

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS*
OF FEBRUARY 13, 2013**

**CASE OF VÉLEZ LOOR v. PANAMA
MONITORING COMPLIANCE WITH JUDGMENT**

HAVING SEEN:

1. The Judgment on preliminary objections, merits, reparations and costs delivered on November 23, 2010 (hereinafter “the Judgment”) by the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”), in which it accepted the partial acknowledgement of responsibility made by the Republic of Panama (hereinafter “the State” or “Panama”) and declared the international responsibility of the latter for the violation of the rights to personal liberty, judicial guarantees, the principle of legality, and personal integrity of Jesús Tranquilino Vélez Loor, an Ecuadorian national, as well as for failing to undertake an investigation into the alleged acts of torture that were denounced, and for failing to comply with the obligation to ensure, without discrimination, the right of access to justice. The Court determined, *inter alia*, that the detention of an individual for failing to comply with the migratory laws should never have a punitive purpose and that, if detention is necessary and proportionate in a specific case, migrants should be detained in establishments specifically designed to this end that accord with their legal situation, and not in ordinary prisons whose purpose of which is incompatible with the nature of the possible detention of an individual owing to his or her migratory situation, or other places where they may be detained together with persons accused or convicted of criminal offenses.¹ In the Judgment, the Court established that:

[...]

12. The State must pay the amount established in paragraph 264 of th[e] Judgment for specialized medical attention and psychological treatment, as well as for medicines and other future related expenses within six months.

13. The State must make the publications ordered, as established in paragraph 266 of th[e] Judgment.

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

¹ The official summary of the Judgment delivered by the Court can be consulted [in Spanish] on the following webpage: http://www.corteidh.or.cr/docs/casos/articulos/resumen_218_esp.pdf

14. The State must continue effectively, with the greatest diligence and within a reasonable time, the criminal investigation opened in relation to the facts denounced by Mr. Vélez Lóor, in order to determine the corresponding criminal responsibilities and apply, as appropriate, the punishments and other consequences provided for by law, as established in paragraph 270 of th[e] Judgment.

15. The State must, within a reasonable time, take the necessary measures to ensure that there are establishments with sufficient capacity to accommodate those individuals whose detention is necessary and proportionate in the specific case owing to migratory issues, which offer the physical conditions and a regime that is adapted to migrants, staffed by duly trained and qualified civilian personnel, as established in paragraph 272 of th[e] Judgment.

16. The State must implement, within a reasonable time, an education and training program on international standards relating to the human rights of migrants, guarantees of due process of law, and the right to consular assistance for the personnel of the National Immigration and Naturalization Service, as well as for other officials who, owing to their terms of reference, deal with migrants, as established in paragraph 278 of th[e] Judgment.

17. The State must implement, within a reasonable time, training programs on the obligation to open investigations, *ex officio*, whenever a report or a well-founded reason exists to believe that an act of torture has been committed under its jurisdiction, for members of the Public Prosecution Service, the Judiciary, the National Police, and health sector personnel with competence in this type of case and who, owing to their functions, are the first persons called on to attend victims of torture, as established in paragraph 280 of th[e] Judgment.

18. The State must pay the amounts established in paragraphs 304, 307, 314 and 319 of th[e] Judgment, as compensation for pecuniary and non-pecuniary damage and for reimbursement of costs and expenses, as appropriate, within one year of notification of th[e] Judgment, as established in paragraphs 321 to 326 of the Judgment.

[...]

2. The briefs of June 8 and 10 and December 23, 2011, February 10 and 15, March 5 and 12, May 16, 21 and 25, June 8 and September 20, 2012, in which the State presented information on compliance with the Judgment.

3. The briefs of January 23, June 21, August 30 and October 23, 2012, in which the representatives forwarded information on compliance with the Judgment as well as observations on the reports presented by Panama (*supra* having seen paragraph 2).

4. The brief of October 19, 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 by the representatives (*supra* having seen paragraphs 2 and 3). The Commission did not present its observations on the State's report of September 20, 2012, within the corresponding time frame.

5. The brief of February 5, 2013, in which the State presented additional information on compliance with the Judgment. The Court has considered the information provided on this occasion in this Order, without prejudice to the observations that the representatives and the Commission present within the time frame granted to that end.

CONSIDERING THAT:

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

2. Under the provisions of Article 67 of the American Convention, the State must comply with the judgments of the Court fully and promptly. In addition, 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 that the measures ordered by the Court in its decisions are implemented at the domestic level.²

3. The obligation to comply with the decisions in the Court's judgments corresponds to a basic principle of the law on the international responsibility of the State, supported by international case law, according to which, a State must comply with its 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.³ The treaty-based obligations of the States Parties are binding on all the powers and organs of the State.⁴

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 Court's decisions. 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 to pay Mr. Vélez Loor the amount established for specialized medical attention and psychological treatment, as well as for medicines and other future related expenses (twelfth operative paragraph of the Judgment)

5. The State advised that it had paid the sum of US\$7,500.00 (seven thousand five hundred United States dollars) to Mr. Vélez Loor through the Embassy of Panama in the Republic of Ecuador "for specialized medical attention and psychological treatment, as well as for medicines and other future related expenses."

6. The representatives confirmed that, on June 10, 2011, the State had delivered a check for US\$7,500.00 (seven thousand five hundred United States dollars) to Mr. Vélez Loor, thus complying with the provision established by the Court in its Judgment.

² Cf. *Case of Baena Ricardo et al. Jurisdiction*. Judgment of November 28, 2003. Series C No. 104, para. 60, and *Case of Salvador Chiriboga v. Ecuador. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of October 24, 2012, second considering paragraph.

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 Albán Cornejo v. Ecuador. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of February 5, 2013, fifth considering paragraph.

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

⁵ Cf. *Case of Ivcher Bronstein v. Peru. Jurisdiction*. Judgment of September 24, 1999, Series C No. 54, para. 37, and *Case of Barrios Altos v. Peru. Monitoring compliance with judgment*. Order of the Inter-American Court of Human Rights of September 7, 2012, fifth considering paragraph.

7. The Commission considered that, based on the information submitted by the parties, this aspect of the Judgment had been fulfilled.

8. Panama has provided the payment vouchers that prove that, on June 10, 2011, Mr. Vélez Loor received the payment ordered for specialized medical attention and psychological treatment, as well as for medicines and other future related expenses. Consequently, and also based on the conformity expressed by the parties, this Court finds that the twelfth operative paragraph of the Judgment has been complied with. In addition, it assesses positively the State's efforts to comply with the obligation ordered in this aspect of the Judgment within the six months established to this end.

b) Obligation to make the publications established in the Judgment (thirteenth operative paragraph of the Judgment)

9. The State advised that on March 6 and May 16, 2012, respectively, it had published the official summary of the Judgment in the Panamanian national newspaper "*La Estrella*," as well as in the newspaper "*El Universo*" of Ecuador. It also indicated that the publication of the entire judgment could be found following the link *Caso Vélez Loor vs. Panama. Sentencia de 23 de noviembre de 2010*, in the Human Rights section of the official web page: www.mire.gob.pa. Furthermore, it reported that, on April 17, 2012, the Judgment had been published in Official Gazette No. 27016, with the respective headings and sub-headings, without the footnotes, together with the operative paragraphs, and this can be found on the webpage: www.gacetaoficial.gob.pa.

10. The representatives indicated that the information available revealed that the State had indeed published the summary of the Judgment in a newspaper with widespread circulation in Panama and another in Ecuador and that, currently, the Judgment delivered in this case was available on an official web page. In addition, the State had published the Judgment of the Court in the Official Gazette of the State of Panama with the respective headings and sub-headings, without the footnotes, together with the operative paragraphs. Therefore, the State had complied with this measure of reparation.

11. The Commission considered that, based on the information submitted, the State had complied with this measure of reparation.

12. The information available indicates that the State has complied with the publication of the Judgment in digital Official Gazette No. 27016 of April 17, 2012,⁶ in the terms established by the Court. Furthermore, copies of the publication of the official summary of the Judgment made in a newspaper with widespread circulation in Panama and another in Ecuador were provided. The State has also published the entire Judgment on an official web

⁶ A note of the Secretariat of the Court of July 24, 2012, confirmed that, in the State's report of May 21, 2012 (*supra* having seen paragraph 2), the State advised that "[t]he Judgment [...] delivered by the Court was published in Official Gazette No. 27016 of April 17, 2012, [...]" without the State having "forwarded the respective proof of this publication. However, a publication that refers to the judgment in the *Case of Vélez Loor v. Panama* appears on the webpage of the digital Official Gazette." Therefore, the Court proceeded to incorporate the said publication *ex officio* into the body of evidence in this case and asked the parties, if they considered it pertinent, to submit their observations in this regard. In response, in a brief of August 30, 2012, the representatives indicated "that it is the State's obligation to demonstrate compliance with the reparations ordered in a judgment of the [...] Court," and that "this information is essential for the satisfactory evolution of the process of monitoring judgments." In addition, they expressed their "concern owing to the practice of the State of Panama of submitting incomplete reports to the [...] Court, without the attachments to substantiate its assertions." In a brief of September 20, 2012, the State advised that the said publication was available on the following webpage of the Official Gazette: <http://www.gacetaoficial.gob.pa/pdfTemp/27016/37529.pdf> (last visited February 13, 2013).

site.⁷ In the understanding that this last publication will be available for one year as of its publication, the Court finds that the thirteenth operative paragraph of the Judgment has been complied with entirely. In this regard, it assesses positively the efforts made by the State to comply fully with this aspect of the Judgment.

c) Obligation to continue effectively, with the greatest diligence and within a reasonable time, the criminal investigation opened in relation to the facts denounced by Mr. Vélez Loor, in order to determine the corresponding criminal responsibilities and to apply, as appropriate, the punishments and other consequences provided for by law (fourteenth operative paragraph of the Judgment)

13. The State indicated that, in Hearing No. 272 of August 31, 2010, the Eleventh Circuit Criminal Prosecutor of the First Judicial Circuit of the province of Panama asked the judge of the case to issue an order relinquishing jurisdiction to the Darién Circuit. In response, the Fifth Circuit Criminal Court of the First Judicial Circuit of Panama, in Decision No. 52 of February 8, 2011, disqualified itself from hearing the criminal inquiry and decided to relinquish jurisdiction in favor of the Darien Criminal Judicial Circuit, on the grounds that the incident being heard was committed in the province of Darién, the place where it initiated, without disregarding the fact that the events also continued in the La Joyita Prison. In this regard, the State emphasized that this relinquishment “does not exclude the investigation and prosecution” of the events that occurred subsequently in the La Joyita-Joya Prison, located in the province of Panama, by the Preliminary Investigation Agency and the Combined Circuit Court of the province of Darién. Consequently, on January 24, 2012, the case file with the written proceedings relating to the inquiry for the supposed perpetration of the offense against the liberty of Mr. Vélez Loor was forwarded to the Criminal Circuit Judge of the province of Darién, and was received on February 10, 2012. In addition, the State presented information on the measures taken in the context of the criminal investigation, which included: (a) two site inspections on June 8, 2012, in the offices of the National Border Service; the first in the district of La Palma, and the second in the community of Piedra Candela, Metetí, as well as a third inspection carried out on June 21, 2012, in the former Police headquarters of the community of La Esperanza on June 22, 2012; (b) two sworn statements from residents of the community of La Esperanza of June 22, 2012; (c) request for judicial assistance No. 01/12 of June 2012 to the judicial authorities of the Plurinational State of Bolivia, under the provisions of the Inter-American Convention on Mutual Assistance in Criminal Matters, in order to obtain the sworn statement of Mr. Vélez Loor. In this regard, it can be inferred that the said request was presented to the Attorney General on June 11, 2012, and that, on July 5, 2012, the International Affairs Secretariat of the Attorney General’s office returned the said request for a correction to be made, and (d) on July 18, 2012, the National Directorate of Legal Advisory Services forwarded information relating to the identification of two police agents to the Prosecutor of the province of Darién.

14. The representatives observed that, following the Judgment handed down by the Court, the State “has taken very few actions to comply with the measures ordered.” In this regard, they indicated that the disqualification to hear the case by the Fifth Criminal Circuit Judge of the First Judicial Circuit of Panama and the relinquishment in favor of the Darién Judicial Circuit was a matter of concern, because “this procedural measure seriously delayed the investigation,” because the disqualification occurred on February 8, 2011, while the case file was only forwarded to the prosecutor of the Darién Judicial Circuit on January 24, 2012, and it was only on February 10, 2012, that it was decided to declare the investigation

⁷ The link is as follows: <http://www.mire.gob.pa/sites/default/files/documentos/derechos-humanos/Caso-Velez-Loor-vs-Panama-Sentencia-del-23-de-noviembre-de-2010.pdf> (last visited February 13, 2013).

open.⁸ Regarding the on-site inspection made in La Palma on June 8, 2012, they considered that it was a useless action that did not provide any relevant information because a previous inspection carried out on May 17, 2010, had the same purpose, and this had been recorded. As regards the on-site inspections made in Metetí and in La Esperanza, they indicated that the investigating authority had merely recorded a general description and taken some photographs. In relation to the two sworn statements obtained by this authority, they considered that, since the statements were made by two individuals chosen at random, they did not provide any substantive information to the investigation. Furthermore, they indicated that Mr. Vélez Loor had not been able to make his initial statement, "a procedural measure that was essential for determining the events denounced," "because the Panamanian authorities had not communicated with him, even though his contact information in Bolivia had been formally provided to the Head of International Affairs of the Panamanian Public Prosecution Service." According to the representatives, there is also no evidence in the case file that the State has taken any measure following the communication of the International Affairs Secretariat of the Attorney General's Office indicating that the request for assistance should be corrected. Regarding the identification of the two police agents, they indicated that the State had not specified where these individuals were, or what other measures it was taking to investigate their possible participation in the events denounced; also, that their statements had not been received and Mr. Vélez Loor had not been asked to identify them. They therefore asked the Court to require the State to provide an account of the measures that were pending and a timetable for implementing them.

15. The Commission indicated that the information provided by the State was minimum and revealed that no measures had been taken. In addition, it was waiting for the State to "provide an explanation with regard to the representatives' observations on the transfer of jurisdiction to the province of Darién," and that it indicate "whether this transfer meant that the investigations do not include the events denounced by Mr. Vélez Loor during the time he was detained in the La Joya-Joyita prison."

16. First, the case file provided reveals that, from February 8, 2011, the date on which the Fifth Criminal Circuit Judge relinquished jurisdiction to the Judicial Criminal Circuit of Darién, and June 6, 2012, no investigative measures were taken. However, the waiver of jurisdiction to the Judicial Criminal Circuit of Darién cannot become an obstacle or a mechanism to delay the criminal investigation into the facts denounced. Subsequently, according to the State, on-site inspections were carried out, sworn statements were received, an attempt was made to request judicial assistance from the judicial authorities of the Plurinational State of Bolivia in order to obtain Mr. Vélez Loor's sworn statement, notes were sent out requesting specific documentary evidence, and information was exchanged with regard to the identification of two police agents. In this regard, the Court considers that, although certain investigative activity by the authorities responsible for the investigation can be observed, the truth is that, more than nine years after the State was advised of the alleged acts of torture and ill-treatment, and more than three years after the investigations were initiated,⁹ the information provided by the State does not reveal significant progress in the criminal investigation.

⁸ The representatives also indicated their concern owing to Order No. 52 issued by the Fifth Criminal Circuit Court of the First Judicial Circuit of Panama on February 8, 2011, because they considered it essential that the investigation in this case include all the facts denounced by Mr. Vélez Loor, including those that occurred during his detention in the Public Prison in La Palma and in the La Joya-Joyita Prison in Panama City.

⁹ Cf. *Case of Vélez Loor v. Panama. Preliminary objections, merits, reparations and costs*. Judgment of November 23, 2010. Series C No. 218, paras. 235 and 242.

17. The Court reiterates to the State that it has an obligation to continue effectively, with greater diligence and within a reasonable time, the criminal investigation initiated into the events reported by Mr. Vélez Loor, which refer to: (i) those that occurred in the context of the detention of Mr. Vélez Loor in the Darién; (ii) those that occurred in the Public Prison in La Palma, and (iii) those that occurred in the La Joya-Joyita Prison. In order to monitor compliance with this obligation, the State must provide information on: (a) the measures taken in order to take the statement of Jesús Tranquilino Vélez Loor in the Plurinational State of Bolivia, and (b) other measures tending to identify the possible authors of the facts and, as appropriate, involve them in the proceedings. Also, it is essential that the State present updated information on any new measures that it has taken to comply with this aspect of the Judgment, as well as a copy of the respective documentation.

d) Obligation to adopt, within a reasonable time, the necessary measures to ensure that there are establishments with sufficient capacity to accommodate those individuals whose detention is necessary and proportionate in the particular case owing to migratory issues, specifically adapted to these purposes, which offer the physical conditions and a regime that is adapted to migrants, staffed by duly trained and qualified civilian personnel (fifteenth operative paragraph of the Judgment)

18. The State advised that there are two shelters on the premises of the National Immigration Service. The men's shelter – consisting of two buildings each one able to accommodate 50 people, and also a building that can lodge 10 people – located in Curundú, and the women's shelter – with the capacity to accommodate 30 people – located at Avenida Cuba/Calle 25 in front of the Fire Station of the Republic of Panama. According to the State, the women's shelter could contain 50 beds, and the men's shelter up to 150 beds. It also explained that, on average, seven people enter the shelters and they remain there for 10 days "if the deportation cycle is completed." Subsequently (*supra* having seen paragraph 5), the State advised that the women's shelter has the capacity to accommodate 33 people and that "at the present time, it houses 14 and the most it has lodged is 26 migrants." Meanwhile, regarding the men's shelter, it indicated that "currently, it houses 80 men." In this regard, it indicated that the capacity of the different shelters was sufficient, "because less people are retained than the number stipulated for each shelter." Regarding the length of time spent in the shelters, the State indicated that, if the documents of the person retained are in order, he or she is released immediately; to the contrary, an investigation is carried out and the person's consulate is called so that it may provide the necessary support. The length of stay in this case "was based on 18 days," which is the duration of the procedure from the first day of entry until the day on which the deportation is carried out; measures that are taken on working days. Nevertheless, if the person retained appeals the migratory situation, this period may be longer.

19. The State also indicated that both shelters offer meals and medical services, and that all the inspectors who guard these shelters are civilians who receive training at the Immigration Academy (newly established) that places an emphasis general knowledge of immigration laws and human rights. This training is provided periodically to the personnel involved in this task, to ensure that the integrity of each foreigner who is retained is not violated. In the case of migrant families, the State indicated that they are not separated; rather a writ is issued so that they remain together. In addition, a Humanitarian Affairs Unit had been created within the National Immigration Service in order to deal with cases of pregnant women and children, so that they can receive immediate assistance and be sent back to their countries of origin. Regarding legal aid, the State explained that migrants who might need assistance can request this from non-profit organizations, the Ombudsman's Office, and the United Nations High Commissioner for Refugees (UNHCR), among other

agencies, and they “work in conjunction with the National Immigration Service.” Lastly, the State indicated that the shelters contain telephone directories and posters with information on consulates, organizations, foundations and telephone numbers for each of them, and that this information is provided in Spanish and in English. Furthermore, in the shelters, access can be had to the webpage: <http://www.panamatramita.gob.pa/>. In addition, visits to the shelters are coordinated with the Consuls, who also provide the information required, and also non-governmental organizations specialized in providing advisory services, as well as agencies of the United Nations with which cooperation agreements have been signed to provide health care to those detained.

20. The representatives presented the following observations on the State’s reports (*supra* having seen paragraph 3): (a) it was not possible to infer the average daily occupation of each shelter referred to by the State from the information provided and this figure is essential in order to assess whether the installed capacity is sufficient to accommodate those who are detained, because the State has only provided the average number of entries and the length of the stays when “the deportation cycle is completed,” without indicating the numbers for each shelter, or the actual length of stays or the percentage of cases in which the deportation cycle is completed in 10 days. In addition, there appeared to be inconsistencies in the information provided by the State as regards the capacity of the shelters; (b) the State had not provided any probative element that could allow verification of its data, or of the physical conditions that it asserts exist in the shelters; (c) they considered that it was necessary to have more elements than those provided in the State’s report in order to assess whether or not an appropriate regime for migrants was observed including, especially, the possibility of not separating the family group based solely on the gender of its members, and the special measures for migrant children; (d) the State had merely indicated that the inspectors receive periodic training, without detailing what this training consists of, whether it is compulsory, how often it is offered, the specific content, the way in which the personnel are chosen and evaluated, and the way in which the State ensures that the training is effective and has an impact on the way in which the said officials perform their work; (e) the State’s report refers only to the “inspectors who guard” the shelters, when the training should extend to all the personnel of detention centers for migrants and not only to the guards; (f) of all the information that the Court ordered to be available in the shelters, the State only referred to the consulates, omitting information on legal advisers and organizations that could provide support to the migrants, as well as data on the legal status of those detained. In addition, the State did not indicate how it ensured that this information was visible to those detained, or in which languages it was posted. Based on the foregoing, the representatives considered that the information provided by the State was insufficient and did not allow a clear and objective assessment of the status of compliance with this measure of reparation. Consequently, they asked the Court to order the State to forward complete and detailed information on the measures adopted to comply with its obligation to ensure that the detention conditions of migrants were appropriate.

21. The Commission agreed with the representatives that the information provided by the State was insufficient to determine whether these places met the conditions stipulated by the Court in the Judgment; thus, it awaited any supplementary information that the State might present on this aspect.

22. First, the Court underscores that the information provided by the State refers to the existence of two shelters on the premises of the National Immigration Service in Panama City and their physical conditions, without attaching any documentary support that would allow the Court to assess this, especially in relation to the information that was provided during the proceedings on the merits and assessed in the Judgment (*supra* having seen

paragraph 1). Indeed, during the proceedings on the merits, the Court noted that “Panama ha[s] two migratory shelters, which are located in the capital city, so that the persons retained in border areas, whether irregular migrants or individuals seeking international protection, [were] lodged in provincial prisons or police stations until it was possible to transfer them to the shelters of the National Immigration Service in Panama City.”¹⁰

23. The Court recalls that, according to paragraph 272 of the Judgment, this reparation was ordered as a measure to ensure non-repetition of events such as those of the instant case; hence, its purpose is to ensure that “persons deprived of liberty for migratory issues, under no circumstance be taken to prisons or other places where they may be detained together with individuals accused or convicted of criminal offenses.” Thus, the Court notes that the information presented by the State indicates that: (i) there are still only two shelters, and (ii) these shelters are only located in Panama City. Consequently, the information provided reveals no difference in this regard from the situation when the Judgment was delivered. In addition, the State has not explained what happens to those who are retained in other areas of the country.

24. Furthermore, according to the information provided, the Court notes that the men’s shelter has been moved, without the State specifying whether the new establishment was built especially for this purpose or, if applicable, whether its facilities were adapted to offer physical conditions and a regime appropriate for migrants. In addition, regarding the State’s other assertions concerning the civilian status of the personnel in charge and their training, as well as concerning the information apparently provided on the consulates, the Court reiterates that no proof was provided that would allow it to verify this information.

25. Based on the above, the Court requests Panama to present the supporting documentation, as well as information on the situation throughout the country, that substantiates the measures that have been adopted to ensure that there are establishments with sufficient capacity to accommodate those persons whose detention is necessary and proportionate in the specific case for migratory issues, so that no person may be detained because of his or her irregular migratory status together with individuals who are being prosecuted and/or have been convicted for committing criminal offenses.

e) Obligation to implement, within a reasonable time, an education and training program on international standards concerning the human rights of migrants, guarantees of due process of law, and the right to consular assistance for the personnel of the National Immigration and Naturalization Service, as well as for other officials who, owing to their terms of reference, deal with migrants (sixteenth operative paragraph of the Judgment)

26. The State advised that the National Immigration Service has a Victims’ Attention Unit headed by officials specialized in psychology, whose main functions are to attend “to migrants suspected of being victims of people smuggling and trafficking, humanitarian cases, and exceptional cases.” According to the State, this Unit coordinates and directs the Psycho-educational Program, with the support of the Immigration Academy, whose main purpose is to provide on-going training to the officials of the National Immigration Service. Moreover, the main topics discussed in this program are: management of human relations, leadership, emotional intelligence, stress management, personality development, human rights, management of depression, work motivation, teamwork, ethical and moral values, self-esteem, dissemination of the institution’s internal regulations, humanitarian cases and

¹⁰ *Case of Vélez Loor v. Panama. Preliminary objections, merits, reparations and costs.* Judgment of November 23, 2010. Series C No. 218, para. 199.

victims. The Unit also has a Psycho-diagnosis Program for regular or irregular migrants who are in the custody of the National Immigration Service, which provides free psychological treatment to any retained foreigner who expresses the need to receive this service. In its brief of February 5, 2013 (*supra* having seen paragraph 5), the State presented the following additional information: (a) starting in 2012, the National Immigration Service included in its training the "International diploma course on migratory matters"; the three-month course was attended by officials from the different departments of this institution. The State also referred in detail to the content of this diploma course; (b) in 2012, training sessions were offered by the Ombudsman's Office during the "Seminar on the obligations of the Panamanian State towards migrants and the obligation to investigate acts of torture: case of Vélez Loo" and "Human rights and vulnerable groups," and (c) the training diploma on migratory matters will continue to be offered in 2013, and the annual program will include a seminar on the international protection of refugees and human rights.

27. The representatives indicated that the State had not provided details of the content of the psycho-educational program offered by the Victims' Unit of the National Immigration Service in coordination with the Immigration Academy, or of the training that the State's officials receive at this Academy. They also observed that, at no time had the State provided elements to explain how the information provided is related to compliance with the obligation to implement education and training programs for State officials and that, when it mentions training programs, the information is so succinct that it does not allow verification of whether it relates to the measures ordered by the Court. Consequently, they considered it pertinent that the Court ask the State to provide detailed information on the way in which it was complying with this measure of reparation.

28. The Commission affirmed that the State had presented information on matters that were unrelated to the measures ordered by the Court. In this regard, it indicated that, for this measure of non-repetition to have the desired impact, the State must tackle the specific issues ordered by the Court and address the officials indicated in the Judgment; furthermore, the training program should have been implemented after the Judgment. Consequently, it was waiting for the State to present specific information on this point.

29. First, the Court finds that, the information that the State has provided to date on the psycho-educational program does not reveal that it is related to the obligation established by the Court; particularly taking into account its curriculum (*supra* considering paragraph 26). In this regard, the Court reminds Panama that, according to paragraph 278 of the Judgment, the education and training program ordered by the Court must refer to the international standards on the human rights of migrants, the guarantees of due process of law, and the right to consular assistance, and must make special mention of the Judgment and the international human rights instruments to which Panama is a party. Second, the Court notes that, although the State provided information on the training offered to officials of the National Immigration Service, it failed to submit any supporting documentation or detailed information on how many officials had taken part in it, as well as with regard to other officials who, based on their terms of reference, deal with migrants. Consequently, the Court asks the State to present completed, detailed and recent information on the measures taken to comply with this aspect of the Judgment, as well as a copy of the respective supporting documentation.

f) *Obligation to implement, within a reasonable time, training programs on the obligation to open investigations, ex officio, whenever a report or a well-founded reasons exists to believe that an act of torture has been committed under its jurisdiction, for members of the Public Prosecution Service, the Judiciary, the National Police, and health sector personnel with*

competence in this type of case and who, owing to their functions are the first persons called on to attend victims of torture (seventeenth operative paragraph of the Judgment)

30. The State advised that the cases of torture would be channeled through the corresponding authorities, clarifying with regard to the Tourism Police responsible for the surveillance, security and orientation of both nationals and foreigners in tourist areas, that they received training on how visitors should be treated and that "most of the time, they only respond to cases related to tourists who have been victims of crime, without any record of acts of torture." In addition, it referred to the signature of "Agreements on inter-institutional arrangements" signed by the Ministry of Health and the Ministry of the Interior and Justice, "in order to take measures designed to ensure respect for human rights, as well as to improve the living conditions and health of those deprived of liberty."

31. The representatives observed that the State had never provided elements that would allow it to be understood how the information submitted is related to compliance with the State's obligation to implement training and education programs for State officials. In this regard, they considered that, although some of the attachments presented by the State revealed that some official documents mention the existence of training programs for prison system personnel, the information was so concise that "it did not permit establishing whether it referred to the measures ordered by the [...] Court."

32. The Commission indicated that the State had not presented any information concerning training programs on the specific issue ordered by the Court and, therefore, it awaited this information.

33. The Court noted that the State has submitted two inter-institutional agreement dated January 24, 2006, and August 25, 2009, signed by the Ministry of the Interior and Justice and the Ministry of Health, which establish agreements to provide health services to persons deprived of liberty, but contain no reference to training programs relating to the obligation to open investigations *ex officio* whenever there is a report or a well-founded reason to believe that an act of torture has been committed under its jurisdiction, for members of the Public Prosecution Service, the Judiciary, the National Police, and personnel from the health sector with competence in this type of case and who, based on their functions, are the first to attend victims of torture. In addition, the Court underlines that these agreements were signed before the delivery of the Judgment (*supra* having seen paragraph 1), so that they do not form part of the measures taken by the State to comply with the reparation ordered in this aspect of the Judgment. It is also pertinent to note that the information provided by the State concerning the training provided to the Tourism Police does not include relevant aspects relating to compliance with this measure of reparation.

34. Consequently, the Court finds it necessary that the State present complete, detailed and recent information on the measures that have been taken after the delivery of the Court's Judgment to comply with this operative paragraph, as well as a copy of the respective documentation.

g) Obligation to pay the amounts established as compensation for pecuniary and non-pecuniary damage and for reimbursement of costs and expenses (eighteenth operative paragraph of the Judgment)

35. The State advised that it had delivered, in a single payment, the amounts established in the Judgment as compensation for pecuniary and non-pecuniary damage and for reimbursement of costs and expenses, as well as the accrued interest for the delay in

complying with the payment ordered.

36. The representatives indicated that it was only on April 3, 2012, that the State, through its Embassy in the Plurinational State of Bolivia, had delivered a check for the sum of US\$27,500.00 to Mr. Vélez Loor. Subsequently, and also through its Embassy, on April 26, 2012, the State delivered another check to Mr. Vélez Loor for the sum of US\$912.44 for the interest on arrears. Mr. Vélez Loor confirmed that he had received the said amounts. For their part, the representatives confirmed the receipt of the sum of US\$24,000.00 for reimbursement of costs and expenses, as well as the interest on arrears amounting to 826.31 balboas.

37. The Commission observed that the information presented by the parties indicated that the payments for pecuniary and non-pecuniary damage, costs and expenses had been complied with fully.

38. The Court confirms that, according to the vouchers provided by the State, on March 29 and April 3, 2012, the State delivered to CEJIL and to Mr. Vélez Loor the sums ordered in the Judgment for reimbursement of costs and expenses and for pecuniary and non-pecuniary damage, respectively. In addition, based on the documentation presented by the State, the Court confirms that, on April 26, 2012, Mr. Vélez Loor received the sum owed to him for interest on arrears. Similarly, on April 19, 2012, CEJIL received a payment for interest on arrears.

39. Based on the foregoing and the conformity expressed by the representatives, the Court finds that the eighteenth operative paragraph of the Judgment has been complied with fully. In addition, it assesses positively the efforts made by the State to comply with the obligation ordered in this aspect of the Judgment.

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) and 68(1) of the American Convention on Human Rights, 24 and 30 of its Statute, and 31(2) and 69 of its Rules of Procedure,

DECLARES THAT:

1. As indicated in considering paragraphs 5 to 8, 9 to 12 and 35 to 39 of this Order, the State has complied fully with the following operative paragraphs of the Judgment:

- a) Pay Mr. Vélez Loor the amount established for specialized medical attention and psychological treatment, as well as medicines and other future related expenses (*twelfth operative paragraph of the Judgment*);
- b) Make the publications ordered in the Judgment (*thirteenth operative paragraph of the Judgment*), and

c) Pay the amounts established as compensation for pecuniary and non-pecuniary damage and for reimbursement of costs and expenses (*eighteenth operative paragraph of the Judgment*).

2. In this proceeding of monitoring full compliance with the Judgment handed down in this case, and having analyzed the information provided by the State, the representatives and the Commission, the Court will keep open the proceeding of monitoring compliance with regard to the pending aspects of this case, namely:

a) Continue effectively, with the greatest diligence and within a reasonable time, the criminal investigation opened in relation to the facts denounced by Mr. Vélez Loo, in order to determine the corresponding criminal responsibilities and apply, as appropriate, the punishments and other consequences provided for by law (*fourteenth operative paragraph of the Judgment*);

b) Take, within a reasonable time, the necessary measures to ensure that there are establishments with sufficient capacity to accommodate those individuals whose detention is necessary and proportionate in the specific case owing to migratory issues, which offer physical conditions and a regime that is adapted to migrants, staffed by duly trained and qualified civilian personnel (*fifteenth operative paragraph of the Judgment*);

c) Implement, within a reasonable time, an education and training program on international standards relating to the human rights of migrants, guarantees of due process of law, and the right to consular assistance for the personnel of the National Immigration and Naturalization Service, as well as for other officials who, owing to their terms of reference, deal with migrants, (*sixteenth operative paragraph of the Judgment*), and

d) Implement, within a reasonable time, training programs on the obligation to open investigations, *ex officio*, whenever a report or a well-founded reason exists to believe that an act of torture has been committed under its jurisdiction, for members of the Public Prosecution Service, the Judiciary, the National Police, and health sector personnel with competence in this type of case and who, owing to their functions, are the first persons called on to attend victims of torture (*seventeenth operative paragraph of the Judgment*).

AND DECIDES:

1. That the State of Panama must adopt all necessary measures to comply promptly and effectively with the pending aspects indicated in the second declarative paragraph *supra*, as stipulated in Article 68(1) of the American Convention on Human Rights.

2. That the State of Panama must present to the Inter-American Court of Human Rights, by June 28, 2013, at the latest, a report in which indicates all the measures taken to comply with the reparations ordered by this Court that remain pending fulfillment, as indicated in considering paragraphs 16 and 17, 22 to 25, 29 and 33 to 34, as well as in the second declarative paragraph of this Order.

3. That the representatives of the victim and the Inter-American Commission on Human Rights must present any observations they consider pertinent on the report of the

State mentioned in the preceding operative paragraph within four and six weeks, respectively, of notification of the said report.

4. That the Secretariat of the Inter-American Court of Human Rights must notify this Order to the Republic of Panama, the representatives of the victim, and the Inter-American Commission on Human Rights.

Diego García-Sayán
President

Manuel E. Ventura Robles

Eduardo Vio Grossi

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