, in monitoring full compliance with the judgment handed down in the instant case, and after examining the information provided by the State, the Commission and the representatives, the Court will keep open the procedure of monitoring compliance with the aspects of this case pending compliance, namely:

a) To identify, prosecute and, if applicable, punish, within a reasonable time, all those responsible for the violations of the rights of Daniel Tibi, in accordance with considering paragraph 10 of this Order (*tenth operative paragraph of the judgment*);

b) To publish in a French newspaper, the section entitled Proven Facts and the first to sixteenth operative paragraphs of the judgment, without the corresponding footnotes (*eleventh operative paragraph*);

c) To publish [in a French newspaper] a formal written statement issued by senior State authorities, acknowledging the State's international responsibility for the facts to which this case refers, and apologizing to Mr. Tibi and the other victims mentioned in the [...] judgment (*twelfth operative paragraph*);

d) To create an inter-institutional committee to define and execute training programs on human rights and the treatment of prisoners, for the staff of the judiciary, the public prosecutor's office, and police and prison staff, including medical, psychiatric and psychological personnel, in accordance with considering paragraph 18 of this Order (*thirteenth operative paragraph*);

e) To pay Daniel Tibi pecuniary compensation for the property seized in the terms of considering paragraph 25 of this Order (*fourteenth operative paragraph subparagraph (b)*), and

f) To pay the accrued interest resulting from the delay in the payment of the compensation, in accordance with considering paragraphs 24 to 27 of this Order (*fourteenth, fifteenth and sixteenth operative paragraphs*).

AND DECIDES:

1. To require the State to adopt all necessary measures to comply effectively and promptly with the aspects pending compliance, as stipulated in Article 68(1) of the American Convention on Human Rights.

2. To request the State to present to the Inter-American Court of Human Rights, on October 15, 2009, a report indicating all the measures adopted to comply with the reparations ordered by this Court that are pending, pursuant to the provisions of considering paragraphs 10, 14, 18, 25 and 27 of this Order

3. To request the representatives of the victims and the Inter-American Commission on Human Rights to present any observations they deem pertinent on the State's report mentioned in the preceding operative paragraph within four and six weeks, respectively, of receiving the report.

4. To continue monitoring the aspects pending compliance of the judgment on preliminary objections, merits, reparations and costs of September 7, 2004.

5. To require the Secretariat of the Court to notify this Order to the State, the Inter-American Commission on Human Rights and the victims or their representatives.

Cecilia Medina Quiroga
President

Diego García-Sayán

Sergio García Ramírez

Manuel E. Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary