

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS *
OF NOVEMBER 26, 2013**

CASE OF CESTI HURTADO v. PERU

MONITORING OF COMPLIANCE WITH THE JUDGMENT

HAVING SEEN:

1. The Judgment on preliminary objections ordered by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court" or "the Tribunal") on January 26, 1999, the Judgment on the merits ordered by the Court on September 29, 1999, (hereinafter "the Judgment on the merits"), the Judgment regarding interpretation of the Judgment on the merits issued by the Court on January 29, 2000 (hereinafter "the Judgment regarding interpretation of the Judgment on the merits"), the Judgment on costs and reparations of May 31, 2001 (hereinafter "the Judgment on reparations"), and the Judgment regarding interpretation of the Judgment on costs and reparations ordered by the Court on November 27, 2001, (hereinafter "the Judgment regarding interpretation of the Judgment on reparations"). This case is in regard to the prosecution of Mr. Gustavo Adolfo Cesti Hurtado, a retired military officer at the time, before a military forum where he was arrested, deprived of liberty, and sentenced. This occurred despite the existence of a final order issued in a habeas corpus proceeding, which had ordered that the victim be withdrawn from the military proceeding and that his personal liberty not be violated. The Court, in its Judgment on the merits of September 29, 1999, declared the violation of Articles 7(6) and 25 of the American Convention on Human Rights (hereinafter "the American Convention" or "Convention") in relation to the habeas corpus remedy; 7(1), 7(2) and 7(3) of the Convention in relation to the deprivation of liberty, and 8(1) of the American Convention for having been prosecuted before a court that lacked jurisdiction, all in relation to Articles 1(1) and 2 thereof .

2. The Orders on Monitoring of Compliance issued by the Court on November 17, 2004, September 22, 2006, August 4, 2008, and February 4, 2010. In the latter, the Court held:

1. That it will keep open the procedure to monitor compliance with the obligations not yet fully complied with, specifically:

a) annulment of the military proceedings and the effects resulting therefrom (*Operative paragraph No. 8 of the Judgment on the merits and Operative paragraphs No. 2 and 3 of the Judgment regarding interpretation of the judgment on the merits;*)

b) investigation of the facts surrounding this case and punishment of the perpetrators (*Operative paragraph No. 5 of the Judgment on reparations;*)

* The President of the Court, Judge Diego García Sayán, of Peruvian nationality, did not participate in the hearing and deliberation of this Order, pursuant to that provided in Articles 19(2) of the Statute and 19(1) of the Court Rules of Procedure.

c) payment of pecuniary damages (*Operative paragraphs No. 1 of the Judgment on reparations and Operative paragraph No. 3 of the Judgment regarding the interpretation of the judgment on reparations,*) and

d) payment of interest on the amount of compensation for moral damage (*Operative paragraphs No. 2 and 3 of the Judgment on reparations.*)

3. The briefs of February 25, March 26, May 7, and June 1, 2010, February 23, and March 8, 2011, and September 11, 2013, wherein the Republic of Peru (hereinafter “the State” or “Peru”) filed information in regard to the monitoring of compliance with the Judgment ordered by the Court in this case.

4. The briefs of April 4, and May 8, 2010, April 27, 2011, and November 1, 2013, wherein Mr. Gustavo Adolfo Cesti Hurtado and Mr. Gustavo Guillermo Cesti Cardó, victims in this case (hereinafter “the victims”), filed their observations to the State’s reports, as well as information in regard to the monitoring of compliance with the Judgments (*supra* Having Seen clause 3).

5. The briefs of June 1, 2011, and November 7, 2013, wherein the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) filed its observations to the reports provided by the States and the information provided by the victims (*supra* Having Seen clauses 3 and 4).

CONSIDERING THAT:

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

2. Peru became a State Party to the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) since July 28, 1978 and acknowledged the jurisdiction of the Court on January 21, 1981.

3. 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 The obligation to fulfill that provided by the Court includes the State’s duty to inform the Court of the measures adopted to comply with the rulings of the Court. The prompt implementation of the State’s obligation to report to the Court on how each aspect ordered by the Court is being fulfilled is essential in order to assess the status of compliance with the Judgment as a whole.²

4. 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

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 Castañeda Gutman V. México. Monitoring of Compliance with Judgment.* Order of the Inter-American Court of Human Rights of August 28, 2013, Considering clause three.

² Cf. *Case of Five Pensioners V. Perú. Monitoring of Compliance with Judgment.* Order of the Inter-American Court of Human Rights of November 17, 2004, Considering clause four, and *Case of the Saramaka People V. Surinam. Monitoring of Compliance with Judgment.* Order of the Inter-American Court of Human Rights of September 4, 2013, Considering clause twenty-four.

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 treaty³. The treaty obligations of the States Parties are binding for all the powers and organs of the State.⁴

5. 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.⁵

A. *Obligation of annulment of the military proceedings and the effects resulting therefrom (Operative paragraph No. 8 of the Judgment on the merits and Operative paragraphs No. 2 and 3 of the Judgment regarding interpretation of the judgment on the merits)*

6. The *State* reported, in relation to the criminal proceeding held within the Military-Police Forum against Gustavo Adolfo Cesti Hurtado for the crimes of disobedience against his duty and dignity of the profession, negligence and fraud, that on November 10, 1999, the War Chamber ordered that Mr. Cesti Hurtado be set free and it lifted the orders preventing Mr. Cesti Hurtado from exiting the country, to which he was released that same day. Moreover, on November 18, 1999, the ban on leaving the country and indictment was lifted, and the arrest warrants against Mr. Cesti Hurtado were rescinded. Moreover, by way of the Order of September 14, 2000, the Criminal Chamber of the Supreme Council on Military Justice, today the Supreme Court on Military-Police: i) annulled the Supreme Final Judgment of the Review Chamber of the Supreme Council of Military Justice of May 2, 1997, which affirmed the judgment of the War Chamber of April 13, 1997, that had convicted Mr. Cesti Hurtado as the perpetrator of fraud with imprisonment and ordered him to pay civil damages ii) annulled the preliminary hearing of Cesti Hurtado; iii) annulled the writ of inquiry against him on charges of disobedience against his professional duty and dignity of the profession, negligence and fraud, and iv) provided that the Magistrate of the Supreme Council of Military Justice suspend the orders restricting freedom and attachments on property issued against Cesti Hurtado. Similarly, on September 27, 2000, a request was made to a financial Corporation and the National Superintendent of Public Records, respectively, regarding the lifting of the attachment in terms of retention and registration against Mr. Cesti Hurtado.

³ 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 Castañeda Gutman V. México. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of August 28, 2013, Considering clause four.

⁴ Cf. *Case of Castillo Petruzzi et al. V. Perú. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 17, 1999, Considering clause three, and *Case of Castañeda Gutman V. México. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of August 28, 2013, Considering clause four.

⁵ Cf. *Case of Ivcher Bronstein V. Perú. Competence*. Judgment of the Inter-American Court of Human Rights of September 24, 1999. Series C No. 54, para. 37, and *Case of Castañeda Gutman V. México. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of August 28, 2013, Considering clause five.

7. The *victims* argued that “the State has not yet lifted [Mr. Cesti Hurtado’s] criminal history, regarding the irregular investigations at the Public Prosecutor’s Office or the Prosecutor of the Nation that have ended, where the cases have been closed by the Judiciary.”

8. The *Commission* pointed out the importance of having the supporting documentation regarding the relevant proceedings that established the annulment of the military proceedings against Mr. Cesti Hurtado, as well as the pending documentation that proves the lifting of the attachments that were carried out in various records, as was required by the Court in its Order of February 4, 2010. Furthermore, it considered that, notwithstanding that it does not have supporting documentation proving the claims of the victims regarding the lack of full compliance with this obligation, if the records exist, the State must provide the necessary steps to fully comply with this measure of reparation.

9. According to the information provided by Peru⁶ (*supra* para. 6), the Court recognizes that the State has made progress in fulfilling this obligation. Moreover, it recalls that, by way of the Order of February 4, 2010, “it ask[ed] the Commission and the representatives to accurately specify under which [...] public records Mr. Cesti Hurtado is still subject to prosecution[...] and to specifically define those in which the attachment on him has not been lifted.”⁷ Such information was not provided. However, the victims argued once again and in a general manner that “[Mr. Cesti Hurtado’s criminal history has yet to be lifted,” without providing evidence showing noncompliance by the State regarding that order.

10. In view of the foregoing and in order to allow the Court to determine whether there has been effective implementation of this measure of reparation, the Court states that the victims or their representatives shall inform the Court, within the period established in the operative part of this Order, on the alleged public records and which of those indicate that Mr. Cesti Hurtado is still subject to prosecution and in which of those the history of the irregular investigations that are closed and archived by the Judiciary appear, as well as those in which it is evident that the attachment against Mr. Cesti Hurtado has not been lifted. In the event that the information requested from the victims or their representatives is not provided within the period specified in this Order, the Court will consider this measure fulfilled.

11. Moreover, in response to the information that will eventually be provided by the victims, the State must report, within the period established in the operative part of this Order, what additional steps it has taken to comply with this obligation and provide the corresponding supporting documentation.

⁶ The State submitted as supporting documentation, among others: Note No. 001-2010-SG-TSMP of January 7, 2010, signed by the Secretary General of the Military Police Supreme Court addressed to the Supranational Specialized Public Prosecutor’s Office of the Ministry of Justice, Note No. 002-2010-SG-TSMP of January 15, 2010, signed by the Secretary General of the Military Police Supreme Court addressed to the Supranational Specialized Public Prosecutor’s Office of the Ministry of Justice, Resolution of the Plenary of the Supreme Council of Military Justice of September 14, 2000, Note No. 1034-V.I.CSJM.4S of September 27, 2000 signed by Magistrate of the Supreme Council of Military Justice addressed to the General Manager of Banco Santander; Note No. 1034-V.I.CSJM.4S of September 2000 signed by the Magistrate of the Supreme Council of Military Justice addressed to the National Superintendent of Public Records, and Note No. 424 SG-CSJM of November 18, 1999, signed by the President of the Supreme War Chamber of the Council on Military Justice addressed to the Chief of the Division of Police Summons.

⁷ *Case of Cesti Hurtado V. Perú. Monitoring of Compliance with Judgment.* Order of the Inter-American Court of Human Rights of February 4, 2010, Considering clause 11.

B. Obligation of investigation of the facts surrounding this case and punishment of the perpetrators (*Operative paragraph No. 5 of the Judgment on reparations*)

12. The *State* provided information in regard to the criminal proceeding against Raúl Aurelio Talledo Valdivieso in the case of Cesti Hurtado and the judgment ordered by the Permanent Criminal Chamber on June 13, 2003, wherein he was convicted of abuse of authority, as the perpetrator, and he was sentenced to deprivation of liberty for four years with rules of conduct. Moreover, the State reported that on January 30, 2004, the Supreme Court of Justice of the Republic resolved the appeals filed by both the Civil Party as well as the Public Prosecutor's Office and confirmed the judgment of June 13, 2003. Moreover, on January 12, 2005, it rendered a second Supreme Final Judgment. Subsequently, on May 9, 2005, the Public Prosecutor's Office requested that the judgment of June 13, 2003, be declared null and void. On July 13, 2005, the Special Criminal Chamber of the Supreme Court of Justice "rendered a decision in regard to the Public Prosecutor's complaint, declaring that it agreed with the judgment [on appeal]." Lastly, the State noted that the sentence is currently being carried out, and the case is with the Supreme Chamber, given the proceeding against Guido Eduardo Guevara Guerra until he is suited for trial, "as a convicted criminal in contempt."

13. The *victims* noted that repeatedly providing the judgment convicting Raúl Aurelio Talledo Valdivieso, as the State has done, is insufficient given that he is not the only one responsible for the facts. Moreover, they highlighted that the State has not taken any measures to "extradite General Guevara Guerra, who is in Mexico." In addition to the aforementioned, they added that responsibility for these facts cannot be attributed only to these two persons, and they considered it necessary that an investigation be carried out against the Officers charged with the custody of Cesti Hurtado in Barracks "San Martin," being that they "deprived him of liberty despite a Judge ruling otherwise." The investigation should also be carried out against two former Anti-corruption attorneys who litigated against Cesti Hurtado, "and then, being attorneys, refused to investigate the facts." Moreover, the victims considered that the "[Former President] Alberto Fujimori and Vladimiro Montesinos, the General of the Army Nicolás Hermosa Ríos, and the Division General Guido Guevara Guerra, devised [the] kidnapping [of the victim], using Police and Army weaponry." According to the victims, the judgment of the Permanent Criminal Chamber of June 13, 2003, dealt with the noncompliance of the habeas corpus remedy ordered in favor of Cesti Hurtado, which "has nothing to do with the subsequent aggravated kidnapping he underwent." In this sense, they argued that "the perpetrators who ordered the kidnapping and deprivation of liberty of [Cesti Hurtado] must still be denounced."

14. The *Commission* considered that the resolution issued by the Criminal Chamber of the Supreme Court of Justice is an important advance in regard to compliance with this obligation. Notwithstanding the abovementioned and taking into account the observations of the victims regarding the existence of other possible perpetrators and the involvement of more than one person in the decisions that led to the international responsibility of the State, it considered it necessary that the Court order the State to accurately report on the reasons why it considers that this measure has been fulfilled, and specifically, that it note whether it has exhausted all means of investigation in regard to the different levels of responsibility that may exist in this case. In addition, it noted that in the last Order on compliance issued in this case on February 4, 2010, the Court had already taken into account the information presented by the State and required the submission of new information, however, the State "did not report on any procedures it had taken subsequent to the appeals and complaint that were filed against the decision of June 13, 2003." proceedings. Thus, it concluded that it does not have information

that would demonstrate that the State has exhausted all means of investigation in regard to the different levels of responsibility that may be in this case.

15. During the proceeding on monitoring of compliance of the judgments on the merits and reparations, during the period 2003-2013, that is, during the last ten years, the State has repeatedly provided details of the criminal proceedings in the case of Cesti Hurtado and the judgment of June 13, 2003, wherein the Permanent Criminal Chamber convicted Raul Aurelio Talledo Valdivieso, Magistrate of the Military Forum, for the crime of abuse of authority.⁸ Moreover, in that case, the Permanent Criminal Chamber put aside the judgment of Guido Eduardo Guevara Guerra, Chief of Military Justice at the time of the facts of this case, wherein it needed to carry out the corresponding national and international arrest warrants. Moreover, the State reported that by way of an appeal of January 30, 2004, the conviction of Raúl Aurelio Talledo Valdivieso was confirmed.⁹ Subsequently, Peru submitted information in regard to the Supreme Final Judgment and the Appeal of January 12, and July 13, 2005 (supra para. 12) , which did not specifically mention the case of Cesti Hurtado. In turn, by way of the Order of February 4, 2010, the Court “positively assesse[d] the willingness expressed by the State to comply with its obligation to investigate the facts in this case and punish those responsible.”¹⁰ Because of the information submitted by the State and its supporting documentation, the Court finds that the State has partially complied with its obligation to investigate the facts of this case, and where appropriate, punish those responsible.

16. Notwithstanding the foregoing, the Court notes that after the judgment of June 13, 2003, and the appeal of January 30, 2004, the information submitted by the State does not demonstrate that procedures have been implemented to fulfill this aspect of the measures of reparations. Meanwhile, the victims have referred to the failure to extradite one of the suspects, the alleged responsibility of more than two people in this case, and the failure to establish claims against “those responsible for ordering the kidnapping and deprivation of liberty” of Cesti Hurtado.

17. In this regard, it is important to remember that, in the judgment on merits, the Court declared the international responsibility of the State: (i) “[f]or failure to appropriately implement the decision of the Special Public Law Chamber in favor of Mr. Gustavo Adolfo Cesti Hurtado [which upheld the habeas corpus remedy that was filed];” (ii) “[a]s a result of the refusal of [the] military authorities to obey and execute the legal order of the Special Public Law Chamber, and the consequent arrest, prosecution, and conviction of Mr. Cesti Hurtado,” and (iii) “[i]n regard to the proceedings against Mr. Cesti Hurtado before a military justice

⁸ In accordance with the judgment of June 13, 2003, Raul Aurelio Talledo Valdivieso, in his capacity as Magistrate of the Military Forum wrongly prosecuted, under the military forum, the retired Captain of the Peruvian Army, Gustavo Adolfo Cesti Hurtado, for the crime of fraud and others, and consequently, ordered the Judicial Police to detain him and the search his home on February 28, 1997, and on February 26, 1997, declared the habeas corpus remedy against Cesti Hurtado inapplicable, “thereby abusing his powers as a Military Judge.”

⁹ Cf. *Case of Cesti Hurtado V. Perú. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of November 17, 2004, Having Seen clause 17; *Case of Cesti Hurtado V. Perú. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of September 22, 2006, Having Seen clauses 6(b), 7(b) and 12(b), and Considering clause 11; *Case of Cesti Hurtado V. Perú. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of August 4, 2008, Considering clauses 14 to 16 and 19; and *Case of Cesti Hurtado V. Perú. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of February 4, 2010, Considering clauses 12 to 14.

¹⁰ *Case of Cesti Hurtado V. Perú. Monitoring of Compliance with Judgment*. Order of the Inter-American Court of Human Rights of February 4, 2010, Considering clause 15.

body, [given] that he, at the time the proceedings began and proceeded, was a retired military officer, and therefore, he could not be tried by military tribunals.”¹¹ As a consequence, in its Judgment on reparations, the Court noted that “the State has the obligation to investigate human rights violations identified in this case and prosecute those responsible in order to avoid impunity.”¹²

18. As such, the State’s duty to investigate is limited to those facts and it is on this basis that Peru should take all necessary steps to comply with the provisions of the Court in the Judgments on the merits and reparations (*supra* Having seen clause 1). Therefore, the State must provide detailed, complete, and updated information, along with the appropriate supporting documentation, on the new procedures carried out in attempts at complying with this measure. In particular, the State must report on: a) all the steps taken in order to fully comply with this obligation, b) the state of the criminal proceedings that were put aside in the judgment of June 13, 2003, as well as the appropriate judicial and diplomatic steps and measures taken regarding the extradition of one of the main defendants, and c) refer specifically to the allegations made by the victims about the existence of other possible perpetrators of the facts.

C. Obligation of payment of pecuniary damages (Operative paragraphs No. 1 of the Judgment on reparations and Operative paragraph No. 3 of the Judgment regarding the interpretation of the judgment on reparations)

19. The *State* reported that, by way of the resolution of April 8, 2009, of the Thirty-Fourth Civil Court of Lima, confirmed by the resolution of October 23, 2009, of the First Civil Chamber of the Superior Court of Justice of Lima, the total amount owed for principal and legal interests was established until November 30, 2008, and on June 7, 2013, liquidation of these amounts was approved. In addition, the State indicated that Mr. Cesti Hurtado sought attachments on bank accounts and real estate owned by the State. In addition, it also presented information on various endorsements, charges, and payments made on behalf of Mr. Cesti Hurtado, by which, according to Peru, “full payment was made of the amount approved for liquidation.” Lastly, the State reported that on October 12, 2012, Mr. Hurtado Cesti proposed a new payment of legal interests as of 2009 to October 2, 2012 before the Thirty-Second Civil Court of Lima, wherein “the ruling by the judge is still pending.”

20. The *victims* argued that the process had been “plagued with delay tactics and in many cases intimidations against the administrators of justice in order to prevent the obligations relating to this point from being fulfilled.” Moreover, they forwarded the Order of October 17, 2013, of the Thirty Second Civil Court of Lima, which states that “the total liquidation of the debt “has been paid” and the amount “is not subject to any questioning.” However, according to the resolution, “since the mentioned approval, payments have been made in installments over the course of several years[,] which could have generated additional interests.” Therefore, the appointed legal experts were ordered to draft the relevant report. Lastly, the victims claimed that “this obligation has not yet been fulfilled[,] and the last liquidation of interests remains,” and they are waiting for the State to “avoid new attachments and delay in the execution of this obligation and to comply immediately with payment once the amount

¹¹ *Case of Cesti Hurtado V. Perú. Merits.* Judgment of the Inter-American Court of Human Rights of September 29, 1999. Series C No. 56, paras. 133, 143, and 151.

¹² *Case of Cesti Hurtado V. Perú. Reparations and Costs.* Judgment of the Inter-American Court of Human Rights of May 31, 2001. Series C No. 78, para. 64.

has been established by the expert.”

21. The *Commission* noted that the payment had not been provided of the total amount that had been established by the arbitral award of April 6, 2010, issued by the Thirty-Fourth Civil Court of Lima, in which a series of incidents were resolved within the framework of said decision, the failure to comply with the total payment was noted, and measures were taken to accelerate the payment. Also, given that Peru “reported that Mr. Cesti Hurtado had executed an attachment on bank accounts and real estate of the State and, through such measures, it has been implementing the payment that was approved in his favor,” the Commission “noted the efforts made to comply with this measure and consider[ed] it relevant that specific information be provided by the representatives to understand their perspective on the state of compliance with [... the measure].”

22. The Court appreciates that by way of the resolution of April 8, 2009, the Thirty-Fourth Civil Court of Lima, affirmed by the decision of October 23, 2009, of the First Civil Chamber of the Superior Court of Justice of Lima, fixed the total amount owed for principal and legal interests until November 30, 2008, and that on June 7, 2013, the liquidation was approved. In this sense, according to information provided by the State and the victims, as well as the supporting documentation, the Court finds that pursuant to paragraphs 46 and 47 of the Judgment on reparations, and 32 and 33 of the Judgment regarding interpretation of the Judgment on reparations and costs, the State has partially complied with the payment of pecuniary damages.

23. In paragraphs 46 and 47 of the Judgment on reparations, the Court held that “[t]aking into account the specificity of the requested measures of reparation as well as the characteristics of commercial law and the corporate and commercial transactions involved,” the establishment of pecuniary damage corresponds “to national institutions rather than to an international court of human rights.” Therefore, it ordered the State “to compensate the victim for pecuniary damages that were suffered due to the violations declared in the Judgment on the merits, taking into account, given the circumstances of this case, the components that make up pecuniary damage; and to proceed with establishing, according to the relevant national standards, the corresponding compensation, in order for the victim to receive them within a reasonable time.”

24. In this regard, as has been reported, a possible expert determination and court ruling is still pending on whether additional interests have been generated. Accordingly, the Court requires the State to submit detailed, complete, and updated information, along with the appropriate supporting documentation, to allow for the appropriate monitoring of compliance with this measure. In particular, the Court is waiting for information that will aid in its understanding of the decisions issued in the domestic judicial proceedings, so that it can define whether the State has complied with all the obligations arising from its Judgments on this measure of reparations.

D. Obligation of payment of interest on the amount of compensation for moral damage (Operative paragraphs No. 2 and 3 of the Judgment on reparations)

25. The State reiterated that it paid the sum of U.S.\$65,000.00 (sixty-five thousand dollars of the United States of America), through its delivery of the following amounts: U.S. \$25,000.00 (twenty-five thousand dollars of the United States of America) to Gustavo Adolfo Cesti Hurtado; U.S. \$10,000.00 (ten thousand dollars of the United States of America) to Carmen Cardó Guarderas Cesti; U.S. \$5,000.00 (five thousand dollars of the United States of

America) to Margarita del Carmen Cesti Cardó ; U.S. \$5,000.00 (five thousand dollars of the United States of America) to Gustavo Guillermo Cesti, and U.S. \$20,000.00 (twenty thousand dollars of the United States of America) to Gustavo Adolfo Cesti Hurtado.

26. The *victims* argued that the State has not complied with the payment of interest for the delay in canceling out the pecuniary damage to Mr. Cesti Hurtado, his wife Carmen Cardó de Cesti, and their children Margarita and Gustavo Cesti Cardó.

27. The *Commission* noted that the State did not provide updated information and that the victims continued to report that no such payment has been provided, therefore, it awaits information and supporting documentation from the State on the corresponding payments.

28. In the Order of the Court of November 17, 2004, the Court held that the State paid the sum of U.S.\$65,000.00 (sixty-five thousand dollars of the United States of America), corresponding to that which was established in the second, third, and fourth operative paragraphs of the Judgment on reparations. Moreover, the Court also noted that the interest owed due to the delay in the payment of the reparations was still pending.¹³ In short, the State has not presented updated information on what specific actions it would have taken to comply with this aspect of the reparations.

29. In view of the foregoing, the Court considers that this measure is pending compliance and therefore it awaits detailed, complete, and updated information, along with the relevant supporting documentation, so as to allow the appropriate monitoring of compliance with this measure.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its judgments under 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. Pursuant to that noted in the relevant considering clauses of this Order, the State has partially complied with the following obligations:

- a) investigation of the facts surrounding this case and punishment of the perpetrators (*Operative paragraph No. 5 of the Judgment on reparations*), and
- b) payment of pecuniary damages (*Operative paragraphs No. 1 of the Judgment on reparations and Operative paragraph No. 3 of the Judgment regarding the interpretation of the judgment on reparations*).

¹³ Cf. *Case of Cesti Hurtado V. Perú*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 17, 2004, Considering clause 10.

2. Keep open the proceedings on monitoring of compliance in regard to the following points pending fulfillment:

a) annulment of the military proceedings and the effects resulting therefrom (*Operative paragraph No. 8 of the Judgment on the merits and Operative paragraphs No. 2 and 3 of the Judgment regarding interpretation of the judgment on the merits;*)

b) investigation of the facts surrounding this case and punishment of the perpetrators (*Operative paragraph No. 5 of the Judgment on reparations;*)

c) payment of pecuniary damages (*Operative paragraphs No. 1 of the Judgment on reparations and Operative paragraph No. 3 of the Judgment regarding the interpretation of the judgment on reparations,*) and

d) payment of interest on the amount of compensation for moral damage (*Operative paragraphs No. 2 and 3 of the Judgment on reparations.*)

3. The Republic of Peru adopt all necessary measures to effectively and promptly fulfill the measures that are pending compliance, mentioned in operative paragraph two of this Order, in accordance with the provisions of Article 68(1) of the American Convention on Human Rights.

4. The Republic of Peru must provide the Inter-American Court of Human Rights, by no later than March 26, 2014, a report that indicates all the measures that have been taken to comply with the pending matter, in accordance with Considering Clauses 9 to 11, 15 to 18, 22 to 24, and 28 to 19 of this Order, as well as operative paragraph 2.

5. The victims or their representatives provide the Inter-American Court of Human Rights, by no later than February 26, 2014, the information required in considering clause 10 of this Order.

6. The representatives of the victims and the Inter-American Commission on Human Rights provide any observations they deem relevant to the State's report mentioned in operative paragraph 4, in the period of four and six weeks, respectively, counted from receipt thereof.

7. The Secretariat of the Inter-American Court of Human Rights shall notify this Order to the Republic of Peru, the Inter-American Commission on Human Rights, and the representatives of the victims.

Manuel E. Ventura Robles
Acting President

Alberto Pérez Pérez

Eduardo Vio Grossi

Roberto F. 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