

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS\***

**OF MAY 14, 2013**

**CASE OF IBSEN CÁRDENAS AND IBSEN PEÑA 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 Inter-American Court” or “the Court”) on September 1, 2010, in which it declared the international responsibility of the Plurinational State of Bolivia (hereinafter “the State” or “Bolivia”) for the forced disappearance of José Luis Ibsen Peña and of his son, Rainer Ibsen Cárdenas, as well as for the absence of a serious and diligent investigation of the facts. In the Judgment, the Court established the violation, to the detriment of Messrs. Ibsen Peña and Ibsen Cárdenas, of Articles 3, 4(1), 5(1), 5(2) and 7(1) of the American Convention on Human Rights (hereinafter, “the American Convention” or “the Convention”), based on the failure to comply with the obligation to respect and ensure the said rights established in Article 1(1) of this instrument, all of them in relation to the obligations established in Articles I(a) and XI of the Inter-American Convention on Forced Disappearance of Persons (hereinafter, “the Convention on Forced Disappearance”). In addition, the Court declared that the State had violated Articles 5(1) and 5(2) of the American Convention, in relation to Article 1(1) of this instrument, to the detriment of Martha Castro Mendoza and of Rebeca, Tito and Raquel, all with the surnames Ibsen Castro. Lastly, the Court established that Bolivia had violated Articles 8(1) and 25(1) of the American Convention, in relation to Articles 1(1) and 2 thereof, to the detriment of the said next of kin of Messrs. Ibsen Peña and Ibsen Cárdenas, and had failed to comply with the obligation embodied in Article I(b) of the Convention on Forced Disappearance.<sup>1</sup> In the Judgment, the Court decided that:

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\* Judge Eduardo Vio Grossi advised the Court that, for reasons beyond his control, he would be unable to attend the deliberation and signature of this Order.

<sup>1</sup> Rainer Ibsen Cárdenas was detained in Santa Cruz in 1971. He was deprived of his liberty for approximately nine months and, in 1972, was extrajudicially executed. In 2008, DNA testing proved that human remains found in the General Cemetery of La Paz corresponded to Rainer Ibsen, so that, since that time, his whereabouts have been known definitively. José Luis Ibsen Peña was detained by the State’s security agents without being shown any arrest warrant in 1973. Subsequently, his next of kin were informed by the State authorities that the victim had been “exiled to Brazil” and, since then, they have no information on his whereabouts. The official summary [in Spanish] of the Judgment delivered by the Court is available at: [http://www.corteidh.or.cr/docs/Casos/articulos/resumen\\_217\\_esp.pdf](http://www.corteidh.or.cr/docs/Casos/articulos/resumen_217_esp.pdf).

[...]

7. In compliance with its obligation to remove all *de facto and de jure* obstacles that maintain impunity regarding the torture and inhuman treatment suffered by José Luis Ibsen Peña, the State must open the necessary investigations to determine, within a reasonable time, all the corresponding responsibilities for his deprivation of liberty and subsequent disappearance, in the terms of paragraphs 237 to 238 of th[e] Judgment[;]

8. In compliance with its obligation to remove all *de facto and de jure* obstacles that maintain impunity regarding the forced disappearance and murder of Rainer Ibsen Cárdenas, the State must open all necessary investigations to determine what happened and to apply the corresponding punishments and consequences, within a reasonable time, in the terms of paragraphs 237 to 238 of th[e] Judgment[;]

9. The State must continue the search for the whereabouts of José Luis Ibsen Peña, in the terms of paragraph 242 of th[e] Judgment[;]

10. The State must publish, once, in the Official Gazette, paragraphs 1 to 5, 23 to 29, 33, 34, 36 to 38, 50 to 57, 67, 68, 71 to 75, 80 to 82, 84 to 92, 94, 102 to 111, 115, 116, 118, 119, 122, 126, 128 to 133, 155 to 163, 165 to 174, 177, 178, 180 to 184, 189 to 191, 193 to 195, 197 to 202, 205 to 212, 214 to 226, 231 and 232 of th[e] Judgment, including the names of each chapter and the corresponding section, without the footnotes, and its operative paragraphs; publish the official summary of th[e] Judgment in a national newspaper with widespread circulation, and publish the complete Judgment on an appropriate website, in the terms of paragraph 244 [t]hereof[;]

11. The State must reach agreement with the next of kin of Rainer Ibsen Cárdenas and José Luis Ibsen Peña on the designation of a public place with their names, where a plaque shall be placed on which th[e] Judgment, the facts of the case and the circumstances in which they occurred are mentioned, in the terms of paragraph 249 of th[e] Judgment[;]

12. The State must provide free medical and psychological or psychiatric care, immediately, appropriately and effectively, through its specialized public health institutions, to the persons who have been declared victims in th[e] Judgment that request this, in the terms of paragraphs 253 and 254 [t]hereof[;]

13. The State must implement, within a reasonable time and with the corresponding budgetary resources, a training program on the proper investigation and prosecution of acts that constitute forced disappearance of persons for officials of the Public Prosecution Service and judges of the Bolivian Judiciary with jurisdiction for the investigation and prosecution of facts such as those that occurred in the instant case, to ensure that the said officials have the necessary legal, technical and scientific elements to assess the practice of forced disappearance integrally, in the terms of paragraphs 257 to 259 of th[e] Judgment, and

14. The State must pay the amounts established in paragraphs 267, 271, 276, 283 and 291 of th[e] Judgment, as compensation for pecuniary and non-pecuniary damage and reimbursement of costs and expenses, as appropriate, within one year of notification of th[e] Judgment, in the terms of paragraphs 266, 270, 274, 275, 282 and 288 to 290 [t]hereof. [...]

2. The briefs of September 2, November 18 and 23, and December 13, 2010; January 10 and 12, March 10, April 28, July 26, October 7 and November 18, 2011; January 18 and August 21, 2012, and February 14 and 25, 2013, in which the State forwarded information on compliance with the Judgment (*supra* having seen paragraph 1).

3. The briefs of January 17, February 18, June 17, September 14 and November 14, 2011, February 2, 7 and 16, September 28, November 8 and December 10, 2012, and March 13, 2013, in which the representatives of the victims (hereinafter "the representatives") forwarded observations on the information provided by the State (*supra* having seen paragraph 2). Also, the briefs of August 11, and October 12 and 20, 2011, and of February 4 and 16, 2013, in which the representatives submitted information on the State's compliance with the Judgment. In the briefs of February 16 and March 13, 2013, the representatives requested a hearing on monitoring compliance with the Judgment handed down in this case.

4. The briefs of February 3, May 6, August 8 and November 23, 2011, and March 23 and October 17, 2012, in which the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) presented its observations on the information forwarded by the State and the representatives (*supra* having seen paragraphs 2 and 3).

#### **CONSIDERING THAT:**

1. One of the inherent attributes of the jurisdictional functions of the Court is to monitor compliance with its decisions.

2. According to Article 67 of the American Convention on Human Rights, the judgment of the Court must be complied with promptly and fully by the State. 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, the State must ensure implementation at the national level of the Court’s decisions in its judgments.<sup>2</sup> The said obligation to comply with the decisions of the Court includes the State’s obligation to provide information on the measures taken in this regard. Prompt observance of the State’s obligation to inform the Court how it is complying with each aspect ordered by the Court is essential in order to assess the status of compliance with the Judgment as a whole.<sup>3</sup>

3. The obligation to comply with the decisions in the Court’s judgments corresponds to a basic principle of international law, supported by international case law, according to which, States must comply with their international treaty obligations in good faith (*pacta sunt servanda*), and as this Court has already indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.<sup>4</sup> The treaty obligations of the States Parties are binding for all the powers and organs of the State.<sup>5</sup>

4. 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 is applicable not only with regard to the substantive norms of human rights treaties (that is, those which contain provisions concerning the protected rights), but also with regard to procedural norms, such as those referring to compliance with the decisions of the

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<sup>2</sup> Cf. *Case of Baena Ricardo et al. Jurisdiction*. Judgment of November 28, 2003. Series C No. 104, para. 60, and *Case of Gelman v. Uruguay. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of March 20, 2013, third considering paragraph.

<sup>3</sup> Cf. *Case of the Five Pensioners. Peru. Monitoring compliance with judgment*. Order of the Court of November 17, 2004, fifth considering paragraph, and *Case of Alban Cornejo v. Ecuador. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 5, 2013, seventh considering paragraph.

<sup>4</sup> 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 Albán Cornejo et al. v. Ecuador. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 5, 2013, fifth considering paragraph.

<sup>5</sup> Cf. *Case of Castillo Petruzzi et al. v. Peru. Monitoring compliance with judgment*. Order of the Court of November 17, 1999, third considering paragraph, and *Case of Vélez Loor v. Uruguay. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 13, 2013, third considering paragraph.

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>6</sup>

***A) Obligation to remove all de facto and de jure obstacles that maintain impunity regarding the torture and inhuman treatment suffered by José Luis Ibsen Peña and with regard to the forced disappearance and murder of Rainer Ibsen Cárdenas, and to open the necessary investigations to determine those responsible for these facts within a reasonable time (seventh and eighth operative paragraphs of the Judgment)***

5. The State provided information on two investigative proceedings conducted with regard to this case. It referred, first, to criminal case file 37/2000 analyzed in the Judgment (*supra* having seen paragraph 1) in which, on August 16, 2010, the Second Criminal Chamber of the Supreme Court of Justice sentenced Oscar Menacho Vaca and Justo Sarmiento Alanes to 20 years' imprisonment for the perpetration of the crime of forced disappearance of persons, and Juan Antonio Elio Rivero to 15 years' imprisonment for aiding and abetting, in relation to the facts that occurred to José Luis Ibsen Peña.<sup>7</sup> This proceeding ended on October 27, 2010, the day on which the "sentencing orders" were issued for these three individuals. According to the information presented by the State, on November 4, 2010, the home of Justo Sarmiento Alanes was searched and he was arrested.

6. Then, in a brief of September 3, 2011, the State indicated that the second criminal proceeding was initiated on October 14, 2010, before the Fourth Criminal Trial Court of La Paz, as a result of a complaint<sup>8</sup> filed by Tito Ibsen Castro against Justo Sarmiento Alanes and Mario Adett Zamora, for the crimes "of murder and forced disappearance [... to the detriment of] Rainer Ibsen Cárdenas and José Luis Ibsen Peña." According to the information provided by the State at that time, this trial was still "at a preliminary stage."

7. Moreover, regarding this trial, Bolivia advised that, on July 20, 2012, the Public Prosecution Service had filed charges before the Fourth Criminal Trial Court of La Paz against Mario Adett Zamora and Justo Sarmiento Alanes, for perpetration of the crimes of forced disappearance of persons, and the ill-treatment and torture of the "deceased victim[s]" José Luis Ibsen Peña and Rainer Ibsen Cárdenas, "because sufficient probative elements and evidence had been [gathered] to establish that the accused were the perpetrators of the said crimes." Furthermore, according to the State, on September 17, 2012, as a complainant in the criminal proceedings, Tito Ibsen had presented specific charges against these individuals. Consequently, and since the accused had a "registered domicile" in Santa Cruz, on October 5, 2012, the Fourth Criminal Trial Judge of Santa Cruz "issued a legal order that the accused [should be] notified of these procedural actions through the Criminal Trial Court of that city." According to the information presented by the State, on February 25, 2013, they had still not been notified, owing "to an internal procedure within the judicial organ." However, once the notification had been made, a date

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<sup>6</sup> 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 Vélez Loo v. Uruguay. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 13, 2013, fourth considering paragraph.

<sup>7</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Merits, reparations and costs. Judgment of September 1, 2010 Series C No. 21 para. 150, and Supreme Decision No. 247, issued by the First Civil Chamber of the Superior Court of the Judicial District of Santa Cruz (file on monitoring compliance, tome I, folio 393).

<sup>8</sup> Cf. "Public Prosecution Service v/ The authors, for the perpetration of the crimes of forced disappearance, murder, and others (MP No. LP210099466/10, IANUS: 201059545)" (file on monitoring compliance, tome I, folios 370 and 682).

would be set for holding the “conclusive hearing” and to open the “oral, public and adversarial proceedings in which the guilt and/or innocence of the accused w[ould] be established.”

8. The representatives indicated that “it has not been determined [what happened] as regards the torture and ill-treatment [suffered by] Rainer Ibsen Cárdenas and José Luis Ibsen Peña.” Regarding criminal case file 37/2000 analyzed in the Judgment (*supra* having seen paragraph 1 and considering paragraph 5), they advised that “no international arrest warrant has been issued” for Juan Antonio Elio Rivero. They also stated that Justo Sarmiento Alanes was currently under house arrest, even though, according to the representatives, a ruling on an application for constitutional *amparo* established that Mr. Sarmiento Alanes “should be serving a prison sentence.”

9. Regarding the proceedings initiated by the complaint filed by Tito Ibsen (*supra* considering paragraphs 6 and 7), the representatives asserted, in a brief of November 14, 2011, that the competent authorities had not conducted investigations *ex officio* and that the victims had not been informed of the proceedings. In addition, in a brief of March 13, 2013, the representatives indicated that, contrary to the information provided by the State, these proceedings were only investigating the forced disappearance and murder of Rainer Ibsen Cárdenas,” and not the facts that involved José Luis Ibsen Peña. Moreover, in briefs of September 28, 2012, and March 13, 2013, the representatives asserted that “the due notification of the formal charges had not been made” to Justo Sarmiento Alanes and Mario Adett Zamora.

10. The Commission “appreciate[d] the efforts deployed to apprehend one of those convicted and await[ed] more detailed information on the others.” Also, with regard to the ongoing investigations, the Commission indicated that it “hoped that [...] the problems that maintain impunity on several aspects of the case can be overcome; [...] that the investigations are conducted with the greatest speed and diligence, and that the State continues to provide detailed information on any progress made.”

11. From the information provided by the parties, the Court observes that, currently, three people have been convicted in relation to the violations committed against Mr. Ibsen Peña, and that another proceeding has been opened based on charges presented against two individuals in order to clarify the facts of the case and to establish the corresponding responsibilities.<sup>9</sup> The Court appreciates the steps taken by the State in order to comply with this measure of reparation. However, regarding criminal case file 37/2000 (*supra* considering paragraphs 5 and 8), the Court requests that the State provide further information concerning the actual situation of each of the individuals convicted, as well as a copy of the pertinent documentation. In addition, it requests updated information on the proceedings opened before the Fourth Criminal Trial Court of La Paz (*supra* considering paragraphs 6, 7 and 9), and urges the State to make the corresponding notifications in order to press ahead with the determination of the responsibility or innocence of the accused.

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<sup>9</sup> Cf. Sentencing orders against Justo Sarmiento Alanes, Juan Antonio Elio Rivero and Oscar Menacho Vaca of October 27, 2010 (file on monitoring compliance, tome I, folios 131 and 132), and Charges brought by the Public Prosecution Service against Adett Zamora Claros and Justo Sarmiento Alanes on July 20, 2012 (file on monitoring compliance, tome II, folio 1060).

12. The Court also recalls that, in the Judgment,<sup>10</sup> the State was ordered to remove all the *de facto* and *de jure* obstacles that maintained impunity in this case, and to conduct and conclude the pertinent investigations and proceedings *ex officio*, within a reasonable time, in order to establish the complete truth about the facts. To this end, the State must take into account the systematic pattern of human rights violations that existed at the time of the facts so that the pertinent investigations and proceedings are conducted taking into consideration the complexity of the events and of the context in which they occurred, avoiding omissions in the collection of evidence and in following up on logical lines of investigation.<sup>11</sup> In addition, since grave human rights violations are involved, the State may not apply amnesty laws or argue prescription, non-retroactivity of the criminal law, *res judicata*, or the principle of *non bis in idem*, or any other similar mechanism that eliminates responsibility, in order to exempt itself from this obligation.<sup>12</sup>

13. Furthermore, the State must ensure that the persons who take part in the investigation, including the victims' next of kin, witnesses, and agents of justice, have appropriate guarantees for their safety, and that the victims' next of kin have full access and legal standing at all stages of the investigation and prosecution of those responsible, pursuant to domestic law and the norms of the American Convention. In addition, the results of the corresponding proceedings must be publicized so that Bolivian society may be made aware of the facts that are the purpose of this case, as well as of those responsible.<sup>13</sup>

***B) Obligation to continue an effective search for the whereabouts of José Luis Ibsen Peña (ninth operative paragraph of the Judgment)***

14. The State advised that it was "currently expediting the processing of information and taking steps to ensure technical cooperation for the effective search for the whereabouts of José Luis Ibsen Peña" through the Inter-institutional Council for the Clarification of Forced Disappearances (hereinafter "CIEDEF"), which "was attached to the Vice Ministry of Justice and Fundamental Rights, headed by the Ministry of Justice.<sup>14</sup> In a note dated September 30, 2011, Bolivia advised that "this State portfolio [...] had advised that, in an official request of January 31, 2011, made by the Prosecutor for this matter, [...] the Institute of Forensic Investigations was asked to make an anthropological and genetic examination of the remains collected in August 2006 in the "La Cuchilla" Cemetery in Santa Cruz. Accordingly, on September 12, 2011, an expert in forensic genetics was sworn in to this end. However, when the technical examination had been performed, "the possibility of these remains [...] belonging to the biological father of Tito Ibsen Castro was excluded." Nevertheless, the State indicated that it had "continue[d] taking steps to identify other places in which the

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<sup>10</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Judgment of the Inter-American Court of Human Rights of September 1, 2010. Series C No. 217, paras. 237 and 238.

<sup>11</sup> In addition, the State must ensure that, to this end, the competent authorities have available and use all the necessary logistic and scientific resources to collect and process evidence and, in particular, that they have the authority to access pertinent documentation and information to investigate the reported facts and promptly to take those measures and make those inquiries that are essential in order to clarify what happened to Rainer Ibsen Cárdenas and José Luis Ibsen Peña. Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Judgment of the Inter-American Court of Human Rights of September 1, 2010. Series C No. 217, para. 237.c.

<sup>12</sup> Cf. *Case of Gelman v. Uruguay*. Judgment of the Inter-American Court of Human Rights of February 24, 2011. Series C No. 221, para. 254, and *Case of Barrios Altos v. Peru. Merits*. Judgment of March 14, 2001. Series C No. 75, para. 41.

<sup>13</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Judgment of the Inter-American Court of Human Rights of September 1, 2010. Series C No. 217, paras. 237.c and 238.

<sup>14</sup> Cf. Supreme Decree No. 27089 of June 18, 2003 (file on monitoring compliance, tome II, folio 1029).

remains of José Luis Ibsen [might] be found.” Thus, on October 22, 2012, a site in the “La Madre” cemetery in Santa Cruz was located and cordoned off in order to exhume osseous remains that could correspond to José Luis Ibsen Peña. Rebeca Ibsen Castro and Martha Castro Mendoza, next of kin of the victim, were present during this action. Lastly, in a brief of February 25, 2013, the State indicated that the osseous remains exhumed on that occasion “were sent to the Institute of Forensic Investigations of La Paz, for the corresponding expert appraisal and DNA tests, [...] the results of which would be duly forwarded to the [Inter-American] Court.”

15. The representatives indicated that the osseous remains exhumed in the “La Madre” clandestine cemetery of Santa Cruz had been subjected to “evident mishandling, public exhibition [...] in the hall of the Prosecutor’s Office of the District of Santa Cruz, and failure to transfer and identify them appropriately [...].” They also stated that the CIEDEF “has not been functioning since January 2012 owing to administrative decisions [of ...] the Minister of Justice,” so that “the exhumations performed in October 2012 in the La Madre cemetery [...] were] conducted based exclusively on the steps taken and the investigations carried out by the Ibsen family.” However, “more than five months after the exhumations had been performed, to date the [...] corresponding] DNA tests have not been carried out.”

16. The Commission “observe[d] with concern the absence of specific progress in complying with this measure of reparation.” It indicated that “[o]n previous occasions [...], it had assessed the creation of the CIEDEF and the strategy designed by the State to search for victims of forced disappearance during the military dictatorships. However, [...] it] consider[ed] that the State must provide specific information on the effects of this strategy in this specific case.” In addition, the Commission indicated that it was “a matter of concern that, more than five years after the exhumations had been performed in the La Cuchilla cemetery, it was only in 2011 had an expert in forensic anthropology been appointed.” Thus, it considered “that the necessary diligence and expediency must be applied” in order to implement this measure of reparation, and that “different alternatives for conducting the search should be explored with the necessary mechanisms for coordination between the various authorities involved.” Lastly, the Commission “hope[d] that the State would overcome the problems that have complicated progress in this matter and that it would continue providing information on the results obtained.”

17. First, the Court appreciates that, as ordered in the Judgment,<sup>15</sup> the State conducted the corresponding tests to rule out the possibility that the remains found in the “La Cuchilla” cemetery (*supra* considering paragraphs 14 and 16) could correspond to José Luis Ibsen Peña.<sup>16</sup> However, the Court underscores that Mr. Ibsen Peña disappeared 40 years ago and his whereabouts are still unknown. Thus, the Court reiterates that it is extremely important for the next of kin of the disappeared victim to clarify his final fate, because this would alleviate the anguish and suffering caused by the uncertainty about his whereabouts.<sup>17</sup> Consequently, the Court finds it necessary that Bolivia continue to conduct an effective search for the whereabouts of Mr. Ibsen Peña and therefore urges the State to carry out the pertinent tests to establish, as soon as possible, whether the remains found in the “La Madre” cemetery (*supra* considering paragraphs 14 and 15) correspond to him. The Court also asks the State to forward detailed and updated information on all the measures it has

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<sup>15</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Judgment of the Inter-American Court of Human Rights of September 1, 2010. Series C No. 217, para. 237.

<sup>16</sup> Cf. Expert report of the Institute of Forensic Investigations, signed by Omar Rocabado Calizaya, dated September 23, 2011 (file on monitoring compliance, tome II, folio 1101).

<sup>17</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Judgment of the Inter-American Court of Human Rights of September 1, 2010. Series C No. 217, paras. 107, 214 and 242.

taken to this end. In addition, the State must provide information on the way in which the said remains exhumed in “La Madre” have been handled,<sup>18</sup> because the representatives have raised a series of objections in this regard (*supra* considering paragraph 15). Furthermore, the Court observes that, according to the representatives, the entity in charge of the search for Mr. Ibsen Peña, the Inter-institutional Council for the Clarification of Forced Disappearances (CIEDEF), has not been functioning since January 2012. Consequently, the State is requested to provide information on the operation of this entity and, if appropriate, with regard to any other entity that may be in charge of the search for the whereabouts of José Luis Ibsen Peña.

***C) Obligation to publish specific paragraphs of the Judgment in the Official Gazette, the official summary of the Judgment in a national newspaper with widespread circulation, and the complete Judgment on an appropriate website (tenth operative paragraph of the Judgment)***

18. The State advised that, on November 15, 2010, it had published the paragraphs ordered in the Judgment in the State’s Official Gazette; that, on November 25, 2011, it had published the complete Judgment on the webpage of the Ministry of Foreign Affairs, and that, on January 16, 2013, it had published the official summary of the Judgment in the national newspaper, “*El Diario*.”

19. The representatives indicated that, although the State had complied with this measure of reparation, it had not made the publications ordered within the time frames established in the Judgment.

20. The Inter-American Commission stated that the obligation to publish the pertinent parts of the Judgment in the Official Gazette, as well as the complete text of the Judgment on an official website, had been fulfilled. In addition, in a brief of November 23, 2011, it recalled that the summary to be published in a national newspaper was the one “issued and notified by the Inter-American Court together with the Judgment and, consequently, it would be inappropriate to modify its content.”

21. The Court observes that the State forwarded, together with its briefs, a copy of the publication made on November 15, 2010, in the Official Gazette of the Plurinational State of Bolivia as established in the Judgment,<sup>19</sup> and a copy of the publication of the official summary of the Judgment published on February 16, 2013, in the newspaper, “*El Diario*.”<sup>20</sup> Furthermore, it provided the link to the publication of the Judgment on the webpage of the Ministry of Foreign Affairs.<sup>21</sup> Thus, taking into account the information presented by the parties and by the Commission, and the documentary support provided, the Court considers that the State has complied fully with the tenth operative paragraph of its Judgment.

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<sup>18</sup> The representatives sent the Court a series of photographs of the remains found in the “La Madre” cemetery. However, based on these photographs, it is not possible to verify the assertions of the representatives about the presumed “mishandling,” public exhibition, and “lack of appropriate transfer” that these remains may have experienced. *Cf.* Photographs forwarded with the representatives’ brief of November 8, 2012 (file on monitoring compliance, tome I, folios 718 to 725).

<sup>19</sup> *Cf.* Official Gazette of the Plurinational State of Bolivia, Special Edition No. 0132, November 12, 2010 (file on monitoring compliance, tome I, folio 135).

<sup>20</sup> *Cf.* Copy of the official summary of the Judgment published in the newspaper “*El Diario*”; annex 1 to the State’s report of February 25, 2013 (file on monitoring compliance, tome II, folio 1120).

<sup>21</sup> The Judgment is available at: <http://www.rree.gob.bo/webmre/prensa/d387.pdf>. *Cf.* Visit to the webpage of the Ministry of Foreign Affairs (file on monitoring compliance, tome I, folio 217).



***D) Obligation to reach agreement with the next of kin of Rainer Ibsen Cárdenas and José Luis Ibsen Peña on the designation of a public place with their names, in which a plaque must be placed which refers to the Judgment, the facts of the case and the circumstances in which they occurred (eleventh operative paragraph of the Judgment)***

22. The State advised that the Autonomous Municipal Government of La Paz had promulgated Municipal Ordinance GAMLN No. 078/2011, naming the “*Avenida José Luis Ibsen Peña y Rainer Ibsen Cárdenas*,” and that Tito Ibsen had accepted this designation on behalf of his family in a note dated November 4, 2010, addressed to the Head of Cultural Affairs of the Municipal Government of La Paz, Walter Gómez Méndez. According to the information provided by the State, the public act held on August 2, 2011, during which the commemorative plaque was unveiled,<sup>22</sup> was “duly coordinated” with the representatives and was attended by the President of the *Asociación de Familiares de Detenidos Desaparecidos* (ASOFAMD), the Head of the Office of the United Nations High Commissioner for Human Rights, the Mayor of La Paz, the Vice Minister for Justice and Fundamental Rights, a representative of the Vice Minister for Institutional and Consular Affairs of the Ministry of Foreign Affairs, and Tito Ibsen on behalf of the victims’ family.

23. In their brief of November 14, 2011, the representatives indicated that the Municipal Government had issued Municipal Ordinance GAMLN No. 078/2011” naming the avenue “located between Costanera and Alamos avenues and Benito Juárez street, circumscribing Block 9 of the La Florida zone.” They also indicated that Martha Castro Mendoza and Rebeca, Raquel and Tito, all with the last name Ibsen Castro, attended the public act held on August 2, 2011, in order to name the said avenue. In addition, in the same brief, they indicated that “the State had complied strictly and diligently” with this aspect of the Judgment. However, in their brief of March 13, 2013, the representatives pointed out that “even though it is true that, in one way or another, the [eleventh operative paragraph of the Judgment] had been complied with; nevertheless, the provisions of paragraph 249 [of the Judgment establishing that, in a public place agreed on with the representatives ...] a plaque should be placed that referred to the Judgment, the facts of the case, and the circumstances in which they occurred [...],” had not been complied with in any way within the one-year time frame.

24. The Commission “assessed positively the efforts made by the State to comply with this measure of reparation.” However, it indicated that “the text included on the plaque by the State refers to Mr. Ibsen Peña as ‘murdered’ and not as ‘forcibly disappeared,’ even though, to date, his fate and whereabouts have not been established.” Also, it “consider[ed] that the reference to ‘the circumstances in which the facts occurred’ might be somewhat incomplete.” Consequently, the Commission “consider[ed] it essential to know the opinion of the representatives of the victims” before finding that this aspect had been complied with, bearing in mind its importance for the historical memory. In particular, the Commission indicated that “it would be relevant to have further information as to whether the text of the plaque had been decided on with the family.”

25. The Court observes that, in its Judgment, it assessed positively that the State had organized a public act of reparation, during which it officially named a traffic circle “*Familia*

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<sup>22</sup> The plaque contains the following text: “*Avenida José Luis Ibsen Peña y Rainer Ibsen Cárdenas, Padre e Hijo, Asesinados durante la dictadura militar de los años 1971 a 1978. En virtud a la Sentencia de la Corte Interamericana de Derechos Humanos emitida el 1 de septiembre de 2010 ‘La Desaparición Forzada Es Un Delito’ La Florida*” [José Luis Ibsen Peña and Rainer Ibsen Cárdenas Avenue, father and son, murdered during the military dictatorship from 1971 to 1978. Based on the judgment of the Inter-American Court of Human Rights delivered on September 1, 2010, ‘Forced disappearance is a crime,’ La Florida].

*Ibsen.*" Despite this, the Court finds that, insofar as they are measures of satisfaction, the initiatives designed to conserve the memory of the victims of human rights violations must be implemented in coordination with their next of kin. Therefore, since the representatives indicated that the said act was held without consulting the next of kin of Messrs. Ibsen Peña and Ibsen Castro and without their consent, the Court ordered the State to reach agreement with them on the designation of a public place with their names, in which a plaque should be placed which referred to the Judgment, the facts of the case, and the circumstances in which they occurred, within one year of notification of the Judgment.<sup>23</sup>

26. In this regard, the State asserted that the public act held on August 2, 2011, in memory of Messrs. Ibsen Peña and Ibsen Cárdenas, was "duly coordinated with the representatives," and the latter did not deny this. Moreover, the documentation provided by the State includes a note dated November 4, 2010, in which Tito Ibsen Cárdenas, victim and representative in this case, indicated that he and his family:

"[Were] extremely appreciative of and value[d] the act of acknowledgment promoted by the office [of the Head of Cultural Affairs of the Municipal Government of La Paz ...] based on the recommendation of the [...] Vice Minister of Foreign Affairs, and implementing compliance with the judgment of the [Inter-American Court] and the decision [...] in the eleventh operative paragraph [...] of this]. Therefore, on behalf of [Messrs. Ibsen Peña and Ibsen Cárdenas] and of the family, he] accept[ed] the corresponding designation, which would evidently be accompanied by the corresponding ordinance in the terms established by the [Court,] the purpose of which is [...] to recover their historical memory and, in this way, establish a precedent that prevents the perpetration of forced disappearances by the State."<sup>24</sup>

27. At the same time, the Court observes that, in their brief of November 14, 2011, the representatives indicated that the Ibsen family had attended the said public act and that the State had "complied strictly" with this measure of reparation, which would indicate that the representatives were in agreement with the way in which the act was carried out. The Court also observes that, according to the information provided by the State, which was not contested by the representatives, the text of the plaque unveiled on that occasion referred to the Judgment of the Inter-American Court and to the fact that this was a case of forced disappearance that occurred "during the military dictatorship from 1971 to 1978." Consequently, the Court assesses the measures taken by the State and considers that it has complied with this measure of reparation.

***E) Obligation to provide free medical and psychological or psychiatric treatment immediately, appropriately and effectively, through its specialized public health institutions, to those declared victims in the Judgment who request this (twelfth operative paragraph of the Judgment)***

28. The State advised that, on April 8, 2010, the Ministry of Health and Sports and the *Caja Petrolera de Salud* [National Health Institute] had signed an inter-institutional agreement in order to establish mechanisms that would allow Rebeca Ibsen Castro, Raquel Ibsen Castro, Tito Ibsen Castro and Martha Castro Mendoza full access to medical care and treatment. It also indicated that, "under Law No. 091 of March 2, 2011, the Ministry of Economy and Public Finance was authorized to make the annual inter-institutional

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<sup>23</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Judgment of the Inter-American Court of Human Rights of September 1, 2010. Series C No. 217, para. 249.

<sup>24</sup> Cf. Note of November 4, 2010, addressed to the Head of Cultural Affairs of the Municipal Government of La Paz (file on monitoring compliance, tome I, folio 315). The State also forwarded a copy of Municipal Ordinance GAMLP No. 78/2011 and photographs of the said public act (file on monitoring compliance, tome I, folios 485 to 488).

budgetary transfer to the Ministry of Health and Sports to guarantee payment of the provision of health care services to the persons identified in the Judgment.” It also advised that, “by Decision [...] R.H.D. No. 017/11 of June 1, 2011, [the *Caja Petrolera de Salud*] decided to affiliate the Ibsen Cárdenas and Ibsen Peña families, [...] establishing [that] the respective administrative procedures for voluntary insurance should be implemented, the costs of which would be covered by the Ministry of Health and Sports as established in the said legal norm.”

29. Furthermore, the State advised that, on February 8, 2011, the Ministry of Health and Sports had informed the victims that, as of February 14, 2011, they could “go to any of the regional offices of the *Caja Petrolera de Salud* throughout the country to carry out the respective affiliation, [because these] administrative procedures required the beneficiaries’ presence and signature.” According to the State, only Tito Ibsen Castro went to the National Office and to the Santa Cruz Departmental Administration Office; however he was unable to affiliate himself because he did not present the documents required to complete this procedure. Therefore, the State affirmed that it was for the beneficiaries to go to the said offices in order to affiliate to the *Caja Petrolera de Salud*, because Bolivia had “made all the necessary efforts to comply with [this] measure” of reparation.

30. The representatives indicated that the State “had not [...] made any type of physical or psychological assessment of the victims.” Also, in their brief of March 13, 2013, they advised that the victims had gone to the offices of the *Caja Petrolera de Salud* on several occasions to carry out the “respective affiliation, [but they had been told] that the *Caja* was still unable to provide [them] with medical care even though the Ministry of Health had recently [provided] part of the financial resources for regular medical services.” Therefore, according to the representatives, “the health insurance has not been implemented and, in particular, the victims are not receiving health care services.”

31. The Commission indicated that the measures taken by the State constituted a step forward in the implementation of this measure of reparation, but, to date, it did not have information showing that, in the practice, the beneficiaries of this measure were receiving the required medical and psychological attention. Consequently, it indicated that it was “waiting for information from the representatives concerning the affiliation procedures.”

32. The Court appreciates the efforts made by Bolivia to comply with this aspect of the Judgment. Nevertheless, the information forwarded by the representatives<sup>25</sup> reveals that Bolivia has still not carried out a physical and psychological assessment of those declared victims in the Judgment, or provided them with the free medical and psychological or psychiatric attention they require, immediately, appropriately and effectively, as ordered by the Court. And this is despite the fact that, according to the documentation provided by the State itself, at least Raquel Ibsen Castro and Martha Castro Mendoza are already affiliated to the *Caja Petrolera de Salud*.<sup>26</sup> In this regard, the Court observes that a dispute exists

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<sup>25</sup> Cf. Medical prescriptions. Reports of the *Caja Petrolera* and videos (file on monitoring compliance, tome I, folios 570 to 573, 595 to 601).

<sup>26</sup> The Court observes that the information presented by the State includes reports signed on November 6, 2012, by the Head of the Transparency Unit of the Ministry of Health and Sports and by the Executive Director General of the *Caja Petrolera de Salud*, indicating that Raquel Ibsen Castro and Martha Castro Mendoza “are duly affiliated,” so that “they both [...] have valid health care coverage.” In addition, regarding Rebeca Ibsen, the Executive Director General of the *Caja Petrolera de Salud* indicated that she had not gone to any of the offices of this entity “to request the respective affiliation” and, lastly, with regard to Tito Ibsen Castro, he indicated that the latter had gone to the National Office and the Santa Cruz Departmental Administration Office, but had “not presented the [necessary] requirements for his affiliation.” Cf. Annex 4 to the State’s report of February 25, 2013 (file on monitoring compliance, tome II, folios 1122 to 1147).

between the representatives and the State regarding whether the other beneficiaries of this measure of reparation have gone to the offices of the said entity with the documents required to carry out their respective affiliation.<sup>27</sup>

33. Consequently, the Court finds it pertinent to recall that it had already referred in the Judgment (*supra* considering paragraph 1) to the agreement signed between the Ministry of Health and Sports and the *Caja Petrolera de Salud* in order to provide medical services to the members of the Ibsen family, indicating that it was necessary to rectify any errors that this might contain in order to avoid any problems in its implementation that could represent an unnecessary burden for the beneficiaries of the respective medical services. In addition, the Court had indicated that the State's obligation to comply with the measure of reparation in the terms ordered subsisted irrespective of the said agreement.<sup>28</sup> Consequently, the Court finds it necessary that the State and the representatives provide information on the dates on which the members of the Ibsen family have gone to the offices of the *Caja Petrolera de Salud*, and indicate whether, on those occasions, they complied with all the requirements to carry out their respective affiliation or, if applicable, indicate the requirements that remain pending in this regard. Furthermore, they must inform the Court of the reasons why Raquel Ibsen Castro and Martha Castro Mendoza have been unable to receive the assessments and treatments they require, even though they are already affiliated to the *Caja Petrolera de Salud*.

***F) Obligation to implement, within a reasonable time and with the respective budgetary allocation, a training program on the proper investigation and prosecution of acts that constitute forced disappearance of persons for the agents of the Public Prosecution Service and the judges of the Bolivian Judiciary who have jurisdiction for the investigation and prosecution of acts such as those that occurred in this case, so that the said officials have the necessary legal, technical and scientific elements to evaluate the practice of forced disappearance integrally (thirteenth operative paragraph of the Judgment)***

34. The State advised that, on October 8, 2010, the Public Prosecution Service issued Directive 833/2010 to the Director of this entity's Training Institute to proceed to implement a training program for its officials on the proper investigation and prosecution of acts that constitute forced disappearance of persons, in order "to provide [them with the] necessary tools to be 'trained in the use of circumstantial evidence, indications and presumptions, the assessment of systematic patterns that may result in the acts investigated, and the finding of persons who have been forcibly disappeared."

35. The State also indicated that, on October 28, 2010, in Note No. 779/10, the President of the Supreme Court of Justice had "asked the Institute of the Judicature to plan a training course on the proper investigation and prosecution of acts that constitute forced

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<sup>27</sup> Affiliation requirements: Application for affiliation to the voluntary insurance scheme, addressed to the departmental, regional, zonal and sub-zonal Administrator, original birth certificate, photocopy of identity card, initial medical examination (conducted in the C.P.S.), plan of the location of the domicile of the persons to be insured, with land line number, photocopy of electricity or water bill, form 101 on non-affiliation to another health insurance entity, and two 3 cm x 3 cm photographs on a red background. *Cf.* Resolution of the Management of the *Caja Petrolera de Salud* of July 12, 2012 (file on monitoring compliance, tome II, folio 1143). See, also, the communication of the *Caja Petrolera* to the Director General for Administrative Affairs of the Health Ministry dated November 6, 2012 (file on monitoring compliance, tome II, folio 1134).

<sup>28</sup> *Cf. Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Judgment of the Inter-American Court of Human Rights of September 1, 2010. Series C No. 217, paras. 253 and 254.

disappearance of persons for court officials (*vocales*), judges throughout the country, and members of the Police and the Public Prosecution Service, [with ...] the active participation of all these institutions." The State explained that the "officials of the Judiciary, and eventually of the Public Prosecution Service will have to be evaluated to decide whether they continue in [their] respective functions, [... and this] could have an impact on achieving the objectives of the course." In this regard, in a brief of February 25, 2013, it indicated that the appointment of new authorities to the courts and to the Public Prosecution Service was pending, but that "the changes made within the structure of these entities permitted the incorporation of programs throughout the country to comply satisfactorily" with this measure of reparation.

36. The representatives indicated that the training programs ordered in the Judgment had not been implemented, and no budgetary allocation had been made in this regard. In addition, they stated that the above-mentioned appointments of new authorities to the courts and to the Public Prosecution Service "date from [...] more than a year" and, nevertheless, the State had not been able to provide any evidence of having offered a single training course.

37. The Commission assessed positively that the President of the Supreme Court of Justice had asked the Institute of the Judicature to plan a training course on the proper investigation and prosecution of forced disappearances, and "hope[d] that progress would be made in the design and implementation of this training course as soon as possible."

38. The Court appreciates the fact that the State has taken steps to implement training programs on the proper investigation and prosecution of acts that constitute forced disappearance of persons for agents of the Public Prosecution Service and judges of the Bolivian Judiciary. However, in its most recent report, the State indicated that the said programs had not yet been implemented owing to the changes that were being made within these entities. Consequently, the Court urges the State to implement the said programs and awaits complete and detailed information in this regard. The Court also recalls that the programs implemented by the State should train the said authorities in the use of circumstantial evidence, indications and presumptions, the assessment of the systematic patterns that can result in the facts investigated, and the finding of persons who have been forcibly disappeared. In addition, these programs should make special mention of the Judgment and of the international human rights instruments to which Bolivia is a Party.<sup>29</sup>

***G) Obligation to pay the amounts established in the Judgment as compensation for pecuniary and non-pecuniary damage, and reimbursement of costs and expenses, within one year (fourteenth operative paragraph of the Judgment)***

39. The State advised that, on April 6, 2011, the Ministry of Economy and Finance had made a budgetary transfer in favor of the Ministry of Foreign Affairs so that the latter could make the payments established by the Inter-American Court in the Judgment. Thus, on August 11 and 26, 2011, the Central Bank of Bolivia issued payment authorizations in the names of Martha Castro Mendoza, Rebeca Ibsen Castro, Tito Ibsen Castro and Raquel Ibsen Castro for the amounts decided in the Judgment in their favor for pecuniary and non-pecuniary damage and to reimburse costs and expenses. However, payment authorizations were not issued for the heirs of Rainer Ibsen Cárdenas and José Luis Ibsen Peña for the

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<sup>29</sup> Cf. *Case of Ibsen Cárdenas and Ibsen Peña v. Bolivia*. Judgment of the Inter-American Court of Human Rights of September 1, 2010. Series C No. 217, paras. 258 and 259.

pecuniary and non-pecuniary damage they had suffered, because “the latter [had] not been specifically identified in the Judgment.”

40. Bolivia also advised that, in communications issued on September 16, 2011, and publications made in the press on September 22, 25 and 28 that year, Martha Castro Mendoza and Rebeca, Tito and Raquel Ibsen Castro were advised that the said payment authorizations had been issued in their favor, and also of “the opening of a bank account to deposit the sums established in favor of Rainer Ibsen Cárdenas and José Luis Ibsen Peña.” In this regard, the State asserted that “despite [its] efforts to comply [with this measures of reparation], it was the beneficiaries who refused to collect their money within the established time frame.” Thus, according to the State, the payment authorizations issued by the Central Bank of Bolivia in the name of Martha Castro Mendoza, Rebeca, Tito and Raquel Ibsen Castro for pecuniary and non-pecuniary damage and to reimburse costs expenses were redeemed on December 6, 2011.

41. Furthermore, regarding the compensation corresponding to Rainer Ibsen Cárdenas and José Luis Ibsen Peña for pecuniary and non-pecuniary damage, the State indicated that once their status of the beneficiaries as heirs had been accredited, using domestic law as a parameter as decided by the Inter-American Court, they were allowed to collect the corresponding amounts. In this regard, it indicated that, regarding the compensation allocated to the heirs of José Luis Ibsen Peña, on March 16, 2012, payment was made to Martha Castro Mendoza, Rebeca Ibsen Castro and Raquel Ibsen Castro and, on March 20, 2012, Tito Ibsen was paid. Moreover, regarding the compensation assigned to the heirs of Rainer Ibsen Cárdenas, the State advised that, on July 10, 11 and 17, 2012, the payments were made to Tito Ibsen Castro, to Martha Castro and Raquel Ibsen Castro, and to Rebeca Ibsen Castro, respectively. Lastly, and based on the above, the State indicated that it had “proceeded to make full payment of the compensation in favor of Martha Castro Mendoza, [and of] Rebeca, Raquel and Tito Ibsen Castro.”

42. The representatives advised that the State had paid the corresponding compensation “in three partial payments and on different dates, outside the one-year time frame established by the Court, and without taking into account costs, fines and interests,” which “result[ed] in a reduction in the amount of compensation owing to administrative costs, transport, travel, official procedures, and accommodation, among other expenses, as well as [for] the bank transfers [that] involve a deduction for the ITF [tax on financial transactions] charges.” In addition, they asserted that “collecting the payment was delayed and difficult, because, for over six months, certain officials of the Ministry of Foreign Affairs argued erroneously that the Judgment made [...] a legal differentiation between the terms ‘heirs’ and ‘beneficiaries,’” casting doubts on the relationship of the victims’ next of kin and obstructing the payment of the compensation. According to the representatives, the General Directorate of Legal Affairs of the said Ministry claimed that the victims should file “legal actions” in order to be declared heirs of Rainer Ibsen Cárdenas. They also advised that “an administrative proceeding” had been opened in order to identify the heirs of Rainer Ibsen Cárdenas and José Luis Peña, which delayed “the payment of the compensation for more than eighteen months.” In addition they indicated that, during this procedure, “information was requested from the National Civil Registry Service on birth, marriage or other certificates with the names Rainer Ibsen Cárdenas and José Luis Ibsen Peña,” which constituted “re-victimization” for the members of the Ibsen family. Lastly, the representatives affirmed that the publications made by the State in the newspapers, “*La Razón*” and “*El Deber*,” inviting anyone who was “related by blood and/or by marriage” to Rainer Ibsen Cárdenas to come forward to the Ministry of Foreign Affairs, represented an imminent risk for the victims, because they could have been subjected to abuse.

43. The Commission indicated that, “according to the information available, this aspect of the Judgment has been complied with fully.”

44. In this regard, the Court observes, first, that the State presented copies of the communications of September 16, 2011, in which it notified Martha Castro Mendoza and Tito, Raquel and Rebeca, all with the surnames Ibsen Castro, that the Central Bank of Bolivia had issued payment authorizations for the compensation for pecuniary and non-pecuniary damage, and to reimburse costs and expenses ordered in their favor in the Judgment.<sup>30</sup> The representatives did not make any observations on these communications, or raise any objections. Consequently, the Court finds that the compensation indicated was available to the beneficiaries as of September 16, 2011, within the one-year period established in the Judgment, even though the payment of these amounts was only made on December 6 that year.<sup>31</sup>

45. Second, the Court observes that, in the above-mentioned communications of September 16, 2011, the victims were advised that “if they did not present the documentation [that accredited them as heirs of Messrs. Ibsen Peña and Ibsen Cárdenas] before September 30, 2011, a bank account would be opened in United States dollars in the Central Bank of Bolivia in favor of [the said] heirs [...].” Furthermore, the State sent the Court a note dated December 7, 2011, signed by the International Operations Manager of the Central Bank of Bolivia, stating that the amounts of the compensation corresponding to José Luis Ibsen Peña and Rainer Ibsen Cárdenas had been deposited in a bank account.<sup>32</sup> The representatives did not refer to this documentation, or provide information regarding the date on which the victims accredited their status as heirs of the said persons. Also, the Court observes that payment of the compensation corresponding to Messrs. Ibsen Peña<sup>33</sup> and Ibsen Cárdenas<sup>34</sup> was made to the beneficiaries in March and July 2012, respectively.

46. In this regard, the Court considers that the State proceeded to comply with this measure of reparation in a reasonable manner, because it notified the next of kin of the deceased victims of the need to accredit themselves as heirs before the time frame for the payment of the compensation established in the Judgment expired, and deposited the sums corresponding to Messrs. Ibsen Peña and Ibsen Cárdenas in a bank account until the necessary verifications had been made in order to make these payments. Consequently, the Court assesses the measures taken by the State and finds that it has complied with this measure of reparation.

#### ***H) Request to hold a hearing on monitoring compliance***

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<sup>30</sup> Cf. Communications issued on September 16, 2011, by the Director General of Legal Affairs of the Ministry of Foreign Affairs (file on monitoring compliance, tome I, folios 1152 to 1157).

<sup>31</sup> The State provided vouchers confirming payment to Rebeca Ibsen Castro of US\$55,000 and US\$1,666.67; to Raquel Ibsen Castro of US\$40,000 and US\$1,666.66; to Martha Castro of US\$50,000, and to Tito Ibsen Castro of US\$50,000 and US\$1,666.67. Cf. Annex 5 to the State's report of February 25, 2013 (file on monitoring compliance, folios 1165 to 1179).

<sup>32</sup> Cf. Note BCB-GOI-SOEXT-DOCC-CE-2011-638 of December 7, 2011, signed by the International Operations Manager of the Central Bank of Bolivia (file on monitoring compliance, tome II, folios 1663 and 1664).

<sup>33</sup> The State provided a note of the Central Bank of Bolivia advising that Martha Castro, Rebeca Ibsen Castro, Raquel Ibsen Castro and Tito Ibsen Castro had each been paid the sum of US\$38,750.00. Cf. Annex 5 to the State's report of February 25, 2013 (file on monitoring compliance, tome II, folio 1203).

<sup>34</sup> The State provided vouchers confirming payment to Rebeca Ibsen Castro, Raquel Ibsen Castro, Martha Castro and Tito Ibsen Castro of US\$2,500 each. Cf. Annex 5 to the State's report of February 25, 2013 (file on monitoring compliance, tome II folio 1225 to 1231).

47. The representatives asked that a hearing on monitoring compliance with the Judgment be held, "relating to the absence of guarantees of due process [and to] non-compliance" with the Judgment (*supra* having seen paragraph 3). The Commission did not refer to this request, and the State indicated in its report of February 25, 2013, that "before considering a measure of this nature, a formal ruling by this international court is required on the aspects that have been complied with and the measures that still remain pending."

48. The Court considers that, since it is issuing this Order, it is not necessary to hold a hearing on monitoring compliance with the Judgment at this time. This does not preclude the Court from convening the parties and the Inter-American Commission to a hearing on compliance with the Judgment in the future, if it should consider this pertinent.

**THEREFORE:**

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

in exercise of its authority to monitor compliance with its decisions, under Articles 33, 62(1), 62(3), and 68(1) of the American Convention on Human Rights, 24 and 30 of the Statute, and 31(2) and 69 of its Rules of Procedure,<sup>35</sup>

**DECIDES THAT:**

1. As indicated in the respective considering paragraphs of this Order, the State has complied fully with its obligations:

- a) To make the publications ordered in paragraph 244 of the Judgment, pursuant to the tenth operative paragraph thereof,
- b) To designate a public place with the names of Rainer Ibsen Cárdenas and José Luis Ibsen Peña, in which a plaque must be placed that refers to the Judgment, as well as to the facts of the case and the circumstances in which they occurred, pursuant to the eleventh operative paragraph of the Judgment.
- c) To pay the amounts established in paragraphs 267, 271, 276, 283 and 291 of the Judgment as compensation for pecuniary and non-pecuniary damage and to reimburse costs and expenses, pursuant to the fourteenth operative paragraph thereof.

2. It will maintain open the proceeding of monitoring compliance with operative paragraphs 7, 8, 9, 12 and 13 of the Judgment, regarding the State's obligations:

- a) To undertake the investigations necessary to determine, within a reasonable time, all those responsible for the detention and subsequent disappearance of José Luis Ibsen Peña;
- b) To undertake the investigations necessary to determine what happened and to apply, effectively, the corresponding sanctions and consequences, within a reasonable time, for the murder and the forced disappearance of Rainer Ibsen Cárdenas;

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<sup>35</sup> The Court's Rules of Procedure approved by the Court at its eighty-fifth regular session held from November 16 to 28, 2009.



- c) To continue the effective search for the whereabouts of José Luis Ibsen Peña;
  - d) To provide free medical and psychological or psychiatric attention, immediately, adequately and effectively, through its specialized public health institutions to those declared victims in the Judgment who request this, in the terms of paragraphs 253 and 254 thereof, and
  - e) To implement, within a reasonable time and with the respective budgetary allocation, a training program on the proper investigation and prosecution of acts that constitute forced disappearance of persons for the agents of the Public Prosecution Service and the judges of the Bolivian Judiciary with jurisdiction for the investigation and prosecution of facts such as those that occurred in this case, so that these officials have the necessary legal, technical and scientific elements to assess the practice of forced disappearance integrally.
3. To continue monitoring the operative paragraphs of the Judgment on merits, reparations and costs delivered by the Court on September 1, 2010, that remain pending compliance.
4. The Plurinational State of Bolivia must adopt all necessary measures to comply promptly and effectively with the aspects that remain pending indicated in the second operative paragraph *supra*, as stipulated in Article 68(1) of the American Convention on Human Rights.
5. The Plurinational State of Bolivia must present the Inter-American Court of Human Rights, by September 10, 2013, at the latest, with a report indicating all the measures adopted to comply with the reparations ordered by this Court that remain pending, as indicated in considering paragraphs 5 to 17 and 28 to 38, as well as in the second operative paragraph of this Order. Subsequently, the State must continue reporting to the Court in this regard every three months.
6. The next of kin of Rainer Ibsen Cárdenas and José Luis Ibsen Peña and their representatives and the Inter-American Commission on Human Rights must present any observations they deem pertinent on the reports of the State mentioned in the preceding operative paragraph within four and six weeks of receiving them.
7. The Secretariat of the Court shall notify this Order to the Plurinational State of Bolivia, the Inter-American Commission on Human Rights, and the representatives of the victims.

Diego García-Sayán  
President

Manuel E. Ventura Robles

Alberto Pérez Pérez

Roberto de Figueiredo Caldas

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary