

**Order of the
Inter-American Court of Human Rights
of February 6, 2008
Case of López-Álvarez v. Honduras
(Monitoring Compliance with Judgment)**

HAVING SEEN:

1. The Judgment on the merits, reparations, and costs delivered on February 1, 2006 (hereinafter "the Judgment") by the Inter-American Court of Human Rights (hereinafter "the Court," "the Inter-American Court" or "the Tribunal"), whereby the Court:

DECID[ED] THAT:

[...]

7. The State must conduct an investigation into the facts [...] of the instant case and apply the measures resulting from such investigation to those responsible for said facts, under the terms of paragraph 207 of the [...] Judgment.

[...]

8. The State must publish, only once, in the Official Gazette and in another newspaper of nationwide circulation, both Chapter VII on the facts proven, without the corresponding footnotes, and the operative paragraphs of [the] Judgment, under the terms of paragraph 208 thereof.

[...]

9. The State must adopt measures aimed at creating the required conditions to ensure inmates in penitentiary centers in Honduras an adequate diet, medical care and physical and sanitary conditions, according to the applicable international legal standards and implement a training program on human rights designed for the agents working in penitentiary centers, under the terms of paragraphs 209 and 210 of the [...] Judgment.

[...]

10. The State must pay Alfredo López-Álvarez, as compensation for pecuniary damage, the amount set in paragraph 194 of the [...] Judgment, under the terms of paragraphs 192, 193, and 194 thereof.

[...]

11. The State must pay Alfredo López-Álvarez, as compensation for non-pecuniary damage, the amount set in paragraph 202(a) of the [...] Judgment, under the terms of paragraphs 201(a) and 202(a) thereof.

[...]

12. The State must pay Teresa Reyes-Reyes, Alba Luz García-Álvarez, Rina Maribel García-Álvarez, Marcia Migdalia García-Álvarez and Joel Enrique García-Álvarez, as compensation for pecuniary damage, the amount set in paragraphs 195(a) and 195(b) of the [...] Judgment, under the terms of paragraph 195 thereof.

[...]

13. The State must pay Teresa Reyes-Reyes, Alfa Barauda López-Reyes, Suamein Alfred López-Reyes, Gustavo Narciso López-Reyes, Alfred Omalý López-Suazo, Deikel Yanell López-Suazo, Iris Tatiana López-Bermúdez, José Álvarez-Martínez, Joseph López-Harolstohn, José Jaime Reyes-Reyes, María Marcelina Reyes-Reyes, Apolonia Álvarez-Aranda, Catarino López, Alba Luz García-Álvarez, Rina Maribel García-Álvarez, Marcia Migdalia García-Álvarez, Mirna Suyapa García-Álvarez y Joel Enrique García-Álvarez, as compensation for non-pecuniary damage, the amount set in paragraphs 202(b), 202(c), 202(d) and 202(e) of the [...] Judgment, under the terms of paragraphs 188, 201(b), 201(c), 201(d) 201(e) 202(b), 202(c), 202(d), and 202(e) thereof.

[...]

14. The State must pay Alfredo López-Álvarez, as compensation for costs and expenses, the amount set in paragraph 215 of the [...] Judgment, under the terms of paragraphs 214 and 215 thereof.

[...]

15. It will supervise strict compliance with this Judgment and will close [...] the case once the State has effectively and fully complied with the provisions hereof. Within one year as from notice of this Judgment, the State shall submit to the Court a report on the measures adopted to comply with it, under the terms of paragraph 224 of the [...] Judgment.

2. The two reports submitted by the State of Honduras (hereinafter "the State") on February 12, 2007 and September 10, 2007, regarding the progress in the measures adopted to comply with the Judgment and the supplemental report filed on September 25, 2007.

3. The observations of the victims' representatives (hereinafter "the representatives") on the reports of the State filed on March 14, 2007; March 28, 2007; and October 11, 2007.

4. The observations of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") on the reports of the State filed on March 28, 2007 and November 2, 2007.

CONSIDERING:

5. That monitoring compliance with its judgments is a power inherent in the judicial functions of the Court.

6. That Honduras has been a State Party to the American Convention on Human Rights (hereinafter "the Convention" or "the Inter-American Convention") since September 8, 1977 and acknowledged the binding jurisdiction of the Court on September 9, 1981.

7. That, pursuant to Article 68(1) of the American Convention, "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any

case to which they are parties.”¹ For such purpose, the States are required to guarantee the implementation of the Court’s decisions at the domestic level.

8. That the obligation to comply with the judgments of the Court conforms to a basic principle of the law of the international responsibility of the States, as supported by international case law, under which States are required to comply with their international treaty obligations in good faith (*pacta sunt servanda*) and, as previously held by the Court and provided for in Article 27 of the Vienna Convention on the Law of Treaties of 1969, States cannot invoke their domestic laws to escape their pre-established international responsibility. The treaty obligations of States Parties are binding on all State powers and organs.²

9. That the States Parties to the American Convention are required to guarantee compliance with the provisions thereof and secure their effects (*effet utile*) at the domestic law level. This principle applies not only in connection with the substantive provisions of human rights treaties (i.e. those dealing with the protected rights), but also in connection with procedural rules, such as the ones concerning compliance with the decisions of the Court. Such obligations are to be interpreted and enforced in a manner such that the protected guarantee is truly practical and effective, considering the special nature of human rights treaties.³

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10. That with regard to operative paragraph 7 (*supra* Having Seen 2), the State has failed to submit information on the steps taken regarding the investigation into those responsible for the facts described in the instant case.

11. That the representatives pointed out that they had no information about whether the State had taken any steps regarding the investigation into the facts and requested the Court “[...] to call upon the State of Honduras to submit a detailed and updated report on the progress of the investigation [...]” (*supra* Having Seen 3).

12. That the Commission expressed its concern about the failure of the State to submit information in general about the progress in the steps taken to comply with the measures ordered by the Court, among them, the obligation to conduct an investigation into the facts (*supra* Having Seen 4).

¹ Cf. *Case of Baena-Ricardo et al v. Panama. Competence*. Judgment of November 28, 2003. Series C No. 104, para. 131; *Case of Palamara-Iribarne v. Chile*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 30, 2007, Considering 3; and *Case of the Girls Yean and Bosico v. Dominican Republic*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 28, 2007, Considering 4.

² Cf. *International Responsibility for the Promulgation and Enforcement of Laws in Violation of the Convention* (arts. 1 and 2 of the American Convention on Human Rights). Advisory Opinion OC-14/94 of December 9, 1994. Series A No. 14, para. 35; *Case of the Plan de Sánchez Massacre v. Guatemala*. Monitoring Compliance with Judgment. Order of the Inter-American Court of Human Rights of November 28, 2007, Considering 3; and *Case of Palamara-Iribarne v. Chile*, *supra* note 1, Considering 5.

³ Cf. *Case of Ivcher Bronstein v. Peru. Competence*. Judgment of September 24, 1999. Series C No. 54, para. 37; *Case of the Plan de Sánchez Massacre v. Guatemala*, *supra* note 2, Considering 4; and *Case of Palamara-Iribarne v. Chile*, *supra* note 1, Considering 6.

13. That based on the foregoing, the Court deems it necessary that the State submit information on the steps taken in order to conduct an investigation into the facts of the instant case and apply the measures resulting from such investigation to those responsible for said facts, under the terms of operative paragraph 7 of the Judgment (*supra* Having Seen 1).

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14. That with regard to operative paragraph 8, regarding the publication of the relevant parts of the Judgment as ordered by the Court, the State informed that on November 28, it published Chapter VII and the operative paragraphs of the Judgment in the Official Gazette of the Republic of Honduras and that on January 27, 2007 it published the texts referred to above in "El Heraldo," a newspaper of nationwide circulation. Notwithstanding, as the publication in "El Heraldo" did not include Chapter VII of the Judgment, on September 5, 2007 it informed that such omission had been corrected and Chapter VII had been published in said newspaper (*supra* Having Seen 2).

15. That the representatives, in their observations submitted on October 11, 2007, acknowledged full compliance with this operative paragraph as Chapter VII and the operative paragraphs of the Judgment had been published in the Official Gazette and in a newspaper of nationwide circulation (*supra* Having Seen 3). Likewise, on November 2, 2007, the Commission stated that it appreciated compliance with this operative paragraph, as it considered that it had been satisfactorily fulfilled (*supra* Having Seen 4).

16. That based on the information submitted by the parties, the Court deems that the State has complied with operative paragraph 8 of the Judgment (*supra* Having Seen 1).

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17. That with regard to operative paragraph 9, concerning the adoption of measures aimed at improving conditions in penitentiary centers, the State in its first report, pointed out that the public institutions which must implement the provisions ordered by the Court had been notified of the Judgment of the Court. In its second report (*supra* Having Seen 2), it listed a number of actions which were being carried out, to wit:

- a) the budgetary item allocated to food supply was increased by 3.00 lempiras, to reach 12 daily lempiras per inmate;
- b) it was decided that the cell block where highly dangerous inmates were detained would be remodeled to hold prisoners included among vulnerable groups;
- c) a special cell block was built for inmates who are police members held in preventive custody;

- d) sanitary conditions were improved. Consulting rooms, supply of medication, and lab tests were also improved. The services of three dentists and a clinical psychologist were incorporated to the medical department;
- e) electric lighting, sewage disposal, and drinking water treatment and distribution were improved, and washbasins and water closets were installed;
- f) a warehouse for the treatment of wastes in the block known as "*maquila*" was built;
- g) steps were taken in order to reduce overcrowding in the cell blocks of Dr. Marco Aurelio Soto National Penitentiary holding the highest number of inmates;
- h) 163 new penitentiary officers were appointed, after a six-month training at the Penitentiary Training Center, where they took courses on Human Rights, legislation, human relations, minimum standards for treatment of inmates, and specific security aspects. A general training and update program on the application and respect of human rights of inmates was implemented for all employees and agents of the national penitentiary system; and
- i) an instrument for the classification of inmates was drawn up with the support of the Argentine White Helmets (*Cascos Blancos*) humanitarian aid organization.

18. That the representatives, in their first observations, pointed out that the State had not submitted information about compliance with operative paragraph 9 and added that said information was essential to ensure compliance with Judgment and prevent violations such as those suffered by Alfredo López-Álvarez from happening again in the future to the detriment of other persons. In their observations of October 11, 2007, (*supra* Having Seen 3) the representatives stated, *inter alia*, that:

- a) the State has 24 penitentiary centers which can hold 8,280 inmates and where, by late 2005, 11,545 inmates were held, which reflects a 109% overcrowding. They added that, according to information given by the Office for the National Coordination of Judicial Enforcement Courts (*Coordinadora Nacional de Jueces de Ejecución*), in September 2007 there were approximately 11,129 inmates, whereby "[...] considering the accommodation capacity of prison facilities [...] and the above information, it [was] to be assumed that overcrowding conditions persist[ed];"
- b) as to the information submitted by the State regarding the budgetary increase to 12 lempiras allocated to food supply per inmate, they pointed out that, according to the Central Bank of Honduras, a US\$ dollar was equivalent to 10,03 lempiras, whereby the increase in the daily amount allocated for food supply per inmate was not sufficient "[...] so that inmates could have an adequate diet." They added that in its report, the State did neither refer to the time allowed for meals nor to the amount of food for each person, notwithstanding which it was evident that the amount of 12 daily lempiras was not enough to conclude that inmates were given an adequate diet;
- c) as to medical care, they pointed out that not all inmates had access to medical consultation or to receive medication in due time. They concluded that

the measure adopted by the State was not sufficient to comply with the applicable international standards. They added that the report of the State did not clearly indicate whether the services described therein were available to all inmates or only in one or some penitentiary centers, whereby they considered that the State had not complied with this part of operative paragraph 9;

d) as to the physical and sanitary conditions, they pointed out that the report of the State failed to mention the centers in which improvements had been made. They considered that, under the United Nations Standards Minimum Rules for the Treatment of Prisoners, the measures reported by the State were not satisfactory to guarantee the rights of inmates; and

e) as to the training of the penitentiary staff in human rights, they pointed out that the State did neither inform the contents of the training courses nor if the programs were permanent.

19. That regarding the improvement of penitentiary conditions, the Commission expressed its concern about the failure of the State to submit information. It further pointed out that, in accordance with the observations made by the representatives, in Honduras there are 24 penitentiary centers and that the information submitted by the State was not clear as to whether the measures had been adopted in all such centers. Furthermore, it endorsed the representatives' claim alleging that though the measures reported by the State were specific, they did not conform to a public policy oriented towards improving the penitentiary system. It concluded that the State should inform in detail about the measures adopted and the extent to which they are in keeping with the measures ordered in the Judgment (*supra* Having Seen 4).

20. Based on the information submitted by the parties, the Court observes that though the State has informed about the specific measures it has implemented regarding compliance with operative paragraph 9, it deems it imperative that the State inform in which penitentiary centers such measures were adopted in order to ensure an adequate diet and medical care for the inmates, as well as physical and sanitary conditions consistent with the applicable international standards. Furthermore, it considers that the State must inform in detail about the contents of education programs in human rights offered to the personnel of penitentiary centers.

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21. That with regard to operative paragraphs 10, 11, 12, 13, and 14, the State pointed out that it has complied with payment of the compensations ordered by the Court, covering the full compensation amounts to all beneficiaries. At first, it paid said amounts to Alfredo López-Álvarez, Teresa Reyes-Reyes, Alba Luz García-Álvarez, Rina Maribel García-Álvarez, Mirna Suyapa García-Álvarez and Apolonia Álvarez-Aranda, attaching the delivery documents and payment receipt for said amounts. It further stated that regarding Catarino López, Joel Enrique García-Álvarez, and Marcia Migdalia García-Álvarez, owing to errors in their written names, after due checking and confirmation of their names before a notary public, the State paid the compensatory amounts. With regard to the other victims Alfred Omalý López-Suazo, José Álvarez-

Martínez,⁴ Joseph López-Harolstohn, and Deikel Yanell López-Suazo, due to the fact that they did not appear to collect their payment, the respective compensation amounts were deposited with Banco Atlántida S.A. through “[...] a procedure known as [conditioned deposit...],” in keeping with the provisions of the Judgment.

22. That with regard to the minor victims Alfa Barauda López-Reyes, Suamein Alfred López-Reyes, Gustavo Narciso López-Reyes, Iris Tatiana López-Bermúdez, José Jaime Reyes-Reyes, and María Marcelina Reyes-Reyes, the State stated that the amount due to each of them had been deposited with Banco Atlántida S.A., through a procedure known as “conditioned deposit” (*supra* paragraph 22). Said procedure will allow the victim’s minor children to collect their compensation when reaching the age of 21.

23. That the representatives accepted the payment of compensatory amounts in favor of Alfredo López-Álvarez, Teresa Reyes-Reyes, Alba Luz García-Álvarez, Rina Maribel García-Álvarez, Mirna Suyapa García-Álvarez, and Apolonia Álvarez-Aranda (*supra* paragraph 22). On October 11, 2007 they pointed out that, additionally, the State had paid compensatory amounts to Catarino López, Joel Enrique García-Álvarez, Marcia Migdalia García-Álvarez, and Deikel Yanell López-Suazo, as well as deposited the compensatory amounts ordered in the Judgment in favor of Alfred Omalý López-Suazo, José Álvarez-Martínez, and Joseph López-Harolstohn, which were pending payment. Furthermore, they stated that the State had paid costs and expenses (*supra* paragraph 22). Said information had been confirmed by the beneficiaries. Therefore, the representatives considered that operative paragraphs 10, 11, 12, 13, and 14 had been complied with by the State (*supra* Having Seen 3).

24. That the Commission expressed its satisfaction regarding the payment of compensatory amounts to the first six persons mentioned in paragraph 22 and stated that it was awaiting confirmation of pending payments, in addition to the creation of the trust fund for the minor children of Alfredo López-Álvarez. In its observations of November 2, 2007, it stated that as the State had paid all pending compensatory amounts it “[...] appreciat[ed] compliance by the State and deemed that this paragraph of the Judgment had be[en] met” (*supra* Having Seen 4).

25. That based on the information submitted by the parties, the Court finds that the State has complied with operative paragraphs 10, 11, 12, 13, and 14 of the Judgment (*supra* Having Seen 1).

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26. That the Court deems it imperative that the State submit updated information on the following obligations pending compliance:

- a) the investigation into the facts of the case and the application of the measures resulting from such investigation to those responsible for said facts (*operative paragraph 7 of the Judgment*); and

⁴ In its observations of March 14, 2007, the representatives made clear that due to an error José Álvarez-Martínez had been entered as son of Alfredo López-Álvarez, but that his actual name was Jorge Silverio-Martínez. On March 26, 2007, they informed that the pertinent proceeding to rectify that name had been started before the Honduran administrative authorities.

b) the specific actions taken concerning the improvement of conditions in penitentiary centers and the implementation of training programs on human rights to the agents working in such centers (*operative paragraph 9 of the Judgment*).

27. That the Court will consider the general state of compliance with Judgment (*supra* Having Seen 1), once the pertinent information on the issues pending compliance has been received.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by virtue of its authority to monitor compliance with its own decisions 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 29(2) of its Rules of Procedure,

DECLARES:

1. That the State has effectively and fully complied with the following operative paragraphs of the Judgment:

a) publish in the Official Gazette and in another newspaper of nationwide circulation, only once, Chapter VII on the proven facts and the operative paragraphs of the Judgment (*operative paragraph 8 of the Judgment*);

b) pay the amounts set as compensation for pecuniary damage (*operative paragraphs 10 and 12 of the Judgment*);

c) pay the amounts set as compensation for non-pecuniary damage (*operative paragraphs 11 and 13 of the Judgment*); and

d) pay the amount set as compensation for costs and expenses arising in connection with the domestic proceedings and the international proceedings before the Inter-American System for the protection of human rights (*operative paragraph 14 of the Judgment*).

2. That pursuant to the terms of Considering 13 and 21 hereof, it will keep open the proceeding for monitoring compliance with the issues pending fulfillment in the instant case, to wit:

a) conduct an investigation into the facts described in the instant case and apply the measures resulting from such investigation to those responsible for said facts (*operative paragraph 7 of the Judgment*); and

b) adopt measures aimed at creating the required conditions to ensure that inmates in penitentiary centers in Honduras receive adequate food, medical care, and physical and sanitary conditions and implement a training program on human rights for employees and agents working in penitentiary centers (*operative paragraph 9 of the Judgment*).

AND DECIDES:

1. To call upon the State to adopt such measures as may be necessary to promptly, effectively, and fully comply with the issues pending compliance, under the terms of Article 68(1) of the American Convention on Human Rights.
2. To request that the State submit a report to the Inter-American Court of Human Rights, no later than July 1, 2008, specifying all such measures as may have been adopted to fully comply with the reparations ordered by this Court and which are pending compliance.
3. To request the victims' representatives and the Inter-American Commission on Human Rights to submit their observations on the State's report referred to in the foregoing operative paragraph, within a period of four and six weeks, respectively, as from the date of receipt of the report.
4. To continue monitoring those issues pending compliance with the Judgment of February 1, 2006.
5. To request that the Secretariat of the Court notify this Order to the State, the Inter-American Commission on Human Rights, and the victims' representatives.

Cecilia Medina Quiroga
President

Diego García-Sayán

Sergio García-Ramírez

Manuel E. Ventura-Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu-Blondet

Pablo Saavedra-Alessandri
Secretary

So ordered,

Cecilia Medina-Quiroga
President

Pablo Saavedra-Alessandri
Secretary