

**Order of the
Inter-American Court of Human Rights*
of November 20, 2009
Case of La Cantuta v. Peru
(Monitoring Compliance with Judgment)**

HAVING SEEN:

1. The judgment on the merits, reparations and costs rendered on November 29, 2006 (hereinafter, the "Judgment") by the Inter-American Court of Human Rights (hereinafter, the "Inter-American Court" or the "Court",) whereby the Court ordered the following, to wit:

[...]

9. The State must take without delay the necessary actions to effectively conduct and complete, within a reasonable time, the ongoing investigations and the criminal proceedings pending in the domestic courts, and to carry out, as the case may be, the necessary investigations to determine the criminal liability of the perpetrators of the violations committed to the detriment of Hugo Muñoz-Sánchez, Dora Oyague-Fierro, Marcelino Rosales Cárdenas, Bertila Lozano-Torres, Luis Enrique Ortiz-Perea, Armando Richard Amaro-Cóndor, Robert Edgar Teodoro-Espinoza, Heráclides Pablo-Meza, Juan Gabriel Mariños-Figueroa and Felipe Flores-Chipana, as set forth in paragraph 224 of the instant Judgment. The State must adopt all judicial and diplomatic measures to prosecute and, in turn, punish the perpetrators of the violations committed in the instant case and file any corresponding extradition request under applicable domestic and international rules, as set forth in paragraphs 224 to 228 of the instant Judgment.

10. The State must forthwith carry out the search and localization of the mortal remains of Hugo Muñoz-Sánchez, Dora Oyague-Fierro, Marcelino Rosales-Cárdenas, Armando Richard Amaro-Cóndor, Robert Edgar Teodoro-Espinoza, Heráclides Pablo-Meza, Juan Gabriel Mariños-Figueroa and Felipe Flores-Chipana and, once located, the State must deliver them as soon as practicable to the relatives and bear the burial costs, as set forth in paragraph 232 of the instant Judgment.

11. The State must publicly acknowledge its liability within a term of six months, as set forth in paragraph 235 of the instant Judgment.

12. The State must ensure that, within the term of one year, the 10 individuals declared executed or forcefully disappeared victims in the instant case shall be represented in the memorial named "*El Ojo que Llora*" (The Crying Eye) if they are not represented so far and provided their relatives so desire; in doing so, the State must coordinate the victims' relatives' efforts to place a sign with the name of each victim, in the manner that may best fit the characteristics of the memorial, as set forth in paragraph 236 of the instant Judgment.

13. The State must publish, within the term of six months, at least once in the Official Gazette and in another national daily newspaper, paragraphs 37 to 44 and 51 to 58 of the chapter related to the partial acknowledgement, the proven facts in the instant Judgment, without the corresponding footnotes, and paragraphs 81 to 98, 109 to 116, 122 to 129, 135 to 161 and 165 to 189, and the operative paragraphs thereof, as set forth in paragraph 237 of the instant Judgment.

14. The State must provide the relatives of Hugo Muñoz-Sánchez, Dora Oyague-Fierro, Marcelino Rosales-Cárdenas, Bertila Lozano-Torres, Luis Enrique Ortiz-Perea, Armando Richard Amaro-Cóndor, Robert Edgar Teodoro-Espinoza, Heráclides Pablo-Meza, Juan Gabriel Mariños-Figueroa and Felipe Flores-Chipana, at their discretion and for as long as necessary, free of

* Judge Diego García-Sayán excused himself from taking part in the process of monitoring compliance with the Judgment delivered in the instant case. Judge Leonardo A. Franco advised the Court that, owing to circumstances beyond his control, he would be unable to attend the deliberation and signature of this Order.

charge and at national health-care facilities, with any necessary treatment which shall comprise provision of medicines, as set forth in paragraph 238 of the instant Judgment.

15. The State must implement, on a permanent basis and within a reasonable time, human rights-oriented programs for the members of intelligence services, the Armed Forces and the National Police, as well as for prosecutors and judges, as set forth in paragraphs 240 to 242 of the instant Judgment.

16. The State must pay Andrea Gisela Ortiz-Perea, Antonia Pérez-Velásquez, Alejandrina Raida Córdor-Saez, Dina Flormelania Pablo-Mateo, Rosario Muñoz-Sánchez, Fedor Muñoz-Sánchez, Hilario Jaime Amaro-Ancco, Magna Rosa Perea de Ortiz, Víctor Andrés Ortiz-Torres, José Ariol Teodoro-León, Bertila Bravo-Trujillo and José Esteban Oyague-Velazco, within the term of one year, the amounts set out in paragraphs 214 and 215 of the instant Judgment, as compensation for pecuniary damage, as set forth in paragraphs 246 to 248 and 250 to 252 thereof.

17. The State must pay Antonia Pérez-Velásquez, Margarita Liliana Muñoz-Pérez, Hugo Alcibiades Muñoz-Pérez, Mayte Yu yin Muñoz-Atanasio, Hugo Fedor Muñoz-Atanasio, Carol Muñoz-Atanasio, Zorka Muñoz-Rodríguez, Vladimir Ilich Muñoz-Sarria, Rosario Muñoz-Sánchez, Fedor Muñoz-Sánchez, José Esteban Oyague-Velazco, Pilar Sara Fierro-Huamán, Carmen Oyague-Velazco, Jaime Oyague-Velazco, Demesia Cárdenas-Gutiérrez, Augusto Lozano-Lozano, Juana Torres de Lozano, Víctor Andrés Ortiz-Torres, Magna Rosa Perea de Ortiz, Andrea Gisela Ortiz-Perea, Edith Luzmila Ortiz-Perea, Gaby Lorena Ortiz-Perea, Natalia Milagros Ortiz-Perea, Haydee Ortiz-Chunga, Alejandrina Raida Córdor-Saez, Hilario Jaime Amaro-Ancco, María Amaro-Córdor, Susana Amaro-Córdor, Carlos Alberto Amaro-Córdor, Carmen Rosa Amaro-Córdor, Juan Luis Amaro-Córdor, Martín Hilario Amaro-Córdor, Francisco Manuel Amaro-Córdor, José Ariol Teodoro-León, Edelmira Espinoza-Mory, Bertila Bravo-Trujillo, José Faustino Pablo-Mateo, Serafina Meza-Aranda, Dina Flormelania Pablo-Mateo, Isabel Figueroa-Aguilar, Román Mariños-Eusebio, Rosario Carpio-Cardoso-Figueroa, Viviana Mariños-Figueroa, Marcia Claudina Mariños-Figueroa, Margarita Mariños-Figueroa de Padilla, Carmen Chipana de Flores and Celso Flores-Quispe, within the term of one year, the amounts set out in paragraph 220 of the instant Judgment, as compensation for non pecuniary damage, as set forth in paragraphs 219, 246 to 248 and 250 to 252 thereof.

18. The State must pay, within the term of one year, the amounts set out in paragraph 245 of the instant Judgment, as reimbursement for costs and expenses, which shall be delivered to Andrea Gisela Ortiz-Perea and Alejandrina Raida Córdor-Saez, as set forth in paragraphs 246 and 249 to 252 thereof.

19. The Court shall monitor full compliance with this Judgment and the instant case shall be closed once the State implements in full the provisions herein. Within one year of the date of notification of this judgment, the State shall furnish the Court with a report on the measures taken in compliance therewith, in the terms of paragraph 253 of said judgment. Within one year from the notification of [the] Judgment, the State shall submit a report to the Court on the measures adopted in compliance therewith, as set forth in paragraph 253 [there]of.

2. The Interpretation of the Judgment on the merits, reparations and costs delivered by the Inter-American Court on November 30, 2007, whereby it decided:

1. To determine the scope of that stated in paragraphs 206(i) and 220, in relation to paragraphs 80(106) and 129 and the fifth and seventeenth operative paragraphs, of the Judgment issued on November 29, 2006 on merits, reparations, and costs in the *case of La Cantuta*, in the terms of paragraphs 14 through 19 of the present Judgment.

2. To request the State to take into account the full name of Mrs. Carmen Antonia Oyague Velazco de Huaman, which includes her married name, for the effects of compliance with the Judgment, in the terms of paragraph 23 of the present Judgment.

3. To declare the request for interpretation of the Judgment on merits, reparations, and costs issued on November 29, 2006 in the *case of La Cantuta* partially inadmissible since it does not adjust to that stated in Articles 67 of the Convention and 29(3) and 59 of the Rules of Procedure, pursuant to that stated in paragraphs 27 through 32 and 35 of the present Judgment.

4. To determine the scope of that stated in paragraphs 161, 206(h) and 206(i) and in the sixth operative paragraph of the Judgment issued on November 29, 2006 on merits, reparations, and costs in the *case of La Cantuta*, in the terms of paragraphs 33 through 35 of the present Judgment, in the understanding that this does not exclude the possibility that, based on that stated in the Judgment, the next of kin of the victims may exercise the domestic recourses appropriate to assert the rights that correspond to them.

3. The briefs of July 31, August 3 and December 21, 2005, and August 25 and December 22, 2008, and June 1st and 23, 2009, whereby the State furnished information germane to compliance with the Judgment.

4. The briefs of February 14 and September 30, 2008, January 16 and July 10, 2009 whereby the *Centro por la Justicia y el Derecho Internacional* (Center for Justice and International Law) (hereinafter, "CEJIL") and the *Asociación Pro Derechos Humanos* (Human Rights Association) (hereinafter, "APRODEH,") representatives of the victims and their next of kin (hereinafter, the "representatives") submitted their comments on the State's report on compliance with the Judgment.

5. The briefs of March 10 and November 6, 2008 and February 4 and August 26, 2009, whereby the Inter-American Commission on Human Rights (hereinafter, the "Commission") submitted its comments on the information provided by the State on compliance with the Judgment.

Considering:

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

2. That Peru is a State Party to the Convention since July 28, 1978, and accepted the contentious jurisdiction of the Court on January 21, 1981.

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." For such purpose, States are required to guarantee implementation of the Court's rulings at the domestic level.¹

4. That, in consideration of 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 conforms to a basic principle of law regarding the international responsibility of the State. That is, States must comply with their international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has previously stated and is set forth in Article 27 of the Vienna Convention on the Law of Treaties of 1969, they cannot invoke their municipal laws to escape their pre-established international responsibility. The State Parties' obligations under the Convention bind all State branches and organs.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 systems. This principle applies not only in connection with the substantive provisions of human rights

¹ Cf. *Case of Baena Ricardo et al. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 60; *Case of the Caracazo v. Venezuela. Monitoring Compliance with Judgment*. Order of the Inter-American Court of Human Rights of September 23, 2009; Considering clause No. 3, and *Case of Cantoral-Huamani and Garcia-Santa Cruz v. Peru*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of September 21, 2009, Considering clause No. 3.

² 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. Series A No. 14, para. 35; *Case of the Caracazo v. Venezuela*, *supra* note 1, Considering clause No. 5, and *Case of Cantoral-Huamani and Garcia-Santa Cruz v. Peru*, *supra* note 1, Considering clause No. 5.

treaties (that is, 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 to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.³

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Obligation to investigate the events, prosecute and, in turn, punish those responsible for the violations

7. That, in relation to the duty to immediately adopt the measures necessary to effectively conduct and complete, within a reasonable time, the ongoing investigations and criminal proceedings in regular criminal courts, and to order, if applicable, the necessary investigations to determine the criminal liability of those responsible for the violations committed against the victims (*operative paragraph nine of the Judgment*), the State informed that three separate criminal proceedings in relation to compliance with this operative paragraph were then pending: i) judicial proceedings N° 03-2003, in the First Special Criminal Division of the Lima Superior Court of Justice, against certain members of the Colina Group; ii) judicial proceedings N° 19-2001-AV, in the Special Criminal Division of the Supreme Court, against former president Alberto Fujimori, and iii) judicial proceedings N° 68-2007, in the Fifth Special Criminal Anticorruption Court, based on report N° 08-2004 against Vladimiro Montesinos-Torres, Nicolás de Bari Hermoza-Ríos, Luis Augusto Pérez-Documet and José Adolfo Velarde-Astete. In the course of the proceedings, the accusation was extended against eight additional defendants. In relation to these investigations, the State subsequently reported that: i) in judicial proceedings N° 03-2003, April 8, 2008, the former Chief of the National Intelligence Service Julio Rolando Salazar-Monroe was convicted to 35 years' imprisonment, and former members of the Colina Group Gabriel Orlando Vera-Navarrete, José Alarcón-González and Fernando Lecca-Esquén were convicted to 15 years' imprisonment on the charges of aggravated murder and forced disappearance of persons; ii) in judicial proceedings N° 19-2001-AV, after the extradition granted on September 21, 2007 by the Supreme Court of Justice of Chile, on April 7, 2009, the former president of the Republic Alberto Fujimori-Fujimori was convicted to 25 years' imprisonment "as mediate perpetrator of the crime of murder with perfidy and treachery, as aggravating circumstances, against the victims [in the instant case,]" and iii) in judicial proceedings N° 68-2007, an order of detention and restricted appearance was issued against the reported individuals.

8. That the representatives welcomed the advances made in furtherance of compliance with this operative paragraph. Accordingly, they highlighted three issues: i) that in judicial proceedings N° 03-2003 against former members of the Colina Group, on April 27, 2009, the Second Criminal Division ruled on the appeal for annulment affirming the acquittal of Aquilino Portella-Núñez and the conviction of Gabriel Orlando Vera-Navarrete, José Alarcón-González and Fernando Lecca Esquén to 15 years' imprisonment, and affirming the conviction of Julio Rolando Salazar-Monroe, while reducing his sentence from 35 to 25 years' imprisonment; ii) that the Special Criminal Anticorruption Division decided on appeal to deliver copies of the case file to the Attorney General's Office to conduct an investigation

³ Cf. *Case of Ivcher-Bronstein v. Peru. Competence*. Judgment of the Inter-American Court of Human Rights of September 24, 1999. Series C No. 54, para. 37; *Case of the Carachazo v. Venezuela*, *supra* note 1, Considering clause No. 6, and *Case of Cantoral-Huamani and García-Santa Cruz v. Peru*, *supra* note 1, Considering clause No. 6.

of those responsible for crime concealment in relation to these proceedings; and iii) that, through "efficient collaboration agreements," former members of the Colina Group agreed to surrender information concerning the events under investigation. In relation to the delays in the investigation, they pointed out that: i) judicial proceedings N° 68-2007 against Vladimiro Montesinos were still pending resolution, and the case file was forwarded to the Third Special Criminal Anticorruption Division after expiration of the investigation deadline; ii) that the judgment delivered in judicial proceedings N° 19-2001-AV against Alberto Fujimori-Fujimori was appealed against for annulment; and iii) that the State should furnish information on the measures adopted to locate and arrest the fugitive defendants in proceedings N° 03-2003, on whom prosecution reserve was imposed. Furthermore, they stated that the First Criminal Special Division was conducting a criminal process, undisclosed by the State, against Alberto Pinto-Cárdenas and Wilmen Yarlequé-Ordinola, who were convicted on July 3, 2008 to 20 years' imprisonment for the events in the instant case. Upon filing of an appeal for annulment, the conviction and sentence imposed on Wilmen Yarlequé-Ordinola was affirmed, the conviction against Alberto Pinto-Cárdenas was declared null and void, and an order granting a new trial was entered. Therefore, they considered that monitoring compliance with this measure of reparation should remain open.

9. That, concerning the measures adopted by the State, the Commission considered that important actions aiming to complete the investigation, prosecute and punish those responsible were taken, while it is awaiting information on the progress thereof.

10. That the Court highly appreciates the efforts made in furtherance of the investigation of the events. Thus, the criminal liability of several individuals responsible for the violations committed in the instant case, including former high-rank State officers, has been declared, while some proceedings are still pending final resolution. For this reason, the Tribunal understands that even though the State has made great progress in the investigation of the complex structure of the individuals involved in the planning and execution of the grave human rights violations in the instant case, further investigation should be made. Consequently, in order to continue monitoring compliance with this paragraph, the Court requires the State to keep informing on the progress of the ongoing investigations and/or on any new investigative actions, as well as on the results of the "efficient collaboration agreements," on the fugitive defendants, on the process reported by the representatives, and on the appeal for annulment filed in judicial proceedings N° 19-2001-AV.

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Search for and identification of disappeared victims

11. That in relation to the duty to forthwith search and identify the mortal remains of the victims and, in turn, deliver them as soon as practicable to their relatives and bear the burial costs (*operative paragraph ten of the Judgment*), the State informed that on July 17, 2008, at the premises of the *Equipo Peruano de Antropología Forense* (Peruvian Anthropological Forensic Team), six funerary coffins were delivered to the victims' next of kin, through their representatives, who were also offered burial services consisting of two funeral hearses, a funeral chapel and transportation for funeral and burial services. The evidence furnished by the State shows that the expert witnesses "determined that the remains were incomplete and that they belonged to 8 adult individuals, there were two bone parts of two females, the remains of a third individual did not match the saliva samples taken from eight out of ten next of kin, for there was a likelihood that this bone part belonged to Felipe Flores-Chipana or Manuel [Marcelino Máximo] Rosales-Cárdenas. They ruled out that the female pelvis and femur bone parts did not belong to Bertila Lozano, but

to Dora Ayague, the only woman among the victims. Luis Ortiz-Perea and Bertila Lozano were positively identified.”⁴

12. That the representatives agreed with the information submitted by the State, but pointed out that by July 19, 2008, date set by the victims' next of kin to inhumate the victims' remains, the State had failed to make “the necessary arrangements with the authorities of the cemetery ‘El Ángel’ to cause the remains inhumation to be authorized and order the cleaning of the mausoleum of the victims” and that fortunately they could rely on the good will of the cemetery authorities as a last resort to proceed with the inhumation. They further pointed out that the mortal remains of the other four victims had not been located and identified and that the outcome of the examinations conducted to identify the remains exhumed in 1993 was not reported, so they considered that the State had not fully complied with this operative paragraph. In this sense, they suggested that the State should keep informing the Court “on the actions taken to fully comply with this measure of reparation.”

13. That the Commission welcomed the efforts made by the State, but regretted its lack of diligence in making the necessary arrangements for the burial of the victims' remains. Moreover, it restated to the Court that the State should be required to furnish information on the domestic coordinating measures and concrete actions taken to locate the victims' remains which are still missing.

14. That the Court highly appreciates the actions taken by the State to search for and locate the victims; in particular, it underlines the fact that the inhumation of six of them was possible. To this effect, the Court requests the State to specify the names of the victims whose remains have been inhumed, as well as those who are still to be located. Accordingly, it is imperative that the State continue with the actions aimed at locating the four missing victims, resorting to all available means to immediately resume the search for the victims and, in turn, the identification of their remains, applying an action plan and the adequate technology, for which it is essential that the State proceed to reinforce its search and identification capacity gathering the professional and technical resources that the case requires. For the reasons stated above, the Court finds that the State has partly complied with this obligation and urges the State to keep up search efforts according to the provisions set out in paragraph 232 of the Judgment.

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Public act of acknowledgement of responsibility

15. That, in relation to the duty to perform, within the term of six months, a public act of acknowledgment of responsibility (*operative paragraph eleven of the Judgment,*) the State informed that the act was performed on October 25, 2007, at the seat of the Ministry of Justice, with the presence of the victims' next of kin, their legal representatives from APRODEH, members of other non-governmental organizations of human rights, newspapers, the radio and the television, the Ministry of Justice and other State officers. The ceremony was broadcasted on television and radio, the press media and on-line sites of many communications media. The State informed that a representative of the victims joined up with the organizers and coordinated the event planning. For this reason, the State considers that it has fully complied with operative paragraph eleven of the Judgment.

16. That the representatives chose to make “no comments” on this issue.

⁴ Superior Court of Justice of Lima, First Special Criminal Court, case file No. 03-2003, Judgment of April 8, 2008, para. 252.

17. That the Commission values “the significance and prominence of the ceremony performed by the State [...] in order to mitigate the damage and to recognize the hardship inflicted on the victims and their next of kin.”

18. That the Court praises the actions taken so far and the willingness to coordinate the planning of the event with the victims, as well as the enthusiastic participation of state authorities. Furthermore, the Tribunal desires to limelight the generous broadcasting that the act of acknowledgment enjoyed in many communications media, because it helps preserve the historic memory about human rights violations, while promoting a means to prevent these acts from happening again. In this sense, the Court highly welcomes the actions taken by the State and considers that it has fully complied with this operative paragraph.

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Representation of the victims on “El Ojo que Lloro” (The Crying Eye) memorial

19. That in relation to the duty to ensure, within the term of one year, that the victims in the instant case are represented in the memorial named “*El Ojo que Lloro*” (The Crying Eye) if they are not represented so far and provided their relatives so desire (*operative paragraph twelve of the Judgment*), the State informed that the names of ten victims were engraved on the monument on December 20, 2007 and that, therefore, it considers that it has complied with this operative paragraph.

20. That the representatives chose to make no comments on this issue.

21. That the Commission welcomed that all the difficulties surrounding compliance with this operative paragraph have been overcome.”

22. That the Court praises that the names of the victims have been engraved on the “*El Ojo que Lloro*” (The Crying Eye) memorial within the term set out in the Judgment, this way complying with this operative paragraph.

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Publication of the Judgment

23. That in relation to the duty to publish certain sections of the Judgment in the Official Gazette and in another national daily newspaper (*operative paragraph thirteen of the Judgment*), the State informed that the publication was made in the Official Gazette “*El Peruano*” on June 24, 2007 in the terms of Supreme Resolution No. 120-2007-JUS dated June 23, 2007, that also authorized the publication of the relevant parts of the Judgment in a national daily newspaper, while the financial resources for said publication are still to be awarded. Later, the State reported that “the authorities [...] are currently devoted to the necessary arrangements for the publication” which is still pending. For this reason, the State considered that it has partly complied with this operative paragraph.

24. That the representatives pointed out that, even though the relevant parts of the Judgments were published in the Official Gazette, the publication was made beyond the deadline set out by the Court. They also concluded that the State had failed to fully comply with this operative paragraph because the publication in a national daily newspaper was still pending.

25. That the Commission, in turn, noted that the restrictions mentioned by the State should not be an obstacle to comply with the decision of the Court. Thereupon, the Commission "hopes that the State will make the publication in a near future."

26. That the Court observes that, according to the provisions of the Judgment, the State should make the corresponding publications within a six-month term. That the State, the Commission and the representatives reported that the publication in the Official Gazette was effectively made, and furnished evidence thereof. Nonetheless, the publication in a national daily newspaper is still pending. As more than two years have elapsed since expiration of the deadline set out in the Judgment for the publications, the Court urges the State to take the necessary steps to finance the pending publication in order to fully comply with its obligation.

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Adequate treatment to the victims' next of kin

27. That, in relation to the duty to confer an adequate treatment to the victims' next of kin (*operative paragraph fourteen of the Judgment*), the State informed that the Ministry of Health "completed" the membership proceedings to enlist all the relatives in the *Sistema Integral de Salud* (Health Care Global System) (hereinafter, the "SIS") and that this was informed to their legal representatives by Notices No. 2044 and 2042 – 2007/JUS/CNDH-SE of November 21, 2007; for this reason, the State requested that this measure as ordered by the Court be considered fully complied with. Later, the State informed that the SIS had joined forces with the representative of the victims to collect the updated addresses of the next of kin so that they might have access to the health system, renewing the "request of collaboration to the Ministry of Health concerning the registration of the beneficiaries in the *Sistema Integral de Salud* (Health Care Global System)."

28. That the representatives noted that "even though all inter-institutional proceedings have been conducted to cause the next of kin to be enlisted in the SIS, the mere registration does not guarantee provision of an adequate treatment and supply of medicines." They also noted that, even though the Judgment was delivered more than two years ago, the next of kin were not registered in the health system. For those reasons, they requested the Court to require the State to comply forthwith with this obligation and to submit updated information, taking into account that compliance with this obligation should "be monitored on an ongoing basis" to secure fulfillment thereof.

29. That the Commission considered that the information furnished by the State "fails to include specific data, which are deemed conclusive for compliance with the decision of the Tribunal with regard to this obligation, fulfillment of which is immediate and periodic," and in this respect it found it necessary that "significant action" should be taken to provide adequate and comprehensive health assistance to the victims' next of kin.

30. That the Court praises the actions taken in furtherance of compliance with this measure; however, it pointed out that provision of an adequate treatment and supply of medicines for as long as it is necessary is an obligation of immediate and periodic fulfillment, which is not satisfied with the mere registration of the victims' next of kin in the *Sistema Integral de Salud* (Health Care Global System.) In this sense, the Tribunal urges the State to continue submitting information on the progress of the implementation and maintenance of this measure.

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Implementation of human rights education programs

31. That, in relation to the duty to implement, within a reasonable time, human rights-oriented programs for the members of intelligence services, the Armed Forces and the National Police, as well as for prosecutors and judges (*operative paragraph fifteen of the Judgment*), the State provided information about the application of human rights programs in the training centers of the Armed forces and reported that, subsequently, it implemented the necessary changes to cause the *Centro de Derecho Internacional Humanitario* (International Humanitarian Law Center) of the Armed Forces, within the *Comando Conjunto de las Fuerzas Armadas* (Armed Forces Joint Staff,) to provide training in the field of human rights. The State affirmed that the Judiciary carried out academic activities aimed at disseminating human rights information and that the Judiciary Academy “organizes on an ongoing and permanent” basis seminars and distant learning courses in human rights in the administration of justice for judges, prosecutors and other judicial officers. Furthermore, it highlighted that the Academy decided to include the Judgment of the Court in the instant case as mandatory material in the courses, together with international human rights instruments. It further reported on the human rights courses of the professional development, training, specialization, and continuing education centers of the *Sistema Educativo Policial* (Police Educational System.) Therefore, the State considers that it has partly complied with this operative paragraph based on the progress mentioned above.

32. That the representatives suggested that it was necessary to continue monitoring compliance with this operative paragraph on an ongoing basis. They considered that the reports submitted by the State showed that a series of human rights education activities were organized, but that this should not be considered *per se* “sufficient and efficient” in training members of the intelligence service, the Armed Forces and the National Police, as well as prosecutors and judges. Therefore, the representatives concluded that, despite the progress made in training police officers, it is necessary that the State provide more detailed and comprehensive information on the education of other public officers as ordered in the Judgment, and requested that “ongoing monitoring” be made of both the frequency of the courses and the syllabus and evaluation methods to assess their effectiveness and to fully comply with this operative paragraph.

33. That the Commission greatly appreciated “the actions taken to implement human rights education programs,” but noted that the information on said courses of study failed to detail their permanent nature, and suggested that the State should keep on implementing the necessary measures to fully comply with its obligation. Subsequently, the Commission expressed its concerns about the lack of updated information and reiterated that the information then furnished “was not sufficient to assess the syllabus, scope, maintenance and impact of the activities carried out by the State.”

34. That the Court reminds that human rights education in the organizations involved in national security, as well as in those associated with justice administration, is vital to secure that acts similar to the events occurred in the instant case will not happen again. The Tribunal highly praises the information submitted and the progress referenced in relation to human rights training courses in justice administration departments, the Armed Forces and the National Police. In particular, the Court notes that the human rights courses have been designed to the members of police and military forces of different hierarchy, and that international human rights instruments have been included in the syllabus of those courses, as required. Moreover, the State has included as mandatory reference in the training of judges the Judgment delivered by the Court in this case and has forwarded it to the *Consejo Superior de Justicia Militar* (Military Justice Supreme Council.)

35. That despite the foregoing, the Court observes that the State has failed to address all the aspects of operative paragraph fifteen of the Judgment, as required; in particular, it has failed to furnish information on the education imparted in state intelligence agencies. Furthermore, the reported information omits reference to how the Judgment issued in the instant case has been incorporated as mandatory material in the training courses offered in security forces institutions. Therefore, the Court considers that the State has partly complied with this obligation. The State is then required to submit updated and detailed information in relation to the aspects not covered by the reports, in particular, those aspects concerning the state intelligence agencies.

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Payment of compensations and reimbursement of costs and expenses

36. That in relation to the payment of damages and compensations ordered in favor of the victims and their next of kin, as well as the reimbursement of the costs and expenses to the representatives (*operative paragraphs sixteen, seventeen and eighteen of the Judgment*), the State informed that the Ministry of Justice had conducted the necessary proceedings aimed at gathering the resources through the *Oficina General de Economía y Desarrollo* (Finance and Development General Office) (OGED,) the *Fondo de Administración del Dinero Ilícitamente Obtenido en Perjuicio del Estado* (Fund for the Administration of Money Obtained Illicitly to the Detriment of the State) (FEDADOI), and the Ministry of Economy and Finance, but that the necessary measures to allocate in the budget the money to pay compensations and reimburse costs and expenses had not been taken. Subsequently, it reported that it had authorized the transfer of US\$90,000.00 to the Ministry of Justice to pay pending reparations as pecuniary damage in favor of Antonia Pérez-Velásquez, Andra Gisela Ortiz-Perea, Alejandrina Raida Cóndor-Sáez and Dina Flor Melania Pablo-Meza, which was effectively made on May 12, 2009.

37. That the representatives confirmed that payment of US\$90,000.00 as pecuniary damage in favor of some relatives was effectively made and verified payment by minutes of delivery of May 12, 2009. Nonetheless, they observed that the State had failed to mention that the whole group of relatives had been paid the compensations for pecuniary damage and reimbursed the costs and expenses as ordered. Additionally, they pointed out that the judgment of April 8, 2008, rendered in judicial proceedings No. 03-2003 "directed that the convicted defendants should pay, jointly and severally with the State, as civil reparation, the compensations ordered by the Court;" therefore, the next of kin filed an appeal for annulment, which is up to date pending resolution, based on the rationale that, notwithstanding any individual criminal liability, the international liability rests solely with the State. For this reason, the representatives concluded that the State had failed to fully comply with this operative paragraph and required detailed information on the coordinating actions taken to fully comply with all the payment obligations as soon as practicable.

38. That the Commission expressed concerns about the lack of effective action in relation to this obligation "after the deadline set by the Court has long expired." Therefore, it is still waiting that, as soon as possible, the proceedings "to allocate the necessary resources" are conducted and the information on the actions taken in furtherance of the compliance with these operative paragraphs of the Judgment is submitted.

39. That this Court notes that after three years from the Judgment, only the payments as pecuniary damage have been made in favor of some victims, but no mention has been made as to the proceedings aimed at effecting payment of pecuniary damage in favor of the remaining victims, payment of non-pecuniary damage and reimbursement of costs and expenses. Furthermore, the Court reiterates that the State should honor the unfulfilled payment obligations, the resolution achieved in the domestic criminal proceedings notwithstanding. In the light of the foregoing, the Tribunal reminds the State of the importance of strictly complying with this operative paragraph and, to this effect, it urges the State to resort to all available resources to effectively pay the amounts as ordered in the Judgment, including payment of any accrued interest.

Therefore:

The Inter-American Court of Human Rights,

in exercise of its authority to monitor compliance with its decisions and in accordance with Articles 62(3), 67 and 68(1) of the American Convention on Human Rights, Article 25(2) of its Statute and Articles 30(2) and 63 of its Rules of Procedure,

Declares:

1. That pursuant with that stated in Considering clauses No. 18 and 22 of this Order, the State has complied with the obligation to:
 - a) To organize, within six months, a public act acknowledging responsibility (*operative paragraph eleven* and paragraph 235 of the Judgment), *and*
 - b) to ensure, within the term of one year, that the 10 persons declared as victims of execution or forced disappearance in the Judgment are represented in the memorial named "*El Ojo que Llorá*" (The Crying Eye) if they are not represented so far and provided their relatives so desire (*operative paragraph twelve of the Judgment* and paragraph 236 of the Judgment.)
2. That the State has partly complied with the obligations to:
 - a) to take without delay the necessary actions to effectively conduct and complete, within a reasonable time, the ongoing investigations and the criminal proceedings pending in the domestic courts, and to carry out, as the case may be, the necessary investigations to determine the criminal liability of the perpetrators of the violations committed to the detriment of the victims in the instant case (*operative paragraph nine* and paragraphs 224 to 228 of the Judgment;)
 - b) to forthwith carry out the search for and localization of the mortal remains of Hugo Muñoz-Sánchez, Dora Oyague-Fierro, Marcelino Rosales-Cárdenas, Armando Richard Amaro-Cóndor, Robert Edgar Teodoro-Espinoza, Heráclides Pablo-Meza, Juan Gabriel Mariños-Figueroa and Felipe Flores-Chipana and, once located, to deliver them as soon as practicable to their relatives and to bear the burial costs, (*operative paragraph ten* and paragraph 232 of the Judgment;)
 - c) to publish, within the term of six months, at least once in the Official Gazette and in another national daily newspaper, paragraphs 37 to 44 and 51 to 58 of the chapter related to the partial acknowledgement, the proven facts in the instant Judgment, without the corresponding footnotes, and paragraphs 81 to 98, 109 to

116, 122 to 129, 135 to 161 and 165 to 189, and the operative paragraphs thereof, (*operative paragraph thirteen* and paragraph 237 of the Judgment;)

d) to implement, on a permanent basis and within a reasonable time, human rights-oriented programs for the members of intelligence services, the Armed Forces and the National Police, as well as for prosecutors and judges (*operative paragraph fifteen* and paragraphs 240 to 242 of the Judgment,) and

e) to pay, within the term of one year, the amounts set out in paragraphs 214 and 215 of the [...] Judgment, as compensation for pecuniary damage (*operative paragraph sixteen* and paragraphs 246 to 248 and 250 to 252 of the Judgment.)

3. That it will keep open the monitoring compliance proceedings with regard to the paragraphs, which are pending compliance in the instant case, to wit:

a) to take without delay the necessary actions to effectively conduct and complete, within a reasonable time, the ongoing investigations and the criminal proceedings pending in the domestic courts, and to carry out, as the case may be, the necessary investigations to determine the criminal liability of the perpetrators of the violations committed to the detriment of the victims in the instant case (*operative paragraph nine* and paragraphs 224 to 228 of the Judgment;)

b) to forthwith carry out the search and localization of the mortal remains of Hugo Muñoz-Sánchez, Dora Oyague-Fierro, Marcelino Rosales-Cárdenas, Armando Richard Amaro-Cóndor, Robert Edgar Teodoro-Espinoza, Heráclides Pablo-Meza, Juan Gabriel Mariños-Figueroa and Felipe Flores-Chipana and, once located, to deliver them as soon as practicable to the relatives and to bear the burial costs, (*operative paragraph ten* and paragraph 232 of the Judgment;)

c) to publish, within the term of six months, at least once in the Official Gazette and in another national daily newspaper, paragraphs 37 to 44 and 51 to 58 of the chapter related to the partial acknowledgement, the proven facts in the instant Judgment, without the corresponding footnotes, and paragraphs 81 to 98, 109 to 116, 122 to 129, 135 to 161 and 165 to 189, and the operative paragraphs thereof, (*operative paragraph thirteen* and paragraph 237 of the Judgment;)

d) to provide all the victims` next of kin, at their discretion and for as long as necessary, free of charge and at national health-care facilities, with any necessary treatment which shall comprise provision of medicines (*operative paragraph fourteen* and paragraph 238 of the Judgment;)

e) to implement, on a permanent basis and within a reasonable time, human rights-oriented programs for the members of intelligence services (*operative paragraph fifteen* and paragraphs 240 to 242 of the Judgment,) and

f) to pay the amounts set as compensation for pecuniary damage, compensation for non-pecuniary damages, and costs and expenses (*operative paragraphs sixteen, seventeen and eighteen* and paragraphs 215, 219, 246 to 248 and 250 to 252 of the Judgment.)

And Decides:

4. To require that the State adopt all the measures necessary to fully and promptly comply with the matters pending compliance that were ordered by the Tribunal in the Judgment on merits, reparations, and costs of November 29, 2006, pursuant with the stipulations of Article 68(1) of the American Convention on Human Rights.

5. To request that the State present to the Inter-American Court, no later than March 1st, 2010, a report indicating all the measures adopted to comply with the reparations ordered by this Court that are pending compliance, pursuant to the provisions of Considering clauses No. 10, 14, 26, 30, 35 and 39, and declarative paragraphs 2 and 3 of this Order.

6. To request that the representatives of the next of kin of the victims and the Commission present their observations to the State's report mentioned in the previous operative paragraph, within a four and six-week term, respectively, computed as of the receipt of that report.

7. To continue monitoring the matters pending compliance of the Judgment on merits, reparations, and costs of November 29, 2006.

8. To request that the Secretariat notify the present Order to the State, the Inter-American Commission, and the representatives of the victims and their next of kin.

Cecilia Medina Quiroga
President

Sergio García-Ramírez

Manuel E. Ventura-Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary