

**Order of the  
Inter-American Court of Human Rights\*  
of September 21, 2009  
Case of Cantoral Huamaní and García Santa Cruz v. Peru  
(Monitoring Compliance with Judgment)**

**HAVING SEEN:**

1. The Judgment on the preliminary objection, merits, reparations and costs (hereinafter also referred to as "the Judgment"), rendered by the Inter-American Court of Human Rights (hereinafter referred to as "the Inter-American Court" or "the Court") on July 10, 2007, whereby it decided that:

[...]

9. The State must immediately investigate the facts which gave rise to the violations of the instant case, and identify, prosecute and -should it be the case- punish the responsible parties, in the terms of paragraphs 189 to 191 of the [...] Judgment. The results of the proceedings shall be released to the public so that the Peruvian society is acquainted with the legal Order of the facts and the responsible parties in the instant case.

10. The State must publish in the Official Gazette and in another newspaper of extensive national circulation, within the term of six months from the notice of the [...] Judgment and only once, chapters VII to X of the [...] Judgment, as well as the operative paragraphs thereof, without including the corresponding footnotes.

11. The State must, within the term of six months from the notice of the [...] Judgment, celebrate a public ceremony of acknowledgement of its international liability with regard to the violations declared herein as compensation for the victims and for the satisfaction of their next of kin, with the presence of the authorities which represent the State and the next of kin declared victims in the [...] Judgment; said ceremony must be released through the media, in the terms of paragraph 193 of the [...] Judgment.

12. The State must grant a scholarship in a Peruvian public institution, in favor of Ulises Cantoral-Huamaní, Pelagia Mélida Contreras-Montoya de Cantoral and the sons of Saúl Cantoral-Huamaní, covering all education expenses, from the moment the beneficiaries request so to the State until the completion of advanced, training or update studies, either technical or of university level, in the terms of paragraph 194 of the [...] Judgment.

13. The State must enable the continuance, for as long as necessary, of the psychological treatment in the conditions in which it is being received by Vanessa and Brenda Cantoral-Contreras, and to provide free and immediate psychological and medical treatment for as long as it may be necessary to the other next of kin declared victims, in the terms of paragraphs 195 to 202 of the [...] Judgment.

14. The State must pay the amounts set forth in the [...] Judgment by way of pecuniary and non pecuniary damage and reimbursement of costs and expenses, within the term of one year from the notice of the [...] Judgment, to the persons mentioned in paragraphs 159 and 160 and in

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\* On January 22, 2007, Judge Diego García-Sayán declined the instant case in the terms of Article 19 of the Statute and 19 [present Article 20] of the Court's Rules of Procedure." The then President of the Court, in consultation with the judges of the Court, decided to accept the above mentioned decline pursuant to what has been pointed out in the above mentioned provisions and based on the analysis of the grounds exposed by Judge García-Sayán. Therefore, said Judge did not participate neither in the deliberation and signature of the Judgment nor in the present Order.

the manner set forth in paragraphs 161, 171, 172, 174, 177, 180 to 183, 205 and 206 to 209 thereof.

[...]

15. The Court shall monitor the total compliance with [the] Judgment, and it shall deem the instant case adjudged once the State has totally complied with the provisions thereof. Within the term of one year from the notice of [the] Judgment, the State shall submit a report on the measures adopted in order to comply with it before the Court, in the terms of paragraph 210 of the [...] Judgment.

2. The Judgment of interpretation of the Judgment on the preliminary objection, merits, reparations and costs (hereinafter referred to as "the Judgment of Interpretation"), issued by the Inter-American Court on January 28, 2008.

3. The Order of monitoring of compliance with the Judgment rendered by the Inter-American Court on April 28, 2009, whereby it declared:

1. That pursuant to what has been stated in Considering clauses No. eight to thirteen of the [...] Order, the State has failed to comply with its obligation to inform this Court on the measures adopted in order to fulfill the Judgment [...]

2. That it shall keep the monitoring proceedings open with regard to the totality of the operative paragraphs of the Judgment [...], reserving the authority to eventually call for a hearing of monitoring of compliance in order to assess the fulfillment of said Order.

AND DECID[ED]

1. To request the State to adopt all the measures necessary to effectively and immediately comply with the totality of the operative paragraphs of the Judgment [...] in the instant case, in accordance with the content of the [...] Order, and with Article 68(1) of the American Convention on Human Rights.

2. To request the State to submit before the Inter-American Court of Human Rights, no later than June 1, 2009, its first report in which it describes all the measures adopted in order to comply with what has been ordered by the Court.

[...]

4. The brief dated June 10, 2009 and the appendixes thereto, whereby the Peruvian Republic (hereinafter referred to as "the State" or "Peru") provided information on the progress of the compliance with the above mentioned Judgment.

5. The brief dated July 10, 2009 and the appendixes thereto, whereby the victims representatives (hereinafter referred to as "the representatives") presented their observations regarding the information forwarded by the State.

6. The brief dated July 23, 2009, whereby the Inter-American Commission on Human Rights (hereinafter referred to as “the Inter-American Commission” or “the Commission”) forwarded its observations to the report submitted by the State and to the observations forwarded by the representatives.

## CONSIDERING,

1. That monitoring the compliance with its Orders is a power inherent to the Court’s jurisdictional functions.

2. That Peru is a State Party to the American Convention on Human Rights (hereinafter referred to as “the American Convention” or “the Convention”) since July 28, 1978, and it has acknowledged the adversarial jurisdiction of the Court on January 21, 1981.

3. That Article 68(1) of the American Convention sets forth 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.” For that purpose, the States must ensure the implementation of the Court Orders at domestic level.<sup>1</sup>

4. That by virtue of the final and unappealable nature of the Court judgments, in accordance with Article 67 of the American Convention, these must be immediately complied with by the State in their totality.

5. That the obligation to comply with the Court judgments corresponds to a basic legal principle of international liability of the State, supported by international case law, according to which every treaty in force is binding upon the parties to it and must be performed by them in good faith (*pacta sunt servanda*) and, as already pointed out by this Court and pursuant to Article 27 of the Vienna Convention on the Law of Treaties, 1969, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.<sup>2</sup> The conventional obligations of the States Parties are binding upon all of the State powers and bodies.<sup>3</sup>

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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, par. 131; *Case of Herrera-Ulloa v. Costa Rica*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 9, 2009, Considering Clause No. three, and *Case of Pueblo Bello Massacre v. Colombia*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of July 9, 2009, Considering Clause No. three.

<sup>2</sup> Cf. *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention (Arts. 1 and 2 of the American Convention on Human Rights)*. Advisory Opinion OC-14/94 of December 9, 1994, par. 35; *Case of Herrera-Ulloa*, *supra* note 1, Considering Clause No. five, and *Case of the Pueblo Bello Massacre*, *supra* note 1, Considering Clause No. five.

<sup>3</sup> Cf. *Case of Castillo-Petruzzi et al. v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 17, 1999. Series C No. 59, Considering clause No. three; *Case of Herrera-Ulloa*, *supra* note 1, Considering Clause No. five, and *Case of the Pueblo Bello Massacre*, *supra* note 1, Considering Clause No. five.

6. That the States Parties to the American Convention must guarantee the fulfillment of all the conventional provisions and their own effects (*effet utile*) in the scope of their respective domestic systems. This principle applies not only regarding substantive rules of human rights treaties (that is to say, those containing provisions on the protected rights), but also with regard to procedural rules, such as those, which refer to the compliance with the Court Orders. These obligations must be interpreted and applied in such a way that the protected guarantee is truly practical and efficient, taking the very special nature of human rights treaties into account.<sup>4</sup>

7. That the States Parties to the Convention, which have acknowledged the adversarial jurisdiction of the Court have the duty to comply with the obligations set forth by said Tribunal. This obligation includes the duty of the State to inform the Court on the measures adopted for the fulfillment of what has been ordered by the Court through its Orders. The timely observance of the State obligation to inform the Court on how it is complying with each of the Court's orders is critical to assess the status of compliance with the Judgment as a whole.<sup>5</sup>

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8. That regarding the duty to investigate, identify, prosecute and -should it be the case- punish those responsible for the facts (*operative paragraph nine of the Judgment*), the State pointed out that it was expecting updated information on the part of the Judicial Power, and that as soon as it had it, it would forward it as supplementary information.

9. That the representatives noticed that the State failed to forward information regarding this reparation measure. However, they informed that on December 18, 2007, the *Segunda Fiscalía Penal Supraprovincial* (Second Criminal Supraprovincial Public Prosecutor's Office) denounced Jesús Miguel Ríos-Saenz and Jorge Mauro Huamán-Alacute as the alleged perpetrators, and Máximo Agustín Mantilla-Campos as the alleged instigator of the crimes of kidnapping and murder of Saúl Isaac Cantoral-Huamaní and Consuelo Trinidad García-Santa Cruz. Later, on May 28, 2008, the *Cuarto Juzgado Penal Supraprovincial* (Fourth Supraprovincial Criminal Court) decided to institute criminal proceedings against said persons for the crimes of kidnapping and aggravated murder, issuing an arrest warrant against them. As the term for the judicial investigation had expired, the case file was forwarded to the *Sala Penal Nacional* (National Criminal Chamber) and to the *Ministerio Público* (Public

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<sup>4</sup> Cf. *Case of Ivcher Bronstein v. Peru*. Competence. Judgment of September 24, 1999. Series C No. 54, par. 37; *Case of Herrera-Ulloa*, *supra* note 1, Considering Clause No. six; *Case of the Pueblo Bello Massacre*, *supra* note 1, Considering Clause No. six.

<sup>5</sup> Cf. *Case of Barrios Altos v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 22, 2005, Considering clause No. seven; *Case of Herrera-Ulloa*, *supra* note 1, Considering clause No. seven, and *Case of Cantoral-Huamaní and García-Santa Cruz v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of April 28, 2009, Considering clause No. seven.

Prosecutor Service) for their respective pronouncements. Based on the above, they considered that the State "has been complying with this obligation", but the Court must continue to monitor until the completion thereof.

10. That the Commission considered that "it has not been forwarded enough information in order to render a pronouncement regarding the fulfillment of this critical order of the [J]udgment", reason for which it requested the Court to ask the State for information with regard to the corresponding investigations and the criminal proceedings.

11. That as is evident from the Judgment, the State had to immediately investigate the facts which generated the violations therein ascertained and identify, prosecute and -should it be the case- punish the responsible parties. Furthermore, Peru had to provide information on the measures adopted within the term of one year from the notice of the Judgment, which expired on August 3, 2008. Due to the lack of information, by means of the Order of April 28, 2009, the Court requested the State to indicate, no later than June 1, 2009, the measures adopted in order to comply with the Judgment. However, the State has not yet forwarded any information with regard to the proceedings carried out for the effective fulfillment of said obligation.

12. That, without detriment to the above, from the observations presented by the representatives, it arises that four months after receiving the notice of the Judgment by this Court, the *Segunda Fiscalía Penal Supraprovincial* (Second Criminal Supraprovincial Public Prosecutor's Office) started an investigation and on May 28, 2008, and criminal proceedings were instituted against two of the alleged perpetrators and against one alleged instigator of the crimes of kidnapping and aggravated murder with regard to Saúl Isaac Cantoral-Huamaní and Consuelo Trinidad García-Santa Cruz.

13. That the Inter-American Court appreciates the progress reflected by the investigation of the facts which gave rise to the instant case and considers it indispensable that the State presents updated, detailed and thorough information on the proceedings carried out and the progress thereof. Therefore, the Court requests the State to forward the above mentioned information as well as copies of the main procedural records, including the indictment dated December 18, 2007 against the alleged perpetrators of the facts.

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14. That with regard to the obligation to publish relevant parts of the Judgment in the Official Gazette and in another newspaper of extensive national circulation (*operative paragraph ten of the Judgment*), the State "request[ed] the [Court] to issue a ruling regarding the answer submitted by [the] *Procuraduría Especializada* (Specialized Attorney General), with regard to the inclusion of a direct link of access to the Judgments of the Inter-American Court of Human Rights in the web pages of the most important [n]ewspapers of [n]ational [c]irculation."

15. That the representatives pointed out that the State has not forwarded any information on the publications ordered by the Judgment, despite the term granted for the compliance thereof has legally expired. As to the proposal to include special links in the most important newspapers of the country, they considered that the State must comply with what has been ordered in the Judgment.

16. That the Commission noticed that “regardless that additionally to the compliance with [this obligation] the State includes the above mentioned electronic link, [...] it must comply with the Court order [...], in the specific terms set forth in the Judgment.” However, it considered that it would be useful that the Judgment was available in the Internet pages of several sources of information. Based on the above, it considered that the State has not complied with its obligation as it appears in the Judgment.

17. That the Court observes that the term to issue the above mentioned publications expired on February 3, 2008, that is to say, more than a year and seven months ago, without there being any evidence in the case file that the above mentioned publications have been effected. On the other hand, regarding the request made by the State as to the setting of access links in the Internet pages of the most important newspapers of national circulation, the Court observes that it has not formally received said request in the instant case of monitoring of compliance, reason for which it shall not refer to the matter. Based on the above, the Court requests the State to supply information on the fulfillment of this reparation measure.

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18. That regarding the obligation to have a public ceremony of acknowledgement of international liability (*operative paragraph ten of the Judgment*), neither the State nor the representatives provided any information on the status of compliance with this reparation measure.

19. That the Commission emphasized the lack of information regarding this obligation. Therefore, it asked the Court to request the State the to forward the corresponding information.

20. That the term set forth for having the public ceremony of acknowledgment of liability was of six months from the notice of the Judgment and, consequently, it expired on February 3, 2008, that is to say, more than a year and seven months ago. The State has not forwarded any information on the proceedings carried out for the effective fulfillment of this obligation. Due to the above, the Court requests the State to adopt all the measures necessary for its compliance and to forward detailed and thorough information regarding this reparation measure.

21. That as to the obligation to grant scholarships in favor of Ulises Cantoral-Huamaní, Pelagia Mélida Contreras-Montoya de Cantoral and the sons of Saúl Cantoral-Huamaní (*operative paragraph two of the Judgment*), the State informed that on May 8, 2008, it requested the President of the *Universidad Nacional Mayor de San Marcos* to grant a scholarship to Brenda Cantoral-Contreras for her participation in a course in order to be awarded the professional degree of Bachelor of Anthropology. The State further informed that on May 20, 2008, it requested the cooperation of the Director of the School of Social Science and the Director of the Academic School of Anthropology of the above mentioned university in order to obtain an exemption of the “payments by way of right of admission and right to education” in favor of Brenda Cantoral- Contreras.

22. That the representatives appreciated the progress made by the State, even though they considered that this obligation is pending fulfillment. Particularly, they informed that: i) in the case of Brenda Cantoral-Contreras, the next of kin of Saúl Cantoral-Huamaní have coordinated actions for the compliance with this obligation with the *Procuraduría Pública Especializada Supranacional* (Supranational Specialized Attorney General), which concluded with the exemption of payment of the Anthropologist professional course. They stated that the obligation can not be yet complied with as the exemption request is still pending as well as the request for the exemption of payment of other expenses related to the “summary proceedings regarding the registration for the Anthropologist professional course and [another] payment regarding the fee for the processing of other documents”, as informed by the representatives to the State by means of a communication dated April 30, 2009; ii) in the case of Pelagia Mélida Contreras de Cantoral and Vanessa Cantoral-Contreras, on April 16, 2009, they requested the State to engage in negotiations with public universities *San Luis Gonzaga* and *Federico Villareal* so as to be exempted from the payments related to the proceedings for being awarded the degrees in Business Administration and Sociology, respectively. They further informed that said negotiations with the above mentioned universities were pending; and iii) in the case of Saúl Cantoral-Huamaní, the representatives would eventually let the State know the Order made by the beneficiaries.

23. That the Commission appreciated the negotiations started by Peru aimed to comply with this obligation in favor of Brenda Cantoral-Contreras, but it observed that it is a partial fulfillment, reason for which it requested the Court to ask the State for information on the actions taken to complete it. The Commission further stated that Peru did not refer to the fulfillment of this obligation in favor of Pelagia Mélida Contreras de Cantoral and Vanessa Cantoral-Contreras, reason for which it requested the Court to ask the State to adopt all the measures necessary for its compliance. Finally, it took cognizance that the representatives would inform the State on the Order made by Ulises Cantoral-Huamaní and the other sons of Saúl Cantoral-Huamaní on this reparation.

24. That the Court assesses positively the negotiations started by the State for the benefit of Brenda Cantoral-Contreras and it notices that there would be progress in the payment exemption of certain education related expenses. However, the Court

has not enough information regarding the total fulfillment of the obligation set forth in her favor, reason for which it requests the State to inform on the progress of the proceedings tending to exempt Brenda Cantoral-Contreras from the total amount of the expenses she must pay in order to be awarded the degree of Bachelor of Anthropology.

25. That with regard to the other beneficiaries, the Court notices that the fulfillment of this obligation on the part of the State implies, partially, that those beneficiaries have to take some actions tending to the exercise of their right to this reparation measure. In that sense, the Court observes that recently, on April 30, 2009, the representatives allegedly communicated the State the Orders made by some of the beneficiaries in this respect. The Court enhances the importance to move forward in the coordination between the State and the representatives in order to concrete the fulfillment of this obligation and it requests the State to continue to provide information on the proceedings effected and the results obtained.

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26. That regarding the obligation to provide psychological and medical treatment to the next of kin declared victims (*operative paragraph thirteen of the Judgment*), the State informed it has held a series of meetings with the petitioners in which it was concluded that it is necessary to know the requirements of both families in order to forward them to the Ministry of Health. The State further informed that it forwarded a general request to the Ministry of Health in order to inform it in advance of its obligations with regard to the victims of the instant case, once it has gathered the information pending to be forwarded.

27. That the representatives confirmed that they held meetings with the State. They informed that on April 16, 2009, they communicated the State that Vanessa and Brenda Cantoral-Contreras decided to continue to receive psychological treatment at the *Centro de Atención Psicosocial* (Psychosocial Attention Center, hereinafter referred to as "CAPS") or with Alfonso Gushiken-Miyagui, who performed the expert witness psychological examination before the Court, pursuant to the terms of paragraph 202 of the Judgment. On the other hand, they requested the affiliation of Pelagia Mélida Contreras de Cantoral, Marco Antonio Cantoral-Lozano, Vanessa Cantoral-Contreras and Brenda Cantoral-Contreras to the health centers of the *Seguro Integral de Salud* (Health Integral Insurance, hereinafter referred to as "SIS") closer to their respective domiciles and they provided information with regard to their addresses. However, they have not received any answer on the part of the State. Therefore, "even though they appreciat[ed] the coordination effected", they considered that this duty has not been fully complied with, reason for which the State must continue to inform the Court on the actions it may effect in that respect.

28. That the Commission observed that despite the State initiated some administrative proceedings aimed to the compliance with this obligation, it has not fulfilled it integrally. Consequently, it requested the Court to ask the State to forward specific and updated information on the treatment offered to the beneficiaries.

29. That the Court assesses positively the measures anticipated by the State in order to comply with this obligation, particularly the meetings held with the



beneficiaries and the preparatory communications forwarded to the Ministry of Health. On the other hand, as already exposed by the Court with regard to another reparation measure (*supra* Considering clause No. 25), the Tribunal notices that the compliance with this obligation on the part of the State depends, to a great extent, on the information provided by the representatives and the victims.

30. That from the information presented by the representatives it arises that Vanessa and Brenda Cantoral-Contreras, who had received psychological treatment at the CAPS, at present are treated by Mr. Alfonso Gushiken-Miyagui, and that they both expressed to the State, on April 16, 2009, their wish to continue to receive the treatment either from the CAPS or the above mentioned professional. According to what has been ordered by the Court, the State must enable the continuance of the above mentioned treatment in the conditions in which it was being received by the beneficiaries at the time of the rendering of the Judgment, due to the particular nature thereof. In that regard, the Court considers that it is necessary to have updated information in order to assess the degree of compliance with this paragraph of the Judgment, with regard to both Vanessa and Brenda Cantoral-Contreras, as well as to the other beneficiaries. Therefore, the Court concludes that the State must take the necessary steps in order to fulfill this reparation measure and forward information on the matter.

31. That with regard to the medical treatment of the victims next of kin, the representatives pointed out that on April 16, 2009, they requested the State the affiliation of the beneficiaries to the SIS. Likewise, the Court requests the State to supply updated information on the steps taken for that matter. Based on the above, the State must adopt all the measures necessary for the fulfillment of this obligation and forward updated information on the matter.

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32. That regarding the obligation to pay the ordered compensations, costs and expenses (*operative paragraph fourteen of the Judgment*), the State informed that on May 11, 2009, it delivered, "by way of down payment", the amount of four thousand five hundred United States dollars (US\$ 40,500.00) which was distributed among the next of kin of Saúl Cantoral-Huamaní and Consuelo García-Santa Cruz.

33. That the representatives confirmed that the State had paid the amounts mentioned in its report. At the same time, they pointed out that to date the total amount of the compensations, costs and expenses ordered by the Judgment has not been paid, despite the term set forth for payment has already expired. They further mentioned that the State has not supplied any information on the negotiations carried out for this purpose. Consequently, they considered that this obligation has only been partially complied with.

34. That the Commission appreciated that the State has partially paid the corresponding compensations, but it emphasized that it "has no information regarding the payment of the costs and expenses." It requested that the State is asked to immediately comply with this obligation and, pursuant to the Judgment, to pay interest on arrearages for the indebted amount.

35. That from the information provided, particularly the Record issued by the *Procuraduría Pública Especializada* (Specialized Attorney General) on May 11, 2009,

the Court appreciates that the State did pay certain compensations by way of pecuniary damage on that date. Said compensations would correspond to the amounts set forth by way of loss of earnings of Saúl Cantoral-Huamaní and Consuelo García-Santa Cruz, in accordance with paragraph 171 of the Judgment, and they were distributed among the next of kin of said victims pursuant to the terms of paragraph 161 of the Order.<sup>6</sup> The Court makes a positive assessment of the fact that the State has paid part of the compensations ordered in the Judgment. However, it notices that said payments were made after the term of one year set forth by the Judgment had expired, reason for which the State owes the interest on arrearages since August 3, 2008, date on which the term for complying with this obligation expired.

36. That the Court further notices the lack of information regarding the payment of the remaining compensations, costs and expenses. And it reminds that the term for the fulfillment of this obligation expired on August 3, 2008, reason for which, according to paragraph 209 of the Judgment, the State shall have to pay interest on arrearages for the amounts due. The Court observes that the State has partially complied with this reparation measure and it points out that it is necessary that the State fulfills the Court Judgment and that it informs on the proceedings effected in order to settle the unpaid balance.

37. That, finally, regarding the obligation to return the amount of seven thousand five hundred United States dollars (US\$ 7,500.00) to Pelagia Mélida Contreras-Montoya de Cantoral (*paragraph 187 of the Judgment*), neither the State nor the representatives forwarded any information on the status of compliance. The Court reminds that the Judgment set forth that:

[...] with regard to the amount of US\$ 7,500.00 (seven thousand five hundred United States dollars) delivered by the *Federación Minera* (Mining Federation) to Saúl Cantoral-Huamaní and which he left moments prior to his death at the hostel where he was staying and which was seized and judicially deposited by the authorities in charge of the investigation, the Court notices that it was not returned, but it was allegedly lost or stolen while it was under judicial deposit. That is inferred not only from the arguments of the representatives, but also from the evidence presented by the State, in which it is informed that a public prosecutor's office, on May 8, 1995, ordered the forwarding of the case file to the public prosecutor's office on duty "as there were presumptions of the alleged perpetration of the crime against the property -theft- of the Certificate of Judicial Deposit of *Banco Nación* No. [...] dated April 18, 1989, in the amount of US\$ 7,500." The loss of this amount of money under the custody of the State bears direct relation with the facts of the case and, consequently, it must be returned. Therefore, in the event this amount has not been yet returned, the Court orders the same is refunded to Mrs. Pelagia Mélida Contreras-Montoya de Cantoral, who may use it for the purposes she deems pertinent.

38. That on January, 28, 2008, the Court, in its Judgment of Interpretation clarified a question posed by the State regarding the manner of fulfillment of this measure, and it explained that "the Court ordered that Mrs. Pelagia Mélida Contreras-Montoya, widow of Cantoral, who is a party to this lawsuit, and not an entity alien to it as the *Federación Minera* (Mining Federation), would receive said amount and later on "may use it for the purposes she deems pertinent." Notwithstanding the clarification above, the State did not provide any information on this reparation measure.

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<sup>6</sup> Cf. *Case of Cantoral-Huamaní and García-Santa Cruz v. Peru. Preliminary Objection, Merits, Reparations and Costs*. Judgment of July 10, 2007. Series C, No. 167.

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39. That the State pointed out that on December 28, 2008, Legislative Decree No. 1068 became effective, whereby the *Procuraduría Pública Supranacional* (Supranational Attorney General's Office) started to operate in order to represent the State before international instances. Furthermore, on January 9, 2009, through *Resolución Suprema* (Supreme Order) No. 008-2009-JUS, the chief authority thereof was appointed. It further added that from said date the *Procuraduría Pública Supranacional* (Supranational Attorney General's Office) "has been taking steps in order to honor the Peruvian State obligations before the Inter-American System and complete the timely fulfillment of the Judgment rendered by the Court."

40. That the representatives asked the Court to "[r]equest the State [...] to comply -as soon as possible- with the paragraphs pending fulfillment [and to] keep providing detailed and punctual information on the measures it may have adopted in order to comply with all the obligations imposed by the Court in its Judgment."

41. That the Commission noticed that after two years from the rendering of the Judgment, "the State has partially complied with some of the obligations ordered" by the Court. Although it appreciated the measures adopted for that matter, it asked that the State is required to provide "a detailed report where it describes the steps taken in order to comply with each of the ordered items."

42. That the Court notices that after a long period without the State complying with its obligation to provide information, this situation has substantially improved since the creation of the *Procuraduría Pública Supranacional* (Supranational Attorney General's Office). The Court further assesses positively the initial proceedings effected in the last months in order to move forward in the fulfillment of the obligations ordered in the Judgment.

**THEREFORE,**

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

Exercising its powers for monitoring the compliance with its Orders and in accordance with Articles 33, 62(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, 25(1) and 30 of the Statute, and 30 and 63 of its Rules of Procedure,<sup>7</sup>

**DECLARES:**

1. That the State has partially complied with its obligation set forth in the following operative paragraph of the Judgment:

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<sup>7</sup> Rules of Procedure approved by the Court in the XLIX Regular Session, held on November 16 to 25, 2000, and partially amended during the LXXXII Regular Session, held from January 19 to 31, 2009.

- a) to pay the amounts set forth in paragraph 171 in the manner provided for in paragraphs 161 and 172 of the Judgment in favor of the victims next of kin (*operative paragraph fourteen of the Judgment*).
2. That it shall keep the monitoring proceedings open until the total compliance of the operative paragraphs pending fulfillment in the instant case, to wit:
- a) to immediately investigate the facts which gave rise to the violations of the instant case, and identify, prosecute and -should it be the case- punish the responsible parties in the terms of paragraphs 189 to 191 of the Judgment. The results of the proceedings shall be released to the public so that the Peruvian society is acquainted with the legal Order of the facts and the responsible parties in the instant case (*operative paragraph nine of the Judgment*);
- b) to publish in the Official Gazette and in another newspaper of extensive national circulation, within the term of six months from the notice of the Judgment and only once, chapters VII to X of the Judgment, as well as the operative paragraphs thereof, without including the corresponding footnotes (*operative paragraph ten of the Judgment*);
- c) to celebrate a public ceremony of acknowledgement of its international liability with regard to the violations declared herein as compensation for the victims and for the satisfaction of their next of kin, with the presence of the authorities which represent the State and the next of kin declared victims in the Judgment; said ceremony must be released through the media, in the terms of paragraph 193 of the Judgment (*operative paragraph ten of the Judgment*);
- d) to grant a scholarship in a Peruvian public institution, in favor of Ulises Cantoral-Huamaní, Pelagia Mélida Contreras-Montoya de Cantoral and the sons of Saúl Cantoral-Huamaní, covering all education expenses, from the moment the beneficiaries request so to the State until the completion of advanced, training or update studies, either technical or of university level, in the terms of paragraph 194 of the Judgment (*operative paragraph twelve of the Judgment*);
- e) to enable the continuance, for as long as necessary, of the psychological treatment in the conditions in which it is being received by Vanessa and Brenda Cantoral-Contreras, and to provide free and immediate psychological and medical treatment for as long as it may be necessary to the other next of kin declared victims, in the terms of paragraphs 195 to 202 of the Judgment (*operative paragraph thirteen of the Judgment*);
- f) to pay the amounts set forth in the Judgment by way of pecuniary damage, non pecuniary damage and reimbursement of costs and expenses within the term of one year from the notice of the Judgment, to the persons mentioned in paragraphs 159 and 160, and established in paragraphs 161, 171, 172, 174, 177, 180 to 183, 205 and 206 to 209 thereof (*operative paragraph fourteen of the Judgment*), except for the amounts paid by way of pecuniary damage mentioned in operative paragraph one hereof, and

g) to return the amount of seven thousand five hundred United States dollars (US\$ 7,500.00) to Mrs. Pelagia Mérida Contreras-Montoya de Cantoral (*paragraph 187 of the Judgment*).

**AND DECIDES:**

1. To request the State to immediately adopt all the measures necessary for the effective and soon fulfillment of the paragraphs pending compliance ordered by the Court in the Judgment on the preliminary objection, merits, reparations and costs of July 10, 2007, in accordance with Article 68(1) of the American Convention on Human Rights.
2. To request the State to submit before the Inter-American Court of Human Rights, no later than January 29, 2010, a report in which it describes all the measures adopted in order to comply with the reparations ordered by the Court which are pending fulfillment, in accordance with Considering clauses No. 13, 17, 20, 24, 25, 30, 31, 36 and 38, and with operative paragraph two hereof.
3. To request the representatives of the victims and their next of kin and the Inter-American Commission on Human Rights to submit their observations to the State report mentioned in the preceding paragraph, within the term of two and four weeks, respectively, from the reception of said report.
4. To continue to monitor the paragraph pending compliance with the Judgment on the preliminary objection, merits, reparations and costs of July 10, 2007.
5. To request the Court Secretariat to notify this Order upon the State, the Inter-American Commission on Human Rights and the victims representatives.

Cecilia Medina-Quiroga  
President

Sergio García-Ramírez

Manuel 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