

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS*
OF AUGUST 21, 2013**

CASE OF HUILCA TECSE v. PERU

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 March 3, 2005. The case refers to the extrajudicial execution, on December 18, 1992, of Pedro Huilca Tecse who, at that time, was the Secretary General of the General Confederation of Workers of Peru; the violation of the right to freedom of association in relation to the right to unionize, and failure to comply with the obligation to conduct an investigation with due diligence to clarify the facts and eventually prosecute those responsible, which, in this case, constituted a situation of serious impunity. The Republic of Peru (hereinafter “the State” or “Peru”) informed the Court of its acquiescence, which was admitted and Peru was declared responsible for the violation of Articles 4(1) and 16 of the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”), in relation to Article 1(1) of this instrument, to the detriment of Pedro Huilca Tecse, and of Articles 8 and 25 of the Convention, in relation to Article 1(1) thereof, to the detriment of his next of kin. In addition, the Court partially endorsed the agreement concerning the methods and time frames for complying with the reparations signed by the State and the representatives of the victim and his next of kin on December 6, 2004.

2. The Order of the Court of September 22, 2006, in which it declared:

1. That, as indicated in the tenth considering paragraph of the [...] Order, the State has complied with the obligation to:

a) Organize a public act of acknowledgement of responsibility in relation to this case, and to make a public apology to the victim’s next of kin (*first operative paragraph, subparagraph (b), of the Judgment of March 3, 2005*);

* The President of the Court, Judge Diego García-Sayán, a Peruvian national, did not take part in the examination and deliberation of this Order pursuant to Articles 19(2) of the Statute and 19(1) of the Court’s Rules of Procedure.

b) Publish in the official gazette and in another national newspaper the section entitled "Proven Facts" and the operative paragraphs of the Judgment (*first operative paragraph, subparagraph (c), of the Judgment of March 3, 2005*); and

c) Pay the amounts established in paragraphs 92, 94, 95, 98, 99, 100, 101, 120, and 121 of the Judgment for non-pecuniary and pecuniary damage to Martha Flores Gutiérrez, José Carlos Huilca Flores, Indira Isabel Huilca Flores, Flor de María Huilca Gutiérrez, Katuska Tatiana Huilca Gutiérrez, Pedro Humberto Huilca Gutiérrez and Julio César Escobar Flores (*first operative paragraph, subparagraphs (h), (i) and (j), of the Judgment of March 3, 2005*).

2. That it will keep open the proceeding for monitoring compliance with regard to the aspects pending fulfillment, namely the obligations to:

a) Investigate effectively the facts of the instant case in order to identify, prosecute and punish the perpetrators and masterminds of the extrajudicial execution of Pedro Huilca Tecse (*first operative paragraph, subparagraph (a), of the Judgment of March 3, 2005*);

b) Establish a course or subject on human rights and labor law, called the "*Cátedra Pedro Huilca*" (*first operative paragraph, subparagraph (d), of the Judgment of March 3, 2005*);

c) Recall and praise the work of Pedro Huilca Tecse in favor of the trade union movement in Peru during the official celebrations of May 1 (Labor Day) (*first operative paragraph, subparagraph (e), of the Judgment of March 3, 2005*);

d) Erect a bust in the memory of Pedro Huilca Tecse (*first operative paragraph, subparagraph (f), of the Judgment of March 3, 2005*); and

e) Provide psychological care and treatment to the next of kin of Pedro Huilca Tecse (*first operative paragraph, subparagraph (g), of the Judgment of March 3, 2005*).

3. The Order of the Court of February 7, 2008, in which it declared:

1. That, as indicated in considering paragraphs 1 to 11 of [the] Order, the State had failed to comply with its obligation to inform this Court about the steps taken to comply with the measures ordered by the Court in the operative paragraphs of the Judgment on merits, reparations and costs delivered on March 3, 2005, and in the Order issued on September 22, 2006, in this case.

2. That it will keep the proceeding of monitoring compliance open with regard to the measures of reparation ordered by the Court in this case that remain pending.

4. The briefs of April 18, September 5 and October 1, 2008, April 17, 2009, January 15, June 15 and November 30, 2010, November 8, 2011, March 12, September 7 and 29, and November 12, 2012, and March 8, 2013, in which the State provided information on compliance with the Judgment (*supra* having seen paragraph 1).

5. The briefs of May 28 and November 3, 2008, February 25, July 21 and December 20, 2010, January 5, August 2 and December 7, 2012, and April 18, 2013, in which the representatives of the victims (hereinafter "the representatives") presented their observations on the reports forwarded by the State (*supra* having seen paragraph 4).

6. The briefs of June 10, 2008, January 8, 2009, April 9 and September 24, 2010, March 19, 2012, and January 22 and May 3, 2013, in which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") presented its observations on the reports forwarded by the State (*supra* having seen paragraph 4).

CONSIDERING THAT:

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

2. As established in Article 67 of the American Convention, the State must comply fully and promptly with the judgments of the Court. Also, 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.¹

3. The obligation to comply with the decisions in the Court’s judgments corresponds to a basic principle of the law of the international responsibility of the State, 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.² The treaty obligations of the States Parties are binding for all the powers and organs of the State.³

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 Court. These obligations must be interpreted and applied so that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.⁴

a) Obligation to investigate effectively the facts of this case in order to identify, prosecute and punish the perpetrators and masterminds of the extrajudicial execution of Pedro Huilca Tecse, as established in paragraphs 107 and 108 of the Judgment (first operative paragraph, subparagraph (a), of the Judgment)

5. The State provided information on three criminal proceedings: (i) case No. 511-03 before the National Criminal Chamber of the Superior Court of Lima, for the

¹ Cf. *Case of Baena Ricardo et al. v. Panamá. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 60, and *Case of Abrill Alosilla et al. v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of May 22, 2013, third considering paragraph.

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 Abrill Alosilla et al. v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of May 22, 2013, fourth considering paragraph.

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, third considering paragraph, and *Case of Abrill Alosilla et al. v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of May 22, 2013, fourth considering paragraph.

⁴ Cf. *Case of Ivcher Bronstein vs. Peru. Competencia*. Judgment of September 24, 1999, Series C No. 54, para. 37, and *Case of Abrill Alosilla et al. v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of May 22, 2013, fifth considering paragraph.

crime of terrorism against the State, which concluded with a guilty verdict handed down on February 2, 2006. In this regard, the Transitory Criminal Chamber of the Supreme Court of Justice, in a final judgment dated July 5, 2007, declared the “Nullity” of the ruling that convicted one of the accused “as author of the crime against public order – terrorism – murder of Pedro Crisólogo Huilca Tecse, against the State, amended the judgment and acquitted the said individual of the charges against him”; (ii) the criminal proceedings before the Fourth Supra-provincial Criminal Court for the crime against public order – terrorism against the State, under file No. 144-03 or 485-03, in which, on March 21, 2007, the Transitory Criminal Chamber decided that there was no nullity in the judgment of March 7, 2006, delivered by the National Criminal Chamber that acquitted those accused of the charges, and (iii) the investigation into the presumed members of the Colina Group, during which, in a decision of the Third Special Criminal Court of April 28, 2010, it was decided “to open preliminary proceedings in the ordinary jurisdiction against Vladimiro Montesinos Torres and others for the presumed crime against life, body and health – aggravated homicide – of Pedro Huilca Tecse.” Nevertheless, the State did not present information on any progress in the criminal complaint filed by the Prosecutor General on April 23, 2004, against Alberto Fujimori Fujimori, referred to in the Judgment.⁵

6. The representatives advised that, during the criminal proceedings against Vladimiro Montesinos Torres and others before the Third Liquidating Criminal Court of the Superior Court of Justice of Lima and, currently, before the Fourth Liquidating Criminal Court of the Superior Court of Justice of Lima, under case file No. 04-2010 or 046-2010, Martha Flores, Indira Huilca Flores and Flor Huilca Gutiérrez appeared as a civil party. They indicated that, currently, the said proceedings were examining the charges brought by the prosecution on January 21, 2013, against the presumed perpetrators and masterminds for the crime against life, body and health, aggravated homicide – murder – with the aggravating circumstances of premeditation, established in subparagraph 3 of article 108 of the Criminal Code, against Pedro Huilca Tecse, and that the respective indictment was about to be issued. In addition, they indicated that the State had not provided information on the criminal proceedings that were being processed under this case file, but rather sent information on case file No. 144-03, “which is not related to the [instant] case.” The representatives asked that the State provide information on the status of the said proceedings and observed with great concern “that they have been subject to considerable delay, because, more than 20 years after the events occurred, impunity continues to reign with regard to the execution of Pedro Huilca Tecse.”

7. The Commission observed with concern “the absence of information from the State, which is revealed by the most recent reports.” It reiterated the importance that the investigation be conducted with the required diligence so that it became an effective mechanism to overcome the situation of impunity of the facts of the case. Lastly, it considered it pertinent that the Court ask the State to present, as soon as possible, complete, detailed and recent information on the status of the criminal proceedings.

8. The Court notes that, even though more than 20 years have passed since the events of this case occurred, and more than eight years since the Judgment was handed down, a situation of impunity continues to exist with regard to the violations declared in this case. In this regard, the Court has indicated consistently in its case

⁵ Cf. *Case of Huilca Tecse v. Peru. Merits, reparations and costs*. Judgment of March 3, 2005. Series C No. 121, para. 60.55 to 60.57.

law that, pursuant to the obligation to guarantee rights recognized in Article 1(1) of the American Convention, the State has the duty to avoid and to combat impunity, which the Court has defined as “the total absence of investigation, pursuit, capture, prosecution, and conviction of those responsible for violations of the rights protected by the American Convention.”⁶ Thus, given its importance, the obligation to investigate cannot be executed haphazardly, but must be implemented in keeping with the standards established by international laws and jurisprudence, which characterize investigations as prompt, exhaustive, impartial and independent,⁷ and without transferring the responsibility for promoting the investigations to Pedro Huilca Tecse’s next of kin or their representatives.

9. Given the absence of complete, detailed and recent information on the two judicial proceedings that are still underway: specifically the criminal proceedings that are being processed under file No. 04-2010 or 046-2010 against presumed members of the Colina Group, and the criminal complaint against Alberto Fujimori Fujimori, the Court considers it essential that the State present the required information, accompanied by the respective documentation on each of the criminal case files so that the Court may make the corresponding evaluation. In particular, the State must clarify the actual situation of the proceedings and the investigations, and provide information on the lines of investigation that are being followed, in order to evaluate the results.

b) Obligation to establish a course or subject on human rights and labor law called the “Cátedra Pedro Huilca” (first operative paragraph, subparagraph (d), of the Judgment)

10. The State advised that the Advisory Council of the Faculty of Law and Political Science of the Universidad Nacional Mayor de San Marcos had approved the “*Cátedra Pedro Huilca Tecse*” course on human rights and labor law, and that, in 2009, the Faculty’s Center for University Extension Studies and Social Projection had published the corresponding announcement, “without obtaining the expected response [...], owing to access to the University campus, and the lack of opportune administrative support when making the publication”; this “led to the cancellation of the course and its rescheduling for August 2010.” In a subsequent report, the State indicated that the “*Cátedra Pedro Huilca Tecse*” human rights and labor law course was being offered on a permanent basis in the Faculty of Law and Political Science, and therefore asked the Court to consider that this aspect of the Judgment had been fulfilled.

11. The representatives acknowledged that the State had complied with this measure of reparation. However, they asked the Court to “continue monitoring this measure to avoid the course being eliminated from the university curriculum.” They also asked that the State advise the victim’s next of kin on the steps taken to ensure permanent compliance with this aspect.

⁶ *Case of the “White Van” (Paniagua Morales et al.) v. Guatemala. Merits.* Judgment of March 8, 1998. Series C No. 37, para. 173, and *Case of Barrios Altos v. Peru. Monitoring compliance with judgment.* Order of the Inter-American Court of Human Rights of September 7, 2012, footnote 23.

⁷ *Cf. Case of Bámaca Velásquez v. Guatemala. Monitoring compliance with judgment.* Order of the Inter-American Court of Human Rights of January 27, 2009, thirtieth considering paragraph, and *Case of Heliodoro Portugal v. Panama. Monitoring compliance with judgment.* Order of the Inter-American Court of Human Rights of June 19, 2012, ninth considering paragraph.

12. The Commission took note of the information provided by the State and the representatives. However, it considered it relevant that, "before ending the monitoring of compliance with this aspect, the Court ask the State to provide information on the mechanisms established to ensure the permanence of this course."

13. The Court takes note that, by Dean's Decision No. 479-D-FD-2009 of April 22, 2009, it was decided, *inter alia*, "[t]o establish the '*Cátedra Pedro Huilca*' human rights and labor law course, permanently, to be offered by the Center for University Extension Studies and Social Projection of the Faculty of Law and Political Science," and "to instruct [the said Center] to comply with this decision." The Court assesses positively the measures adopted by the State to establish a human rights and labor law course entitled '*Cátedra Pedro Huilca*' in the Faculty of Law and Political Science of the Universidad Nacional Mayor de San Marcos. In the understanding that the course will be offered permanently, the Court considers that the State has complied with this obligation.

c) Obligation to recall and to praise the work of Pedro Huilca Tecse in favor of the trade union movement in Peru during the official May 1 (Labor Day) celebrations each year (first operative paragraph, subparagraph (e), of the Judgment)

14. The State advised that on April 29, 2008, at the Government Palace, during the ceremony to award the *Orden del Trabajo*, the work of Mr. Huilca Tecse was praised. It also indicated that, during the Labor Day celebrations held at the Government Palace on May 1, 2010, "the work of Pedro Huilca Tecse in favor of the trade union movement in [Peru]" was recalled, and that, on the website of the Ministry of Labor and Employment Promotion an article was published recognizing the workers and recalling "the valuable contribution made by the trade union leader Pedro Huilca Tecse who devoted his life to the defense of labor rights." Subsequently, the State indicated that, through the Ministry of Labor and Employment Promotion, it had complied with "recalling and praising Pedro Huilca Tecse during the official celebrations of May 1" for his work "in favor of the trade union movement," during the celebrations held on May 12, 2012, which were headed by the Minister of Labor and Employment Promotion. The ceremony was attended by other national authorities, such as the Minister of Health, the Minister of Energy and Mines, and other authorities in the sector. In addition, in its last report, the State reiterated the content of Ministerial Decision No. 114-2005-TR and forwarded a video of the 2013 ceremony to award the *Orden del Trabajo*.

15. The representatives noted that the ceremony held on April 29, 2009, "which is not Labor Day, cannot constitute the commemoration and commendation of the work of Pedro Huilca, because he was merely named, without any mention of his trade union work." In addition, his next of kin were not invited and did not receive prior notification of this ceremony and/or the mention of his name. To the contrary, they appreciated that, during the celebrations of Labor Day on May 1, 2010, the State commemorated Mr. Huilca Tecse; however, they added that the victim's next of kin were not invited to the ceremony. With regard to the Labor Day celebrations held on May 12, 2012, during which the Minister of Labor and Employment Promotion recalled the work of Mr. Huilca Tecse, the representatives stressed that the next of kin were not advised or invited; thus, 20 years after the events, the next of kin had to organize a private activity on May 1, 2012. They also noted that the Peruvian State had referred to Ministerial Decision No. 114-2005-TR which establishes "that, as of 2005, the ceremony to award the *Orden del Trabajo* will include a reference to Pedro Huilca

Tecse in which the social role he played in favor of the labor movement in Peru will be explained." However, despite this decision and according to the information provided by the State, the representatives of the victims "are only aware of [three] ceremonies, held in 2008, 2010 and 2012." Mr. Huilca Tecse's next of kin were not advised of, or invited to, these ceremonies, "so that this measure did not provide them with reparation." Consequently, the representatives asked that, at the very least, the State should give Mr. Huilca Tecse's next of kin prior notice of future celebrations and that the Court require the State to establish a mechanism that ensures compliance with this measure every year in coordination with Mr. Huilca Tecse's next of kin.

16. The Commission considered that, bearing in mind that this measure sought to recover the historical memory of the victim with a reparatory effect for his next of kin, it was important that "the State provide information on any measures it may have adopted to overcome the shortcomings related to the permanence of the measure of reparation, as well as the coordination with the representatives so that Mr. Huilca Tecse's next of kin may participate adequately."

17. Regarding the implementation of this measure of reparation, the Court notes that the State adopted Ministerial Decision No. 114-2005-TR, published in the official gazette, "*El Peruano*," on April 29, 2005, which established that "that, as of 2005, the ceremony to award the *Orden del Trabajo* will include [...] a reference to Pedro Huilca Tecse in which the social role he played in favor of the labor movement in Peru will be explained." This decision also states that the Ministry of Labor and Employment Promotion will hold this ceremony during the Labor Day celebrations, awarding a distinction "to persons who have made notable efforts to contribute to the advance of labor and social security laws." Since this ceremony is held within the framework of the Labor Day celebrations, the Court finds that the measure ordered by the State complies formally with the provisions of the Judgment, insofar as it ensures the permanence of this commemoration over time.

18. Nevertheless, the obligation to recall and praise Mr. Huilca Tecse during the official Labor Day celebrations must be fulfilled every year. In this regard the Court notes that the State has presented supporting information and documentation for 2006, 2007, 2009 and 2011. For the current year, the State provided a video on the celebration of the award of the *Orden del Trabajo* held on May 17, 2013, during which, as can be seen, "Pedro Huilca Tecse was remembered and honored for his selfless struggle for labor rights and social commitment in favor of the Peruvian trade union movement." Regarding this aspect, the Court considers that, in recent years, the State has revealed its willingness to give continuity to compliance with this measure. In the understanding that the State will continue honoring the memory of Mr. Huilca Tecse every year during the official Labor Day celebrations, based on the general directive contained in Ministerial Decision No. 114-2005-TR, the Court finds that the State has complied with this measure of reparation.

d) *Obligation to erect a bust in memory of Pedro Huilca Tecse (first operative paragraph, subparagraph (f), of the Judgment)*

19. The State advised that, in a note of March 2, 2012, the Metropolitan Municipality of Lima had allocated a site to place the bust of the trade union leader Pedro Huilca Tecse. Subsequently, the State indicated that, on December 18, 2012, the bust of the trade union leader Pedro Huilca Tecse was unveiled in Lima, in Plaza Víctor Raúl Haya de la Torre (Av. 28 de Julio in the Cercado District), during a ceremony attended by the next of kin of the former trade union leader, leaders of the

National Civil Construction Federation and of the Workers General Confederation of Peru, and authorities of the Metropolitan Municipality of Lima and of the national Government. According to the information provided by the State, “the selection of the site and [the] characteristics of the bust were agreed on between Mr. Huilca’s next of kin and the above-mentioned municipal authorities.” The State also indicated that information on the ceremony was published in several newspapers. Consequently, it asked the Court to find that this element of the Judgment had been complied with.

20. The representatives indicated that, as mentioned in the State’s report, the bust of Mr. Huilca Tecse was placed in Av. 28 de Julio in the Cercado District of Lima on December 18, 2012, in a public ceremony presided by the Mayor of Lima, Susana Villarán, attended by Mr. Huilca Tecse’s family and trade union authorities. Therefore, they acknowledged “the efforts made by the Metropolitan Municipality of Lima on behalf of the Peruvian State to comply with this element of the judgment.” However, they noted that this compliance occurred with a delay of “eight years and after numerous actions and follow-up by Mr. Huilca Tecse’s next of kin and their representatives.”

21. The Commission appreciated the efforts made by the State in consultation with Mr. Huilca Tecse’s next of kin in order to comply with this measure. Consequently, it considered that the State had complied with this measure of reparation.

22. The Court has been able to observe, based on the available information, that the ceremony in which the bust commemorating Pedro Huilca Tecse was unveiled – a bust placed in the Plaza Víctor Raúl Haya de la Torre, on Av. 28 de Julio in the Cercado District of Lima – was organized in consultation with the victim’s next of kin and took place as follows: (a) in a public ceremony presided by the Mayor of Lima, Susana Villarán; (b) in the presence of the victim’s next of kin, leaders of the National Civil Construction Federation and the Workers General Confederation of Peru, and authorities of the Metropolitan Municipality of Lima and of the national Government, and (c) information on the ceremony was published in several newspapers. In this regard, the Inter-American Court finds that the first operative paragraph, subparagraph (f), of the Judgment has been fulfilled and assesses positively the efforts made by the State to comply fully with this element of the Judgment.

e) Obligation to provide psychological attention and treatment to the next of kin of Pedro Huilca Tecse (first operative paragraph, subparagraph (g), of the Judgment).

23. The State advised that Martha Flores Gutiérrez, Indira Isabel Huilca Flores and Julio César Escobar Flores are covered by the Comprehensive Health Insurance Program (SIS), under the Law on Universal Health Insurance, and by the Essential Health Insurance Plan (PEAS); also that Flor de María Huilca Gutiérrez is affiliated to the ESSALUD health insurance system. In addition, it noted that José Carlos Huilca Flores resides in La Havana, Cuba. The State indicated that, although the Comprehensive Health Insurance Program (SIS) is designed to ensure health care to the whole population, “the beneficiaries of supranational judgments have also been included, owing to access, opportunity, quality and financing.” In particular, the Essential Health Insurance Plan (PEAS) includes diagnosis, medication, and monitoring of problems such as schizophrenia, anxiety, depression and alcoholism with auxiliary tests and services, as well as treatment by psychiatrists and psychologists. If the patient should require additional procedures, auxiliary tests, services and/or products

to those established in the Essential Plan, additional financing to that established, or care for problems not included in this Plan, the health care establishment that attends the patient can request authorization for special coverage. Thus, the beneficiaries in the Huilca Tecse case are able to access psychological and psychiatric treatment financed by the Comprehensive Health Insurance Program. The State clarified that, initially, it sought to treat each beneficiary in the health care center closest to their domicile and, subsequently, based on the possibilities and shortages of the primary health care center, they could be referred to establishments with a greater capacity to treat them. The State reiterated that this procedure “functions for centers specialized in mental health care, where it is possible to take advantage of the appropriate interventions and services for each specific case.” The State also indicated that it “offers a program of specialized psychological treatment for the next of kin of Mr. Huilca Tecse.” Subsequently, it advised that the Supranational Special Public Attorney of the Ministry of Justice and Human Rights had held coordination meetings with Martha Flores and the lawyer who represents her in the domestic sphere, in order to explain to her the scope of the Comprehensive Health Insurance Program (SIS). By telephone, Ms. Flores had indicated that she had made an appointment with the health care center nearest to her home and had no difficulty in receiving treatment, so that she would use this service. Lastly, the State indicated that it had reiterated to the beneficiaries in this case that, if they encountered any bureaucratic and/or administrative difficulties, they should contact the Supranational Special Public Attorney of the Ministry of Justice and Human Rights in order to overcome any problems that might arise in each case. Therefore, it asked the Court to consider that this measure had been complied with partially.

24. The representatives indicated that they had not been informed of the meetings held to re-evaluate the medical situation of some of the victim’s next of kin, which had “never taken place.” Subsequently, they acknowledged “the efforts made by the Peruvian State to improve the services of the health care program.” They indicated that, as the State had indicated in its report, “Martha Flores had no difficulty in receiving attention when she approached a health center.” However, they asked the Court to continue monitoring this measure in order “to avoid bureaucratic and/or administrative difficulties interfering with the medical care, which would prevent continuing compliance with this measures.”

25. First, the Commission indicated that the information provided by the State “continue[d] to be limited, by merely referring to the different types of health insurance to which the next of in would have access.” Then, the Commission observed that, in different cases against Peru, it had reiterated that it was not possible to consider that the State had complied with the obligation to provide medical and psychological treatment to all the victims merely be enrolling them in the Comprehensive Health Insurance Program (SIS). However, it took note of what the representatives had indicated as regards the improvements in the health care program. Based on the foregoing, the Commission considered that, before finding that this element of the Judgment had been fulfilled, the State should forward sufficient information on the services provided in order to verify that the health care measures that it has implemented are differentiated, individualized, preferential, comprehensive, and provided by specialized institutions and personnel.

26. The Court takes note of the information provided by the parties that the victims, beneficiaries of this measure of reparation, are affiliated to the Comprehensive Health Care System (SIS), with the exception of Flor de María Huilca Gutiérrez who is affiliated to ESSALUD. In addition, the Court notes that Martha Flores

had no difficulty in being attended when she went to a health care center. Therefore, the Court appreciates the different State initiatives of a general nature related to the public health care system, as well as the willingness revealed by the Supranational Attorney to explain to the victims the scope of the health care insurance and to help overcome any difficulties that could arise in each case.

27. Furthermore, the Court recalls that this measure of reparation imposes on the State the obligation to provide free, appropriate, and comprehensive psychological attention and treatment, for as long as necessary, as agreed with each victim and following an evaluation by a psychologist.⁸ In this regard, as the State has advised, the victims in this case are able to access psychological and psychiatric treatment in the health care establishments of the Ministry of Health, in line with the problems included in the PEAS, or with the special coverage if the problems are not covered by that program.

28. Consequently, based on the information provided and given that the victims or their representatives have not reported the existence of any factor that has prevented them from being provided with effective care and attention, the Court considers that it is in order to end the monitoring of compliance with this measure of reparation, in the understanding that the State will continue providing the attention that the victims require for as long as necessary, in the terms indicated.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

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

DECIDES THAT:

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

- a) Establish a course or subject on human rights and labor law, called the "*Cátedra Pedro Huilca*," pursuant to the first operative paragraph, subparagraph (d), of the Judgment;
- b) Recall and praise the work of Pedro Huilca Tecse in favor of the trade union movement in Peru during the official celebrations of May 1 (Labor Day), pursuant to the first operative paragraph, subparagraph (e), of the Judgment;
- c) Erect a bust in the memory of Pedro Huilca Tecse, pursuant to the first operative paragraph, subparagraph (f), of the Judgment, and

⁸ Cf. *Case of Huilca Tecse v. Peru. Merits, reparations and costs*. Judgment of March 3, 2005. Series C No. 121, para. 116.

- d) Provide psychological care and treatment to the next of kin of Pedro Huilca Tecse, pursuant to the first operative paragraph, subparagraph (g), of the Judgment.
2. It will keep open the proceeding for monitoring compliance with regard to the first operative paragraph, subparagraph (a), of the Judgment concerning the State's obligation to:
 - a) Investigate effectively the facts of the instant case in order to identify, prosecute and punish the perpetrators and masterminds of the extrajudicial execution of Pedro Huilca Tecse, pursuant to the considerations in paragraphs 107 and 108 of the Judgment.
3. It will continue monitoring the operative paragraph of the Judgment on merits, reparations and costs delivered by the Court on March 3, 2005, that remains pending compliance.
4. The State of Peru must adopt all the necessary measures to comply effectively and promptly with the pending aspect indicated in the second operative paragraph *supra*, as stipulated in Article 68(1) of the American Convention on Human Rights.
5. The State of Peru must present to the Inter-American Court of Human Rights, by November 21, 2013, at the latest, a report in which it indicates all the measures taken to comply with the reparation ordered by this Court that remains pending, pursuant to the provisions of the eighth and ninth considering paragraphs, as well as the second operative paragraph of this Order. Subsequently, the State must continue informing the Court in this regard every three months.
6. The next of kin of Pedro Huilca Tecse 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, respectively, of receiving them.
7. The Secretariat of the Court shall notify this Order to the Republic of Peru, the representatives of the victims, and the Inter-American Commission on Human Rights.

Manuel E. Ventura Robles
Acting President

Alberto Pérez Pérez

Eduardo Vio Grossi

Roberto Caldas

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri
Secretary

So ordered,

Manuel E. Ventura Robles
Acting President

Pablo Saavedra Alessandri
Secretary