

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF FEBRUARY 23, 2011  
CASE OF TICONA v. BOLIVIA  
MONITORING COMPLIANCE WITH JUDGMENT**

**HAVING SEEN:**

1. The judgment on merits, reparations and costs (hereinafter “the judgment”) delivered by the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) on November 27, 2008, whereby it decided that:

9. Th[e] judgment constitutes, *per se*, a form of reparation.

10. The State must continue processing the criminal proceeding initiated for the forced disappearance of Renato Ticona Estrada in order to conclude this proceeding as soon as possible, following notification of th[e] judgment, in the terms of paragraphs 144 to 147 of th[e] judgment.

11. The State must investigate the acts committed against Hugo Ticona Estrada and identify, prosecute and, if applicable, punish those responsible, within a reasonable time, according to the provisions of paragraphs 150 and 151 of th[e] judgment.

12. The State must proceed to search for Renato Ticona Estrada promptly and effectively, in the terms of paragraphs 155 to 157 of th[e] judgment.

13. The State must publish once in the Official Gazette and once in another newspaper with wide national circulation, the title and paragraphs 1 to 5 of Chapter I; the title and paragraphs 12, 14, 22 to 27 of Chapter III; Chapter VI; the title and corresponding subtitles and paragraphs 73 to 76, 82 to 85, 87 to 88, and 95 to 98 of Chapter VII; and, the title and paragraphs 104 and 105 of Chapter VIII of the [...] judgment, without the corresponding footnotes, and with the operative paragraphs, within six months of notification of th[e] judgment, in the terms of paragraph 160 [t]herein.

14. The State must implement effectively the agreements for the provision of medical and psychological care requested by Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona Estrada and Rodo Ticona Estrada, in the terms of paragraphs 168 and 169 of th[e] judgment.

15. The State must provide the Inter-Institutional Council for the Clarification of Forced Disappearance, within a reasonable time, with the necessary human and material resources. To this end, the State must present, within one year, a specific proposal together with a program of action and planning related to compliance with this provision, in the terms of paragraphs 172 and 173 of th[e] judgment.

16. The State must pay Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona Estrada and Rodo Ticona Estrada the amounts provided for in paragraphs 116, 125, 134, 139 to 141 and 181 as compensation for pecuniary and non-pecuniary damage and as reimbursement of costs and expenses, within one year of notification of t[he] judgment, in accordance with paragraphs 115 to 117; 121 to 125; 131, 132; 134 to 141 and 179 to 181 of th[e] judgment.  
[...]

2. The interpretation judgment delivered by the Court on July 1, 2009, in which it decided unanimously:

1. To declare the request submitted by the State for the interpretation of the judgment on merits, reparations and costs delivered on November 27, 2008, in the case of *Ticona Estrada et al.* partially admissible.

2. To determine the scope and meaning of the questions raised by the State in paragraphs 14 and 18 of th[e] judgment, in relation to considering paragraphs 136 and 131, 132 and 139 of the judgment on merits, reparations and costs delivered on November 27, 2008, in the case of *Ticona Estrada et al.*, which have been clarified by the Court in paragraphs 17, 21 and 22 of th[e] judgment.

3. To declare inadmissible the questions raised by the State in paragraphs 9 and 23, in relation to considering paragraphs 104 and 105 and 168 and 169 of the judgment on merits, reparations and costs delivered on November 27, 2008 in the case of *Ticona Estrada et al.* because they are not in keeping with the provisions of Articles 67 of the Convention and 29(3) and 59 of the Rules of Procedure, as indicated in paragraphs 12, 13 and 26 of th[e] judgment.  
[...]

3. The briefs of the Republic of Bolivia (hereinafter “the State” or “Bolivia”) of August 24 and December 3, 2009, and May 21, August 26 and 31, 2010, forwarding information on the procedure to monitor compliance with the judgment.

4. The briefs of the representatives of the victims (hereinafter “the representatives”) of July 29 and November 13, 2009, and July 19, August 11 and December 17, 2010, in which they forwarded observations on the procedure to monitor compliance with the judgment.

5. The brief of the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) of December 13, 2010, in which it forwarded observations regarding the procedure to monitor compliance with the judgment.

6. The communication of the Secretariat of June 29, 2010, in which, on the instructions of the President of the Court (hereinafter “the President”), the representatives were asked to submit their observations on the first report of the State presented on May 21, 2010. The Secretariat’s communication of July 20, 2010, in which the representatives were asked to forward complementary observations on the measures ordered that have been implemented by the State, and the Secretariat’s communication of August 9, 2010, repeating the previous request to the State. The communications of October 15 and of December 7, 2010, in which the Secretariat, on the instructions of the President, asked the representatives to present their observations on the State’s second report submitted on August 26, 2010. Moreover, in the last communication, the Commission was asked to submit its observations on the first and second reports presented by the State.

#### **CONSIDERING THAT:**

1. An inherent power of the jurisdictional functions of the Court is to monitor compliance with its decisions.

2. Bolivia has been a State Party to the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) since July 19, 1979, and

accepted the binding jurisdiction of the Inter-American Court on July 27, 1993.

3. In accordance with the provisions of Article 67 of the American Convention, the State must comply fully with the Court's judgments. Furthermore, Article 68(1) of the American Convention stipulates that "the State Parties to the Convention undertake to comply with the Court's decisions in any case to which they are parties." To this end, the States must ensure implementation of the provisions of the Court's judgments in the domestic sphere.<sup>1</sup>

4. The obligation to comply with the Court's decisions corresponds to a basic principle of international law, supported by international jurisprudence, according to which States must abide by their international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has indicated and as established in Article 27 of the Vienna Convention on the Law of Treaties of 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 treaty obligations of State Parties are binding on all the powers and organs of the State.<sup>3</sup>

5. The States Parties to the Convention must ensure compliance with the treaty-based provisions and their effectiveness (*effet utile*) within their respective domestic law. 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 which must ensure 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.<sup>4</sup>

**A) Regarding the obligation to continue processing the criminal proceedings concerning the forced disappearance of Renato Ticona Estrada in order to conclude them as soon as possible (tenth operative paragraph of the judgment)**

6. The State reported that the Public Prosecutor's Office has taken measures to conclude the judicial proceedings, and then to locate those who were sentenced and

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<sup>1</sup> Cf. *Case of Baena Ricardo et al. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 60; *Case of Valle Jaramillo v. Colombia. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of December 21, 2010, considering paragraph 3, and *Case of the Ituango Massacres v. Colombia. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of December 22, 2010, considering paragraphs 3 and 4.

<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. Series A No. 14, para. 35; *Case of Valle Jaramillo v. Colombia*, *supra* note 1, considering paragraph 4, and *Case of the Miguel Castro Castro Prison v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of December 21, 2010, considering paragraph 6.

<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, considering paragraph 3; *Case of Valle Jaramillo v. Colombia*, *supra* note 1, considering paragraph 4, and *Case of the Miguel Castro Castro Prison v. Peru*, *supra* note 2, considering paragraph 6.

<sup>4</sup> 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 Valle Jaramillo v. Colombia*, *supra* note 1, considering paragraph 5, and *Case of the Miguel Castro Castro Prison v. Peru*, *supra* note 2, considering paragraph 7.

convicted in order to execute the arrest warrants. In this respect, it indicated that the Public Prosecutor's Office had advised that the criminal proceedings against Roberto Melean Rendón, René Veizaga Vargas, Willy Valdivia Gumucio, Eduardo García Alba and Alfredo Sanabria or Saravia<sup>5</sup> for murder and other offenses had been concluded and that Decision No. 002/2008 had been issued on January 8, 2008, establishing the following:

- Judgment by default for the crime of murder convicting Roberto Melean Rendón, Rene Veizaga Vargas and Willy Valdivia Gumucio, as perpetrators of murder, deprivation of liberty, threats and kidnapping, and sentencing them to 30 years' imprisonment, without the right to pardon.
- Judgment handed down convicting Eduardo Garcia Alba and Alfredo Sanabria of aiding and abetting the crime of murder, deprivation of liberty, threats and kidnapping, sentencing them to serve a prison term of three years and six months.

7. In addition, the State indicated that the lower court judgment had been upheld by Second Instance Decision No. 94/2008 of August 1, 2008, which became final upon issue of Supreme Order No. 346 of March 23, 2009. Subsequently, the presiding judge issued the writ of execution. Furthermore, the Public Prosecutor's Office was in charge of the procedure to arrest the convicted men in coordination with the Special Police Investigation Center in order to execute the said judgment. To this end, on July 7 and 13, 2009, the arrest warrants were executed against Rene Veizaga Vargas and Roberto Mesén, respectively, and against Eduardo Garcia Alba. Lastly, it indicated that Willy Valdivia Gumucio and Alfredo Sanabria or Saravia are fugitives from justice and, in order to locate them, the Public Prosecutor's Office has issued two injunctions.

8. In their observations of August 11, 2010, the representatives stated that despite the issue of Supreme Order No. 346 of March 23, 2009, the judgment convicting Willy Valdivia Gumucio and Alfredo Sanabria or Saravia is still pending execution, given that the perpetrators are currently fugitives from justice. Therefore, they considered that the State must increase its efforts to arrest the convicted men. Consequently, it is not sufficient to argue that it is requesting information from a private police association to discover the whereabouts of one of them.

9. The Commission assessed positively the progress made in the domestic proceedings following the delivery of the judgment of the Inter-American Court, and emphasized the progress made in the search for the convicted men, since three of them are already serving the sentence imposed. Nevertheless, the Commission considered that the information furnished regarding the search for Willy Valdivia Gumucio and Alfredo Sanabria or Saravia is general, and does not allow the different alternatives explored by the State to be understood. Therefore, the Commission hopes that the State will provide more information on the specific measures taken to find the said individuals and the results obtained.

10. The Court assesses positively the information provided by the State, since it reveals the State's willingness to comply with its international obligations to investigate and punish those responsible for the human rights violations that were determined in the instant case. In this regard, it is worth emphasizing that, when the Court's judgment was delivered, Condemnatory Decision No. 002/2008 of January 8,

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<sup>5</sup> In the judgment of the La Paz Third Criminal Court of the First Instance of January 8, 2008, Alfredo Saravia was convicted and, as indicated by the State, the executory measures are in the name of Alfredo Sanabria or Saravia, because when the court refers to that person, they will use the name "Alfredo Sanabria or Saravia."

2008, did not have the authority of a final decision (*cf.* paragraph 144 of the judgment). However, according to information provided, it became final upon the issue of Supreme Order No. 346 of March 23, 2009. In consequence, the Court finds that the State has made significant progress in complying with this measure of reparation.

11. Having evaluated the criminal proceedings conducted at the domestic level that concluded with a judgment convicting Roberto Melean Rendón, Rene Veizaga Vargas and Willy Valdivia Gumucio, Eduardo Garcia Alba and Alfredo Sanabria, and having seen the observations presented by the representatives and the Commission, these are confined to demanding the arrest of Willy Valdivia Gumucio and Alfredo Sanabria or Saravia by the State authorities. Given this situation, this Court considers that, in this case, the investigation into the facts of the forced disappearance of Renato Ticona Estrada (hereinafter “Renato Ticona”) has concluded.

12. The Court notes that, when the judgment of the Court was delivered on November 28, 2008, those responsible had not been arrested and, currently, two of them, Willy Valdivia Gumucio and Alfredo Sanabria or Saravia, are fugitives from justice (*supra* considering paragraphs 7, 8, 9 and 11), even though, since that date, the Court has verified the situation of those convicted and, since March 23, 2009, the domestic condemnatory judgment has been final. However, the State continues reporting that these people have not been arrested (*supra* considering paragraph 7). In this regard, it is worth recalling that the Inter-American Court stated in the judgment that the “[s]aid judicial orders must be complied with so that if the above-mentioned judgments are upheld, those who are found responsible for the facts do not escape justice. Furthermore, this Court considers that the case file does not show that the State has taken diligent measures to arrest these individuals who, according to witnesses, live and circulate freely in Oruro — a fact that has not been contested by the State.”<sup>6</sup> Consequently, the Court urges the State to take, through its authorities, all necessary measures to execute the arrest warrants in order to comply fully with the Court’s ruling in the tenth operative paragraph of the judgment of November 28, 2008. Based on the foregoing, the Court finds that the State must provide a detailed and updated report on all the actions and measures taken to arrest these people and the results.

***B) Regarding the obligation to investigate the facts that occurred to Hugo Ticona Estrada and to identify, prosecute and, as appropriate, punish those responsible (eleventh operative paragraph of the judgment)***

13. The State indicated that, according to the information provided by the Public Prosecutor’s Office, case No. 419/09 has been underway since January 19, 2008, at the request of Hugo Ticona Estrada (hereinafter “Hugo Ticona”) against Rene Veizaga and others for the offenses of ill-treatment and torture. During the investigation, several measures have been taken to make substantial progress. Thus, on January 20, 2009, the court ordered the implementation of a series of measures, and statements were taken from the following witnesses for the prosecution: Jaime Solares Quintanilla, José Cadima Meza and Jaime Zambrana Mercado. Also, on September 7, 2009, formal charges were brought against Rene Veizaga Vargas for the alleged perpetration of ill-treatment and torture, pursuant to paragraphs 1 and 2 and the first part of paragraph 3 of article 295 of the Bolivian Penal Code. Lastly, it advised that an inspection of the

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<sup>6</sup> *Case of Ticona Estrada et al. v. Bolivia. Merits, reparations and costs.* Judgment of November 27, 2008. Series C No. 191, para. 145.

scene of the facts was conducted in Cala Cala, Oruro, where it is alleged that the Ticona brothers were tortured and ill-treated.

14. Regarding the initiation of the criminal proceeding for the crime of ill-treatment and torture, the representatives indicated that, even though formal charges had been brought, the State must be urged to continue the proceeding until its conclusion in order to determine the perpetrators and the respective punishments.

15. The Commission assessed positively the information provided by the State, but notes that the investigation was initiated at "the request of Hugo Ticona Estrada" and not *ex officio* as required. In addition, it took note of the measures taken so far and hoped that the State would continue making every effort to shed light on the acts of torture committed against Hugo Ticona and to establish the respective responsibilities.

16. From the information provided by the State and the observations presented by the parties, the Court reiterates to the State that it has the obligation to increase its efforts and take all pertinent measures, as soon as possible, in order to make progress in the investigation into the facts that occurred to Hugo Ticona. Based on the foregoing, the Court finds it essential that the State present updated, detailed and complete information on the implementation of the investigation, the steps taken, and their results.

***C) Regarding the obligation to proceed with the search for Renato Ticona Estrada promptly and effectively (twelfth operative paragraph of the judgment)***

17. The State advised that the committee of prosecutors in charge of the case opened an investigation, entitled case M.P. 6441/9, into the crime of forced disappearance of persons, and that the main purpose of the investigation was to comply with the judgment of the Inter-American Court. On July 29, 2009, another investigation was opened, entitled M.P. 6569/09, which had similar background facts to those of the investigation into the remains of Renato Ticona; therefore, the committee of prosecutors decided to joinder the investigations in order to avoid two parallel investigations. Subsequently, the Public Prosecutor's Office advised that it had taken statements from individuals involved and from other individuals who could have information on the whereabouts of the remains. Also, an inspection was made in the locality of Vinto, Oruro. Finally, the State asked the Court to assess the efforts it was making to comply with the Court's order to locate Renato Ticona, and to take into account that it had encountered difficulties in implementing them. In addition, the State has repeatedly advised that one of the functions of the Inter-institutional Council for the Clarification of Forced Disappearances (hereinafter "CIEDEF") is to elucidate the forced disappearances that occurred in Bolivia in the past and, to that end, according to the information provided, it has implemented the project "Contribution to the full exercise of human rights and the strengthening of democracy," within which "priority has been given to the search for the mortal remains of Renato Ticona (*infra* considering paragraph 30).

18. The representatives indicated that the State should make greater efforts to "address the provisions" of the said operative paragraph. In turn, they transmitted the frustration that the Ticona Estrada family is feeling with regard to the search for Renato Ticona, because "at present, objectively speaking, there are no indications that would allow him to be found and, consequently, [respond to] the family's greatest wish

[...]; as it told the State [...] approximately 30 years ago, since [his whereabouts] continue to be uncertain, it has become a source of permanent and constant suffering for all [the family] in this case"; and this was repeated subsequently. In their observations of August 11, 2010, the representatives called the Court's attention to the fact that the State was not taking into consideration that there is already a criminal conviction against the perpetrators of the facts and their accomplices; hence it should seek the remains without the need to open new criminal investigations. In this respect, they indicated that the State should define the search strategies in coordination with CIEDEF and asked the Court to urge the State to find the remains of Renato Ticona through CIEDEF, and not through a criminal action. Lastly, they indicated that the State had announced the declassification of the files of the Armed Forces Staff corresponding to the period of the dictatorships, but that undertaking had yet to be fulfilled. Subsequently, on January 10, 2010, the representatives observed that, even though the search for Renato Ticona has been a priority under the project "Contribution to the full exercise of human rights and the strengthening of democracy" (*infra* considering paragraph 30), the public opposition of the Armed Forces to the declassification of files has a direct bearing on the results of the goals set by the State in this regard.

19. For its part, the Commission observed that both the purpose and the nature of the investigation opened at the request of the Public Prosecutor's Office to determine the whereabouts of Renato Ticona are unclear. Therefore, it considered pertinent that the State report on several aspects, including the reasons why it had chosen this option to search for the victim, despite the existence of CIEDEF, which has the same functions, and whether there is any coordination or connection between the measures being taken by the Public Prosecutor's Office and CIEDEF. In addition, the Commission noted that the information provided by the State does not reveal any specific actions, either at the request of the Public Prosecutor's Office or in the context of CIEDEF, to discover the whereabouts of Renato Ticona. Consequently, the Commission considered that the State must make every effort to seek the victim, without arguing the absence of "possibilities of specific leads."

20. In this regard, the Court observes that even though the State has reported on different measures taken to comply with the decisions of the Court, this information is neither sufficient nor specific enough to allow it to conclude that the State is actually making every effort to search for Renato Ticona. It is worth recalling that the State should conduct an effective search for the victim's whereabouts in a prompt and effective manner, and that the next of kin have the right to know the whereabouts or fate of the disappeared victim. The clarification of his whereabouts or final fate would alleviate the anguish and suffering caused. Consequently, the Court finds it necessary that the State submit detailed and updated information on the specific measures taken to search effectively and promptly for the victim, and the results. In addition, it considers necessary that it refer to the investigation being conducted by the Public Prosecutor's Office to search for the victim, because the project that CIEDEF is implementing to shed light on the cases of forced disappearances over the period from 1964 to 1982 is also giving priority to the search for Renato Ticona.

***D) Regarding the obligation to publish, once, the relevant parts of the judgment in the Official Gazette and in another national newspaper with widespread circulation (thirteenth operative paragraph of the judgment)***

21. The State advised that it was coordinating with the Ombudsman's Office because it had not received observations on the content of the obligation. Once it received communication D.P. 1947/2009 of July 3, 2009, indicating that the document relating to the publication of the judgment did not require any consideration or observation, the Ministry of Foreign Affairs coordinated the publications. The said publications were made on June 8, 2009, in the Official Gazette, official edition No. 0121, and on June 7, 2009, in a relevant section of *La Razon*, a national newspaper.

22. The representatives did not make any observations on this operative paragraph.

23. Regarding the publications ordered, the Commission indicated that it is not possible to identify the date or the name of the paper in which the publication in the national newspaper was made from the document provided as evidence. However, given the absence of observations on this matter by the representatives, the Commission considered that the available information indicated adequate compliance with this aspect of the judgment.

24. Based on the information provided by the State and the Inter-American Commission, the Court observes that the State has complied fully with the thirteenth operative paragraph of the judgment.

***E) Regarding the obligation to implement the agreements for the provision of the medical and psychological treatment required by Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona Estrada and Rodo Ticona Estrada (fourteenth operative paragraph of the judgment)***

25. In its report of May 21, 2010, the State indicated that the Ministry of Foreign Affairs had taken the corresponding measures with the Ministry of Health and Sports to implement the health agreements. In this regard, it had requested a report from said Ministry in order to have a record of what is being done and this will be duly presented to the Court.

26. In this regard, in their observations of August 11, 2010, the representatives stated that the said agreements have not been truly and effectively implemented; therefore, they asked the Court to urge the State to provide the medical and psychological treatment to the said victims, as ordered in the judgment.

27. For its part, in its brief of December 13, 2010, the Inter-American Commission observed that the State's second report did not refer to this obligation and it hoped that, in the next report, the State would present detailed information on the implementation of the health agreements and the way in which the medical and psychological treatment is being provided to the beneficiaries of this measure of reparation.

28. Based on the foregoing, the Court observes that the State has not provided specific information on the steps taken to comply with this measure and, according to the information provided by the representatives and the Commission, the State has not implemented this measure effectively. In this regard, the Court considers that the State must adopt immediately all the necessary and relevant measures to provide Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona

Estrada and Rodo Ticona Estrada with the appropriate medical and psychological treatment. Consequently, the Court finds it necessary that the State report, in detail, on the measures implemented and their results.

***F) Regarding the obligation to provide CIEDEF with the necessary human and material resources within a reasonable time. To this end, the judgment indicated that, within one year, the State must formulate a specific proposal with a program of action and plan in relation to compliance with this provision (fifteenth operative paragraph of the judgment)***

29. The State indicated that, on April 15, 2010, the Ministry of Justice had advised that in order to comply with the mandate given to CIEDEF, and pursuant to the National Development Plan, it had launched the project "Contribution to the full exercise of human rights and the strengthening of democracy," which is intended to contribute to the reparation of human rights in order to strengthen democracy in Bolivia through the clarification of cases of forced disappearances resulting from political violence between 1964 and 1982. In this regard, it referred to the objectives of this project and indicated it was being implemented with the technical and financial cooperation of the Governments of Denmark, Sweden and Argentina. Regarding the provision of human and material resources for CIEDEF, it indicated that the Ministry of Justice was in the process of hiring experts (an anthropologist, an archaeologist, a social communicator, a librarian, a systems engineer, a social researcher, four consultants, including lawyers and historians) through a public competition. Lastly, with regard to the preparation of a proposal for an action and planning program, it advised that the Ministry of Justice had reported that it has established specific tasks in its 2010 Annual Plan of Operations to comply with this.

30. Subsequently, on August 31, 2010, the State advised that it had scheduled the execution of the project "Contribution to the full exercise of human rights and the strengthening of democracy" over 36 calendar months, divided into three stages (years). This project comprises various actions to be taken in order to find the remains of the victims of forced disappearances during the *de facto* Government of Hugo Banzer Suarez; moreover, in the plan "priority has been given to the search for the mortal remains of Renato Ticona." The State indicated that, under the 2010 Annual Plan of Operations, the project had been subdivided into three stages, which must be completed within a certain time frame and each of them has its own objectives. In addition, the State indicated that the objectives, activities and results of the project focus mainly on contributing to the reparation of human rights to strengthen democracy in Bolivia. It also described the results it hopes to obtain from the project, and advised that it had reinforced the "professional staff" by incorporating professionals, technicians, consultants and unskilled labor. Finally, it indicated that it had increased the CIEDEF budget.

31. In this regard, the representatives indicated that the State must increase its efforts to "comply with the provisions" of the said operative paragraph. Furthermore, in their observations of August 11, 2010, they asked that the State provide specific information to the Court on the budget allocated to CIEDEF and the date it began its functions. Subsequently, in their observations of December 17, 2010, the representatives indicated that none of the professionals allegedly hired by the State under the project "Contribution to the full exercise of human rights and the strengthening of democracy" had contacted Hugo Ticona or his next of kin, and the alleged priority given to the search would be difficult to maintain unless essential information was gathered from those directly involved.

32. In its observations of December 13, 2010, the Inter-American Commission assessed positively the State's efforts to strengthen the "CIEDEF professional staff," as well as to seek financial support for its functioning. Nevertheless, the Commission considered it important that the State present further information on the sustainability of the measures (given that the CIEDEF project relies mainly on resources from international cooperation), their specific results, and the work plans.

33. The Court assesses positively the steps taken by the State to provide CIEDEF with human and material resources, as well as the actions to implement the project "Contribution to the full exercise of human rights and the strengthening of democracy" under which "priority has been given to the search for the mortal remains of Renato Ticona." Therefore, the Court will take into consideration the actions and steps taken by CIEDEF in this regard. In addition, it should be emphasized that, for CIEDEF to fulfill its mandate, and to carry out the programs it launches satisfactorily, the State must ensure their sustainability. Based on the foregoing, the Court considers that the measures taken by the State in order to comply fully with the fifteenth operative paragraph of the judgment are sufficient.

***G) Regarding the obligation to pay Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona Estrada and Rodo Ticona Estrada the amounts awarded as compensation for pecuniary and non-pecuniary damage and as reimbursement of costs and expenses, and construction of a house (sixteenth operative paragraph of the judgment)***

34. Regarding the compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses, the State advised that Supreme Decree No. 0262 had been issued on August 26, 2009, establishing the financial mechanism to pay the pecuniary obligations arising from the judgment. In this regard, it indicated that it had proceeded to transfer the amounts ordered by the Court to the personal accounts of Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona Estrada and Rodo Ticona Estrada. The said amounts were delivered in full to the victims without any reductions for possible taxes or charges. The State added that, on September 29, 2009, an act was held with regard to compliance with the compensatory measures in the presence of high-ranking authorities of the Executive, international human rights representatives and, it emphasized, all the members of the Ticona Estrada family. According to the State, this ceremony constituted a form of reparation for the family. The Minister of Foreign Affairs, David Choquehuanca Céspedes, and the Minister of Justice at the time, Celima Torrico Rojas, were present and Hugo Ticona intervened on behalf of the family. Lastly, the State indicated that, during this act, the respective orders of payment issued by the Central Bank of Bolivia were delivered and, for legal purposes, the record of their delivery was signed.

35. In their observations of December 17, 2010, the representatives did not refer to the payment of the compensation for pecuniary and non-pecuniary damage or to the reimbursement of costs and expenses.

36. However, the Inter-American Commission assessed positively the information provided by the State regarding the payments established in the judgment, and considered that the available information reveals compliance with the said payments.

37. Based on the information provided by the parties, the Court concludes that the State has complied fully with the payments corresponding to the compensation for pecuniary damage as well as the reimbursement of costs and expenses. Regarding non-pecuniary damage, the State has complied also with full payment of monetary compensation, with the exception of the compensation corresponding to the construction of the house.

38. In addition to the payment of compensation and the reimbursement of costs and expenses, the said operative paragraph stipulated, in accordance with paragraph 132 of the judgment, that the State, as an additional measure of reparation, must build a house for the parents of the victim, the value of which will be considered part of the non-pecuniary compensation awarded to Honoria Estrada de Ticona and César Ticona Olivares. In this regard, the State advised that, after both the State and the representatives had consulted the Court regarding the implementation of this measure, the Ministry of Housing had coordinated with the Ticona Estrada family. However, difficulties arose in the administrative documentation of the property located in Cochabamba. Subsequently, on November 13, 2009, the Ministry of Foreign Affairs was informed that the family had requested that the house be built in El Alto; therefore, the Ministry for Public Works was asked to review the measures taken. In turn, the Ministry reported that, on April 15, 2010, the Vice Minister of Housing and Urban Planning of the Ministry of Public Works, Services and Housing had stated that, on November 19, 2009, he had visited the plot of land and verified that it was suitable for the construction, and that Hugo Ticona had completed the legal and technical documentation. In view of the foregoing, on November 24, 2009, the State advised the Court that there had been a temporary delay in the construction of the house due to the circumstances indicated, and asked the Court to take this into account.

39. In its complementary report of August 31, 2010, the State advised that on June 23, 2010, the Administration Committee of the Ministry of Public Works, Services and Housing, under Social and Cooperative Housing (hereinafter "PVS"), held its 78th ordinary meeting in which it approved the project to build a house in the case of the "Hugo Ticona" subprogram in La Paz-Murillo, El Alto. However, during this session, the members of the PVS noted that some formal issues in Testimony No. 559/2005 of August 29, 2005, needed to be rectified and this was brought to the attention of Cesar Ticona Olivares so that he would make the necessary corrections so as to be able to continue with the execution of the project.

40. Regarding the rectification of Testimony No. 559/2005, the representatives indicated that, on October 25, 2010, Cesar Ticona Olivares advised the PVS that the error noted should be attributed to State officials and that the correction could not be a unilateral act of the Ticona Estrada family, but entailed the intervention of the municipal government of El Alto. In addition, "it was impossible to comply with a strict time frame for correcting this error unless the Municipality of El Alto is ordered to act together with the Ticona family."

41. For its part, the Inter-American Commission assessed positively the information provided by the State regarding the approval of the project to construct the house and the resolution of the discussion on its location. Furthermore, it observed that the State is adopting measures aimed at complying with this obligation, and hoped that the State would continue to report on the execution of the project.

42. In this regard, the Court assesses positively the information provided by the State and considers that it has made significant progress to comply with the

construction of the house, despite the various difficulties that have arisen. It awaits updated and detailed information on the measures adopted to complete the housing project and their results; in particular, with regard to the measures taken to rectify the formal issues in Testimony No. 559/2005 of August 29, 2005. To this end, the coordination and willingness of the State authorities and the victims to correct them is of utmost importance in order to continue the procedures to comply with this measure. Consequently, the construction of the property ordered in the sixteenth operative paragraph is pending compliance.

**THEREFORE:**

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

in exercise of its authority to monitor compliance with its decisions in accordance with Articles 33, 61(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, 25(1) and 30 of its Statute, and 31(2) and 69 of its Rules of Procedure,

**DECLARES THAT:**

1. In accordance with this order, the State has complied with the following operative paragraphs and obligations:

a) To publish, once, in the Official Gazette and in another national newspaper with widespread circulation, the title and paragraphs 1 to 5 of Chapter I; the title and paragraphs 12, 14, 22 to 27 of Chapter III; Chapter VI; the title and corresponding subtitles and paragraphs 73 to 76, 82 to 85, 87 to 88, and 95 to 98 of Chapter VII, and the title and paragraphs 104 and 105 of Chapter VIII of the [...] judgment, without the corresponding footnotes, and with the operative paragraphs (*thirteenth operative paragraph of the judgment*);

b) To provide the Inter-institutional Council for the Clarification of Forced Disappearances with the necessary human and material resources within a reasonable time. To this end, the State must establish, within one year, a specific proposal with a program of action and plan relating to compliance with this provision, in accordance with considering paragraph 33 of this order (*fifteenth operative paragraph of the judgment*);

c) To conclude the investigation into the facts, prosecute all those responsible and punish them under the criminal proceeding for the forced disappeared of Renato Ticona Estrada. Regarding execution of judgment, this has been accomplished with regard to three of them, in the terms of considering paragraph 16 of this order (*tenth operative paragraph of the judgment*); and,

d) To pay Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona Estrada and Rodo Ticona Estrada the amounts awarded as compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses, in accordance with considering paragraph 17 of this order (*sixteenth operative paragraph of the judgment*).

3. To monitor full compliance with the judgment issued in the instant case, and after analyzing the information provided by the State, the Commission and the representatives, the Court will keep the procedure to monitor compliance open with regard to the aspects pending compliance in this case, namely:

a) The State's obligation to execute the judgment delivered under the domestic system of justice, and to take the pertinent measures to arrest Willy Valdivia Gumucio, who was convicted by the State authorities as perpetrator of the murder, deprivation of liberty, threats and kidnapping of Renato Ticona Estrada; and Alfredo Sanabria or Saravia, who was convicted by the State authorities, as an accomplice in the murder, deprivation of liberty, threats and kidnapping of Renato Ticona Estrada, in accordance with considering paragraphs 11 and 12 of this order (*tenth operative paragraph of the judgment*);

b) To investigate the facts that occurred to Hugo Ticona Estrada and identify, prosecute and, as appropriate, punish those responsible, in accordance with considering paragraph 16 of this order (*eleventh operative paragraph of the judgment*);

c) To proceed to search for Renato Ticona Estrada promptly and effectively, in accordance with considering paragraph 20 of this order (*twelfth operative paragraph of the judgment*);

d) To implement the agreements for the provision of medical and psychological treatment required by Honoria Estrada de Ticona, César Ticona Olivares, Hugo Ticona Estrada, Betzy Ticona Estrada and Rodo Ticona Estrada, in accordance with considering paragraph 28 of this order (*fourteenth operative paragraph of the judgment*); and,

e) To build a house, in accordance with considering paragraph 42 of this order (*sixteenth operative paragraph of the judgment*).

#### **AND DECIDES:**

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

2. To require the State to submit to the Inter-American Court of Human Rights, on June 7, 2011, a report with information on all the measures taken to comply with the reparations ordered by this Court that remain pending, in accordance with the terms of considering paragraphs 11, 12, 16, 20, 28 and 42 of this order.

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

4. To continue monitoring all the aspects pending compliance of the judgment on merits, reparations and costs of November 28, 2008.

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

Diego García-Sayán  
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary