

**Order of the
Inter-American Court of Human Rights***
of February 7, 2008
Case of Baldeon v. Peru
(Monitoring Compliance with Judgment)

HAVING SEEN:

1. The Judgment on the merits, reparations, and costs (hereinafter "the Judgment") issued by the Inter-American Court of Human Rights (hereinafter "the Court", "the Inter-American Court", or "the Tribunal") on April 6, 2006, by means of which the said Court:

DECIDE[D],

Unanimously,

1. To admit the acknowledgment of its international liability made by the State for the violation of the rights protected in Articles 4 (Right to Life), 5 (Right to Personal Integrity) and 7 (Right to Personal Freedom) of the American Convention, in relation to Article 1(1) (Obligation to Respect Rights) of that treaty, to the detriment of Mr. Bernabé Baldeón-García; and the acknowledgment of its international liability made by the State for the infringement of Article 8(1) (Right to Fair Trial) of the American Convention, relating to Article 1(1) (Obligation to Respect Rights) of that treaty, to the detriment of Guadalupe Yllaconza-Ramírez de Baldeón and Crispín, Fidela, Roberto, Segundina, Miguelita, Perseveranda, Vicente and Sabina, all of them members of the Baldeón-Yllaconza family, for the events involved in the instant case, occurred from September 1990 "to the commencement of the transition to democracy" in November 2000, pursuant to paragraphs 46 and 47 of this Judgment.

DECLAR[ED]:

unanimously that:

2. The State violated, to the detriment of Mr. Bernabé Baldeón-García, the right to life enshrined in Article 4(1) (Right to Life) of the Convention, regarding the general duty to respect and guarantee the rights established in Article 1(1) of that treaty, as set forth in paragraphs 80 to 105 of [the] Judgment.

3. The State violated, to the detriment of Mr. Bernabé Baldeón-García, the right to life enshrined in Article 4(1) (Right to Life) of the Convention, regarding the general duty to respect and guarantee the rights established in Article 1(1) of that treaty, as set forth in paragraphs 80 to 126 of [the] Judgment.

4. The State violated, to the detriment of Guadalupe Yllaconza-Ramírez de Baldeón, Crispín, Fidela, Roberto, Segundina, Miguelita, Perseveranda, Vicente and Sabina, all of them members of the Baldeón-Yllaconza family, the right to personal integrity established in Article 5(1) (Right to Personal Integrity) of the American Convention, in relation to Article 1(1) of that treaty, as set forth in paragraphs 127 to 130 of [the] Judgment.

* Judge Diego García-Sayán, of Peruvian nationality, declined to hear the monitoring of compliance in this case, in accord with Articles 19(2) of the Statute and 19 of the Rules of Order of the Court. In addition, for reasons of *Force Majeure*, Judge Manuel Ventura Robles did not participate in the deliberation and signing of this Order.

5. The State violated, to the detriment of Guadalupe Yllaconza, Crispín, Fidela, Roberto, Segundina, Miguelita, Perseveranda, Vicente and Sabina, all of them members of the Baldeón-Yllaconza family, the rights to fair trial and judicial protection established in Articles 8(1) and 25 of the Convention, in relation to Article 1(1) of that treaty, as set forth in paragraphs 139 to 169 of [the] Judgment.

6. The State failed to comply with the duty to investigate and punish torture as set forth in Articles 1, 6 and 8 of the Inter-American Convention to Prevent and Punish Torture after April 28, 1993, pursuant to paragraphs 156 to 162 of [the] Judgment.

7. [The] judgment is in and of itself a form of redress, as set forth in paragraph 189 [therein].

AND RULE[D],

unanimously that:

8. The State shall adopt, in full compliance with the right to fair trial and within a reasonable time period, all measures necessary to identify, prosecute and punish the physical perpetrators and instigators of the violations committed against Mr. Bernabé Baldeón-García, as set forth in paragraphs 195 to 203 and 210 of [the] Judgment.

9. The State shall publish within six months, at least once, in the official gazette and in another nationwide daily newspaper, the Section of this Judgment entitled Proven Facts, without the corresponding footnotes, and the operative paragraphs of [the] Judgment, as set forth in paragraphs 194 and 210 [thereof].

10. The State shall make, within six months following notice of this Judgment, a public apology and acknowledgment of its international liability regarding the violations referred to herein, in the presence of the highest-ranking State authorities, pursuant to the terms of paragraphs 204 and 210 of [the] Judgment.

11. The State shall name, within one year following notice of this Judgment, a street, park or school in the memory of Mr. Bernabé Baldeón-García, as set forth in paragraphs 205 and 210 of [the] Judgment.

12. The State shall provide medical, psychological and psychiatric treatment, as applicable, to Guadalupe Yllaconza-Ramírez de Baldeón; Crispín, Roberto, Segundina, Miguelita, Perseveranda, Vicente, Sabina and Fidela, all members of the Baldeón-Yllaconza family, at their discretion and for as long as necessary, as set forth in paragraphs 207 and 210 of [the] Judgment.

13. The State shall pay to Guadalupe Yllaconza-Ramírez de Baldeón; Crispín, Roberto, Segundina, Miguelita, Perseveranda, Vicente, Sabina and Fidela, all members of the Baldeón-Yllaconza family, within one year, the compensation for pecuniary damage established in paragraphs 185 and 187 of [the] Judgment, as set forth in paragraphs 185, 187, 210, 211 and 213 to 216 [thereof].

14. The State shall pay to Guadalupe Yllaconza-Ramírez de Baldeón; Crispín, Roberto, Segundina, Miguelita, Perseveranda, Vicente, Sabina and Fidela, all members of the Baldeón-Yllaconza family, within one year, the compensation for non pecuniary damage established in paragraph 191 of [the] Judgment, as set forth in paragraphs 191, 192, 210, 211 and 213 to 216 [thereof].

15. The State shall pay, within one year, the costs and expenses incurred in domestic courts and in the international proceedings carried out within the Inter-American System for the Protection of Human Rights, pursuant to the amount established in paragraph 209 of [the] Judgment. Said amount must be delivered to Mr. Crispín Baldeón-Yllaconza, as set forth in paragraphs 209, 210 and 212 to 216 thereof.

16. The State shall monitor full compliance with this Judgment and the instant case shall be closed once the State implements in full the provisions set forth herein. Within a year from the date notice of the Judgment is served upon it, the State shall submit to the Court a report on the measures taken to comply with [the] Judgment, pursuant to paragraph 217 hereof.

2. The letters of the Secretary of the Court (hereinafter “the Secretary”) dated June 22, July 19, September 26, October 29, and November 16 of 2007, through which, following the instructions of the President of the Court, it was requested that the State present detailed information on the measures taken to comply with the outstanding operative paragraphs of the Judgment on the merits, reparations, and costs issued in this case (*supra* Having Seen paragraph 1). The deadline for the presentation of said report expired on May 15, 2007 without the state submitting the requested information.

CONSIDERING:

1. That monitoring the compliance with its decisions is an inherent jurisdictional power of the Court.

2. That Peru is a State Party to the American Convention on Human Rights as of July 28, 1978, and recognized as binding the jurisdiction of the Court on January 21, 1981.

3. That the obligation to comply with the decisions of the Court is a basic principle of law regarding the international responsibility of the State, which is supported by international jurisprudence, according to which the States must comply with their international conventional obligations in good faith (*pacta sunt servanda*).¹

4. That the States Parties to the Convention must guarantee the compliance with provisions under the convention and their own effects (*effet utile*) at the internal level. This principle applies not only with regard to the substantive provisions of the human rights treaties (that is to say, those which express provisions regarding the protected rights,) but also with regard to the procedural rules, such as those referring to the compliance with the decisions of the Court. These obligations must be interpreted and applied so that the protected guarantee is truly practical and efficient, taking into account the special nature of the human rights treaties.²

5. That the States Parties to the American Convention that have recognized the binding jurisdiction of the Court must comply with the obligations established by the Tribunal. This obligation includes the State’s duty to inform the Court of the measures adopted toward with the orders of the Tribunal in said Judgments. The State’s timely observance of its obligation to inform the Tribunal of how it is complying with each of the operative paragraphs ordered by the latter is fundamental for the evaluation of the status of compliance of the case.³ Likewise, the

¹ See the Cases of *Castillo Páez*, *Loayza Tamayo*, *Castillo Petruzzi et al.*, *Ivcher Bronstein and of the Constitutional Court V. Peru*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights, June 1, 2001, Considering paragraph 2; *Case of the Yean and Bosico Girls V. the Dominican Republic*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights, November 28, 2007, Considering paragraph 6, and *Case of Palamara Iribarne V. Chile*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights, November 30, 2007, Considering paragraph 5.

² See the Case of *Ivcher Bronstein*. Competence. Judgment on September 24, 1999. Series C No. 54, paragraph 37; *Case of the Yean and Bosico Girls V. the Dominican Republic*. Monitoring of Compliance with the Judgment, *supra* note 1, Considering paragraph six.

³ See the Case of *Barrios Altos V. Peru*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights, November 17, 2004, Considering paragraph seven; *Case of Gómez Palomino V. Peru*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights, October 18, 2007, Considering paragraph five, and *Case of García Asto and Ramírez Rojas*

General Assembly of the OAS has reiterated that, with the purpose that the Tribunal be able to fully carry out its obligation to report on compliance with its decisions, it is necessary for the States Parties to submit in a timely fashion the information that the Tribunal requires of them.⁴

6. That through letters sent by the Secretary of the Court, following the instructions of the President, repeated on several occasions (*supra* Having Seen paragraph 2), the State was reminded of its obligation to report on the measures adopted toward complying with the Judgment.

7. That in keeping with what is established in Article 67 of the American Convention, the judgments of the Court shall be promptly and fully complied with by the State. Likewise, 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." The obligation of States Parties under the Convention to comply promptly with the Court's decisions is binding to all branches and functions of the state.⁵

8. That without the information that is owed by the State, this Court cannot carry out its role of monitoring the execution of the judgments handed down. That for the sake of supervising and guaranteeing the application of the measures of protection and reparation mandated, the Court should be able to confirm and have information on the execution of the Judgment, which is "the materialization of the protection of the right recognized in the judicial ruling, by the proper application of this ruling."⁶

9. That the Peruvian State has not reported on its compliance with the Judgment, therefore, it has not complied with its obligation under the Convention.

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10. That in monitoring for full compliance of the Judgment issued in this case, the Court finds it crucial that the State submit information on each of the orders laid out in the Judgment on the merits, reparations, and costs of April 6, 2006, in this case (*supra* Having Seen paragraph 1).

V. *Peru*, Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights, July 12, 2007, Considering paragraph 8.

⁴ General Assembly, Order AG/RES. 2292 (XXXVII-O/07) approved during the fourth plenary session, held on June 5, 2007, titled "Observations and Recommendations on the Annual Report of the Inter-American Court of Human Rights".

⁵ See the *Case of Baena Ricardo et al.* Competence. Judgment November 28, 2003. Series C No. 104, paragraph 60; *Case of Gómez Palomino V. Peru*. Monitoring of Judgment Compliance, *supra* note 3, Considering paragraph seven, and *Case of the Sawhoyamaya Indigenous Community V. Paraguay*. Monitoring of Compliance with Judgment. Order of the Inter-American Court of Human Rights, February 2, 2007, Considering paragraph 3.

⁶ See the *Case of Baena Ricardo et al.* Competence, *supra* note 5, paragraph 73, and *Case of Gómez Palomino V. Peru*. Monitoring of Compliance with Judgment, *supra* note 3, Considering paragraph 8.

11. That the Court will consider the general status of compliance with the present Judgment only once it has received the pertinent information on the operative paragraphs still pending compliance.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in the exercise of its powers to supervise the compliance with its judgments, pursuant to Articles 33, 62(1), 62(3), 65, 67 and 68(1) of the American Convention on Human Rights, and Articles 25(1) and 30 of the Statute of the Court and Article 29(2) of the Rules of Procedure,

DECLARES:

1. Pursuant to the information contained in *Considering* paragraphs 1 and 11 of this Order, the State has not complied with its obligation to inform the Court of the measures adopted to abide by the orders of this Tribunal in the operative paragraphs of the Judgment on the merits, reparations, and costs issued April 6, 2006, in this case.

2. That it will keep the procedure for the monitoring of compliance open on all reparation measures ordered by this Court in said Judgment.

AND RESOLVES:

1. To require the State to adopt all necessary measures to fully and promptly comply with that ordered by the Court in the Judgment on the merits, reparations, and costs in this case, in keeping with that set forth in 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 March 12, 2008, indicating all the measures it has taken to comply with the orders laid out by the Court.

3. To require that the Secretary of the Court notify the State, the Inter-American Commission of Human Rights, and the representatives of the victims and their next of kin of this Order.

Cecilia Medina Quiroga
President

Sergio García Ramírez

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alesandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary