ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS[•]
OF JUNE 20, 2012

CASE OF LORI BERENSON MEJÍA *v.* PERU
MONITORING COMPLIANCE WITH JUDGMENT

HAVING SEEN:

1. The Judgment on Merits, Reparations and Costs (hereinafter "the Judgment") issued by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") of November 25, 2004.

2. The Order on Monitoring Compliance with Judgment issued by the Court on September 22, 2006, in which the Court decided that the procedure for monitoring compliance would remain open with respect to the following measures pending compliance:

> a) The State shall adapt its domestic legislation to the standards of the American Convention (*Operative paragraph 1 of the Judgment of November 25, 2004)*
>
> b) The State shall provide Lori Berenson with adequate, specialized medical care (*Operative paragraph 4 of the Judgment of November 25, 2004*); and
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> c) The State shall immediately take the necessary measures to adapt the detention conditions of the Yanamayo Prison to international standards, transfer any other prisoners who, owing to their health, cannot be confined at the altitude of that penal establishment, and inform this Court every six months about this adaptation (*Operative paragraph 6 of the Judgment of November 25, 2004*).

3. The reports of the Republic of Peru (hereinafter "the State" or "Peru") concerning the progress made in complying with the Judgment, submitted on March 9, 2007, November 18, 2008, June 23, 2009, July 3, 2009, August 24, 2009, May 9, 2011, and June 23, 2011.

4. The briefs of the representative of the victim (hereinafter "the representative") of September 18, 2008, October 16, 2009 and May 31, 2012, containing his observations regarding the monitoring of compliance with the Judgment.

5. The briefs of the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") of October 13, 2008, October 30, 2009 and August 8, 2011, containing its observations regarding the status of compliance with the Judgment.

CONSIDERING THAT:

[•] Judge Diego García-Sayán, a Peruvian national, recused himself from hearing this case, pursuant to Article 19.2 of the Statute of the Court and Article 19 of the Rules of Procedure.

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

2. Peru has been a State Party to the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") since July 28, 1978 and recognized the contentious jurisdiction of the Court on January 21, 1981.

3. In accordance with the provisions of Article 67 of the American Convention, the State should comply fully and promptly with the Court's judgments. Furthermore, Article 68.1 of the American Convention stipulates that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties." To this end, States should ensure the domestic implementation of the provisions set forth in the Court's rulings. [1]

4. The obligation to comply with the Court's rulings conforms 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 established by this Court and as set forth in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot, for domestic reasons, neglect their pre-established international responsibility. [2] The treaty obligations of States Parties are binding for all branches and organs of the State. [3]

5. The States Parties to the Convention must ensure compliance with its conventional provisions and their effectiveness (*effet utile*) within their respective domestic legal systems. This principle applies not only to the substantive provisions of human rights treaties (i.e. those addressing protected rights), but also to procedural provisions, such as those concerning compliance with the Court's decisions. These obligations should be interpreted and enforced in such a manner that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties. [4]

A) Regarding the obligation to adapt domestic legislation to the standards of the American Convention (Operative paragraph 1 of the Judgment)

i) Information presented by the parties

6. In the report submitted on March 9, 2007, the State indicated that "[o]n February 1, 2006, the seventh Book [entitled] 'La Cooperación Judicial Internacional [Judicial International Cooperation]'" and the "new Code of Criminal Procedure, approved in

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[1] *Cf. Case of Baena Ricardo et al. Jurisdiction.* Judgment of November 28, 2003. Series C No. 104, para. 60 and *Case of Kawas Fernández v. Honduras, Monitoring Compliance with Judgment.* Order of the Inter-American Court of Human Rights of February 27, 2012, Considering para. 2.

[2] *Cf. International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention*, (Arts. 1 and 2 American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35, and *Case of Caballero Delgado and Santana v. Colombia. Monitoring Compliance with Judgment.* Order of the Inter-American Court of Human Rights of February 27, 2012, Considering para. 5.

[3] *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 and *Case of Caballero Delgado and Santana v. Colombia, supra* note 2, Considering para. 5.

[4] *Cf. Case of Ivcher Bronstein v. Peru. Jurisdiction.* Judgment of the Inter-American Court of Human Rights of September 24, 1999. Series C No. 54, para. 37 and *Case of Caballero Delgado and Santana v. Colombia, supra* note 2, Considering para. 6.

Legislative Decree No. 957 of July 22, 2004" came into force. In addition, it stated that "the Special Multisectoral Commission charged with Incorporation of International Antiterrorist Regulations (CEMINATI for its Spanish acronym) […] issued Report No. 083-2006-JUS of […] March 14, 2006, containing a set of legislative proposals to be incorporated into the national legal system."

7. In the report of June 23, 2011, the Peruvian State asserted that the newly adopted legislation reflects "the guidelines established in International Human Rights Law for conducting trials in accordance with international standards of justice." Specifically, the State reported that the following measures have been adopted: i) "[t]he creation of an Ad-Hoc Commission to seek pardons in cases involving persons unjustly imprisoned for terrorism and treason"; ii) "[t]he repeal of trials by faceless judges through Law No. 26671 in October 1996". Likewise, it held that "the recommendations made by the Inter-American System were adopted by the State […] in a progressive manner." An example of this is "the consolidation of the National Criminal Court as a judicial body with national jurisdiction [that considers] cases of actions of a terrorist nature regardless of where these are committed, and coordinates trials for terrorism at the national level in the Court[s] of Justice [that examine] these types of cases.

8. Similarly, the State reported that the Constitutional Court, in its Judgment of January 3, 2003, declared unconstitutional: i) Articles 7, 12(d), 13(h), and 20 of Decree Law No. 25475; ii) the phrase "treason against the nation" in Articles 1, 2, 3, 4, 5, and 7 of Decree Law No. 25659; iii) Articles 1, 2, and 3 of Decree Law No. 25708; iv) Articles 1 and 2 of Decree Law No. 25880, and iv) Articles 2, 3, and 4 of Decree Law No. 25744. Specifically, the Constitutional Court established that "the regulations described […] violated [the] principle of legality, judicial guarantees, judicial protection, [the right to personal] liberty [and personal] integrity] enshrined in the American Convention [on] Human Rights." Furthermore, the State reported that "Legislative Decrees No. 921 to 927 were issued," which amended the "antiterrorism" legislation. In this regard, the State pointed out that these regulations "incorporate the legal standards set out by the Constitutional Court in the judgment [in this case]."

9. The representative of the victim indicated that "in 2007, a number of new Supreme Decrees introduced stiffer penalties and conditions for persons detained for the crime of terrorism[, for which reason] persons acquitted by faceless tribunals in the military or civil courts, were arrested once again in order to face new trials that lasted many months." The representative also described the law issued on October 1, 2009, "which repealed L[egislative] Decree [No.] 927 as "a setback for the enforcement of human rights," given that Legislative Decree No. 927 had sought to "adapt the Criminal Code to international standards that promote prison reform, rehabilitation through conditional parole and the reduction of prison sentences through study and work, and reinsertion into society for those deprived of [their] liberty for crimes related to terrorism." The representative added that "this law could negatively impact all persons deprived of liberty, and in this case, particularly [Mrs.] Berenson."

10. The Commission stated that "in other cases concerning Peru […], it has recognized that the judgment of the Peruvian Constitutional Court of January 3, 2003, […] and Legislative Decrees No. 921 to 927 of January and February 2003, which modified various aspects of the legislation in question, constitute significant measures aimed at implementing the orders of the Court." Nevertheless, the Commission indicated that "it will continue to assess and monitor the object of this obligation in the timely performance of its powers under the Convention."

ii) Considerations of the Court

11. The Court considers it necessary to recall that in the Judgment on the Merits of this case, it declared the international responsibility of the Peruvian State for the violation of the rights to personal integrity, fair trial [judicial guarantees] and ex post facto laws [the principle of legality and retroactivity] enshrined in Articles 5.1, 5.2, 5.6, 9, 8.1, 8.2, 8.2(b), c), d), f), and h) and 8.5 in relation to the general obligations under Article 1.1 of the American Convention, to the detriment of Mrs. Lori Berenson. Moreover, the Court concluded that during the military trial of Mrs. Berenson, the State failed to comply with the obligation established in Article 2 of the American Convention.

12. In this ruling, the Court assessed the two proceedings carried out against Mrs. Berenson. Specifically, the proceeding instituted in the military court for the crime of treason (Articles 1, 2, and 3 of Decree Law No. 25.659) and another in the ordinary [civil] courts for the crime of collaboration with terrorism (Article 4 of Decree Law No. 25.475). Specifically, the Court noted that the crimes of treason and collaboration with terrorism refer to actions that could be categorized indistinctly within one crime or the other and, as a consequence, the judgment issued by the military court for the crime of treason and other resolutions adopted by this jurisdiction were based on legislation that is incompatible with the American Convention[5] and in violation of Article 9 of the Convention.

13. With regard to the criminal definition applied to the victim in the proceeding that took place in the ordinary [civil] jurisdiction, the Court noted that "some hypotheses of collaboration with terrorism were invoked and applied" and that in its view this proceeding "did not contain the defects that were previously observed with regard to the crime of treason." [6] Consequently, it considered that these criminal definitions were compatible with the American Convention.[7]

14. Furthermore, in the aforementioned Judgment, the Court noted that "on the one hand, the judgment delivered by the Constitutional Court on January 3, 2003 [,] declared that the definition of the crime of treason contained in Decree Law No. 25.659 was unconstitutional, and on the other hand, procedural norms were issued for prosecuting terrorism." [8] The Court also pointed out that "the Executive issued Legislative Decrees No. 921 of January 17, 2003, No. 922 of February 11, 2003 and Nos. 923 to 927 of February 19, 2003, which, among other provisions, contained the jurisprudential criteria set out in the aforementioned judgment." In this regard, the Court indicated that it "appreciate [d] and emphasize [d] the efforts made by the State in its recent legislative reforms, because these denote significant progress on the matter."[9]

15. From the information presented by the parties, the Court finds that no specific objections or observations were made regarding the information presented by Peru on this measure of reparation. The Court notes that the representative submitted information on the creation of a new law that repealed Legislative Decree No. 927, which

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[5] *Cf. Case of Lori Berenson-Mejía v. Peru. Merits, Reparations and Costs.* Judgment of November 25, 2004. Series C No. 119, para.121.

[6] *Cf. Case of Lori Berenson-Mejía v. Peru. Merits*, *supra* note 5, para. 127.

[7] *Cf. Case of Lori Berenson-Mejía v. Peru, supra* note 5, para. 127.

[8] *Cf. Case of Lori Berenson-Mejía v. Peru, supra* note 5, para. 223.

[9] *Cf. Case of Lori Berenson-Mejía v. Peru, supra* note 5, para. 234.

would imply the loss of certain prison benefits that had been embodied in this Decree. However, the Court considers that such information is outside the scope of the obligations subject to the monitoring of compliance, as this issue was not addressed in the Judgment. Therefore, the Court does not consider it pertinent to rule on this matter.

16. Moreover, in exercise of its powers in relation to monitoring compliance, the Court reiterates the points made in the *cases of Castillo Petruzzi et al.* and *Loayza Tamayo v. Peru*, in which the State adopted measures to comply with the domestic legal reforms as a result of the violations declared in the respective Judgments. [10] It should be pointed out that the legislation under review in these cases also gave rise to the violations declared in this case.

17. In these orders for monitoring compliance, the Court considered that "measures were adopted intended to repeal some domestic norms that are contrary to the Convention […] through their annulment, reform, or new interpretation."[11] These reforms addressed: i) the infringement of the guarantee of a natural judge and the use of the military jurisdiction to try civilians[12]; ii) the questioning of the presumption of innocence by opening pre-trial investigations with an arrest warrant, [13] iii) prohibition of the recusal of judges [14]; iv) violations of the right to defense;[15] v) the impossibility of appointing an attorney until evidence is taken,[16] vi) the possibility of being held incommunicado,[17] and vii) the poor conditions of detention for those serving prison sentences.[18] In this regard, the Court acknowledged that "some relevant legal norms have been adopted, whose content [wa]s designed to comply with standards of international human rights law."[19]

18. Notwithstanding the foregoing, the Court recalls that it is not only the suppression or issuing of regulations in domestic legislation that guarantees the rights enshrined in the American Convention, pursuant to the obligation set forth in Article 2 of that instrument. The development of State practices leading to the effective observance of the rights and liberties enshrined therein is also required. Therefore, the existence of a regulation does not, of itself, guarantee its effective application. The application of regulations or their interpretation, as jurisdictional practices and the expression of the State's public order, must pursue the same purpose as Article 2 of the Convention. In other words, the Court emphasizes that the judges and organs associated with the

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10 *Cf. Case of Castillo Petruzzi et al. v. Peru. Monitoring Compliance with Judgment.* Order of the Inter-American Court of Human Rights of July 1, 2011, Considering para. 19, and *Case* of *Loayza Tamayo v. Peru. Monitoring Compliance with Judgment.* Order of the Inter-American Court of Human Rights of July 1, 2011, Considering para. 34.

11 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 19.

12 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 12.

13 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 18.

14 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 15.

15 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 13.

16 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 13.

17 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 17.

18 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 14.

19 *Cf. Case of Castillo Petruzzi et al. v. Peru, supra* note 10, Considering para. 19.

administration of justice at all levels have an obligation to exercise a "conventional control" ex officio to ensure compatibility between the domestic legal provisions which are applied to specific cases and the American Convention on Human Rights, obviously within the context of their respective jurisdictions and the relevant procedural regulations. In undertaking this task, they must take into account not only the international treaty in question, but also its interpretation by the Inter-American Court, as the final interpreter of the American Convention.[20]

19. This should ensure the strictest diligence in safeguarding conventional guarantees within the domestic sphere. Thus, the Court recalls its considerations regarding the conditions of secrecy and isolation surrounding the procedures in question, which violate the right to the public nature of the proceeding.[21] Accordingly, this Court reiterates that the right to a public criminal trial, "except when necessary to safeguard the interests of justice," "is an essential element of accusatory criminal procedural systems in democratic States," [22] and has the "function of preventing the administration of justice in secret [and] subjecting it to the scrutiny of the parties and the public [in order to guarantee] the transparency and impartiality of the decisions to be taken," thereby promoting confidence in the courts of justice. [23]

20. Furthermore, the Court reiterates its rejection of the criteria of social danger as justification for restricting a person's rights, particularly their right to due process.[24] Likewise, this Court emphasizes that public authorities must diligently uphold the principles of legality in criminal law, right to defense and the duty to guarantee the rights of persons deprived of liberty, within the framework of the Court's jurisprudence and applicable international law.

21. Bearing in mind the foregoing points, given that eight years has elapsed since the rendering of the Judgment in this case and in the absence of a specific and current dispute between the parties regarding the scope of the reforms ordered, this Court proceeds to conclude the monitoring of compliance with this measure of reparation. The Court points out that although some aspects of the antiterrorist legislation have not been analyzed in the context of this Order, this does not preclude their future analysis in the context of other contentious cases.

B) Regarding the obligation to provide adequate and specialized medical care to the victim (Operative paragraph 4 of the Judgment)

i) Information presented by the parties

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[20] *Cf. Case of Almonacid Arellano et al. v. Chile. Preliminary Objections, Merits, Reparations and Costs.* Judgment of September 26, 2006. Series C No. 154, para. 124 and *Case of Gelman v. Uruguay. Merits and Reparations.* Judgment of February 24, 2011. Series C No. 222, para. 193.

[21] *Cf. Case of Castillo Petruzzi et al. v. Peru*, *supra* note 10, paras. 172 and 173; *Case of Cantoral Benavides v. Peru. Merits, Reparations and Costs.* Judgment of August 18, 2000. Series C No. 69, paras. 146 and 147, and *Case of Lori Berenson-Mejía*, *supra* note 5, para. 198.

[22] *Cf. Case of Lori Berenson-Mejía*, *supra* note 5, paras. 198 to 200 and *Case of Palamara Iribarne v. Chile. Merits, Reparations and Costs.* Judgment of November 22, 2005. Series C No. 135, para. 167.

[23] *Cf. Case of Palamara Iribane*, *supra* note 22, para. 168.

[24] *Cf. Case of Fermín Ramírez v. Guatemala. Merits, Reparations and Costs.* Judgment of June 20, 2005. Series C No. 126, paras. 92 to 98.

22. The Peruvian State reported that the victim is affiliated to the social security system (ESSALUD) "[a]s a beneficiary of Mr. Aníbal Apari Sánchez […] with the right to active and current care, with regular contributions since 2005, and therefore may receive all benefits (social, health, and economic) that this institution offers those insured." The State noted that affiliation to this insurance "allows [Mrs. Berenson] access to all health services, both simple and complex, as required." Moreover, it stated that "Mrs. Lori Berenson cannot be affiliated to nor assisted by the SIS coverage -Seguro Integral de Salud [Comprehensive Health Insurance]- because she has social security."

23. In the communications of September 18, 2008, and October 16, 2009, the representative recognized that "the Peruvian State has done everything that is necessary regarding the health of Mrs. Lori Berenson." Nevertheless, he emphasized that the victim covered some expenses related to her medical treatment. The representative did not present any information or observations on this measure of reparation after the year 2009.

24. The Commission indicated that "the victim is satisfied with the medical care that she [has] received from the private insurance paid for by her family, as the care has been timely and specialized." However, it considered that "since a considerable period of time has passed [it would be] important for the representatives to present their current observations on this matter."

ii) Considerations of the Court

25. The Court recalls that in the Judgment on the merits of this case, it noted that the compensation for non-pecuniary damage "should include the need for psychological and medical treatment" and considered pertinent that "the State […] offer [the victim] adequate and specialized medical care." [25]

26. The Court has confirmed that the medical care provided to the victim is based on Mr. Aníbal Apari Sánchez' affiliation to the social security system (*supra* Considering para. 22). Nevertheless, the Court notes that Mrs. Berenson's representative has not presented recent and up-to-date information regarding the treatment of the physical, psychological, and emotional ailments suffered by the victim. Nor has the representative reported any factor that might hinder the provision of effective medical care to the victim. On the contrary, in previous communications, the representative stated that the victim is satisfied with the medical care she is receiving care through a private insurer to which she is affiliated (*supra* Considering para. 23).

27. Bearing in mind that no information has been presented on this matter in the last three years, and that there has been no dispute between the parties, the Court proceeds to conclude the monitoring of compliance with this measure of reparation.

C) Regarding the obligation to adapt the detention conditions in the Yanamayo Prison to international standards and transfer any other prisoners who cannot be confined at the altitude of that prison, owing to their health (Operative paragraph 6 of the Judgment).

i) Information presented by the parties

[25] *Cf. Case of Lori Berenson-Mejía V. Peru. Merits, Reparations and Costs.* Judgment of November 25, 2004. Series C No. 119, para. 238.

28. The State specified that "at present [the Yanamayo prison] houses inmates who have committed any crime, provided that it falls under the Rules of the Closed Ordinary Regimen [and,] where health problems arise, [they are relocated]." It noted that "those detained for terrorism were transferred […] to other national prisons to avoid [problems] with their health and physical integrity," and indicated that, to date, "the prison has been repopulated with ordinary inmates from the city of Puno, Juliaca and nearby communities." Nevertheless, it reported that "frequent riots [caused the] collapse of basic services [, currently] undergoing maintenance." The State also reported that "there are plans for the construction of a new elevated tank, which will provide water to the population of 333 inmates currently detained."

29. Furthermore, the State pointed out that Mrs. Berenson "was transferred [in] 1998 from EP Yanamayo to EP Socabaya Arequipa after experiencing health problems and in response to the recommendations made by the Inter-American Court." Subsequently, "she was transferred to EP-Huacariz-Cajamarca and later to EP Chorrillos- Lima, from which she was released on parole."

30. Regarding this point, the representative stated that he "appreciates the Commission's continued insistence regarding the detention conditions of the Yanamayo prison [and h]opes that the Commission will continue its investigation on the living conditions at the Challapalca prison."

31. The Commission stated that "it takes note of the information provided by the State and appreciates that maintenance activities are being carried out on basic services and that corrective measures are being taken to eliminate water shortages at the [Yanamayo] prison." Nevertheless, it considered that "the information is limited and does not allow for a comprehensive analysis regarding the adaptation of the conditions of detention [in this] prison […] to international standards."

ii) Considerations of the Court

32. The Court recalls that the Judgment on the merits in this case declared the Peruvian State's international responsibility for the conditions of detention imposed on the victim at the Yanamayo prison. Specifically, the victim was confined in the prison, located at 3800 meters above sea level, and was held for one year in solitary confinement, in a small cell with no ventilation, no natural light, without heating, with poor nutrition and poor sanitation. [26]

33. In this regard, the Inter-American Court recalls that "the State holds a special position as guarantor of the rights of persons deprived of their liberty, since prison authorities exercise a strong control or command over the persons in their custody[, which] creates a unique interaction and relationship of subordination between the detainee and the State."[27] In this regard, "given this unique relationship and interaction of subordination between an inmate and the State, the latter must take on a number of special responsibilities and initiatives to ensure that persons deprived of their liberty have the conditions necessary to live with dignity and to enable them to enjoy those rights

[26] *Cf. Case of Lori Berenson Mejía v. Peru, supra* note 5, para. 106.

[27] *Cf. Case of García Asto and Ramírez Rojas,* Judgment of November 25, 2005. Series C No. 137, para. 221; *Case of Fermín Ramírez*, Judgment of June 20, 2005. Series C No. 126, para. 118, and *Case of Montero Aranguren et al. (Retén de Catia)v. Venezuela. Preliminary Objection, Merits, Reparations and Costs.* Judgment of July 5, 2006. Series C No. 150, para. 34.

that may not be restricted under any circumstances, or those whose restriction is not a necessary consequence of their deprivation of liberty." [28]

34. Therefore, with regard to the maintenance work on basic services in the Yanamayo prison, the State must take into account that "that the poor physical and sanitary conditions in prisons […] may themselves be violations of Article 5 of the American Convention, depending on their intensity, duration and the personal characteristics of those who suffer them, since they can cause hardship of an intensity that exceeds the inevitable level of suffering inherent to imprisonment, and because they involve feelings of humiliation and inferiority."[29] In particular, the Court recalls that "every person deprived of liberty must have access to potable water for drinking and water for personal hygiene; the lack of a potable water supply constitutes a serious failure by the State in its duty to provide guarantees to persons in its custody."[30]

35. Regarding Mrs. Berenson's current situation, the Court notes that the State reported that on November 5, 2010, "and after a home inspection by DIRCOTE, the [First Supranational Criminal] Court [of Lima] decide [d …] to declare admissible the request for the benefit of conditional release from prison (parole) for Lori Helene Berenson Mejía, under certain rules of conduct and order[ed] her immediate release."[31] This decision was ratified by the National Criminal Court on January 18, 2011.[32]

36. The Court is cognizant of the measures adopted to date by the State to adapt the prison conditions of the inmates at the Yanamayo prison. Moreover, the Court notes that "EP Yanamayo was repopulated with inmates imprisoned for common crimes from […] nearby areas," and inmates sentenced for terrorism "were transferred to other prisons in the country."[33]

37. Finally, the Court notes that the parties did not present specific observations to the information provided by the State, for which reason this Court proceeds to conclude the monitoring of compliance with this measure of reparation. The Court points out that while some aspects of the detention conditions at the Yanamayo prison have not been analyzed in the context of this Order, this does not prevent their future analysis in the context of other contentious cases.

THEREFORE:

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[28] *Cf. Case of the "Instituto de Reeducación del Menor" (Juvenile Reeducation Center) v. Paraguay. Preliminary Objections, Merits, Reparations and Costs.* Judgment of September 2, 2004. Series C No. 112, para. 153, and *Case of Pacheco Teruel et al. v. Honduras,* Judgment of April 27, 2012. Series C No. 241, para. 64.

[29] *Case of Montero Aranguren et al. (Retén de Catia) v. Venezuela. Preliminary Objection, Merits, Reparations and Costs.* Judgment of July 5, 2006. Series C No. 150, para. 97.

[30] Pacheco Teruel, para. 67

[31] Decision of the First Supra-provincial Criminal Court of Lima, of November 5, 2010 (File on Monitoring Compliance, Volume IV, pages 1310 to 1340).

[32] Decision of the National Criminal Court of January 11, 2011 (file on monitoring compliance, Volume IV, pages 1341 to 1351).

[33] Order No. 241-2011-IMPE/14 of April 25, 2011 (case file of monitoring of compliance, Volume IV, page 1277).

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its powers to monitor compliance with its decisions and in accordance with Articles 33, 62.1, 67 and 68.1 of the American Convention on Human Rights, Articles 24 and 30 of its Statute and Articles 31.2 and 69 of its Rules of Procedure,

DECLARES THAT:

1. In accordance with Considering paragraphs 11 to 21, 25 to 27 and 32 to 37 of this Order, it proceeds to conclude monitoring of compliance with the following operative paragraphs of the Judgment:

> a) The State shall adapt its domestic legislation to the standards of the American Convention (*Operative paragraph 1 of the Judgment of November 25, 2004)*
>
> b) The State shall provide Lori Berenson with adequate, specialized medical care (*Operative paragraph 4 of the Judgment of November 25, 2004*); and
>
> c) The State shall immediately adopt the necessary measures to adapt the detention conditions of the Yanamayo Prison to international standards, transfer any other prisoners who, owing to their health, cannot be confined at the altitude of that penal establishment, and inform this Court every six months about this adaptation (*Operative paragraph 6 of the Judgment of November 25, 2004*).

AND DECIDES:

1. To conclude the monitoring of compliance with the Judgment and therefore to close the case of Lori Berenson Mejía as regards the measures ordered in the Judgment issued by the Inter-American Court of Human Rights on November 25, 2004.

2. To archive the case file of the instant case.

3. To communicate this Order to the General Assembly of the Organization of American States at its next regular period of sessions by way of the 2012 Annual Report of the Inter-American Court of Human Rights.

4. To require the Secretariat of the Court to notify this Order to the Republic of Peru, the Inter-American Commission on Human Rights and the representatives of the victims.

Manuel E. Ventura Robles
Acting President

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Manuel E. Ventura Robles
Acting President

Pablo Saavedra Alessandri
Secretary