

**Order of the
Inter-American Court of Human Rights*
of August 5, 2008
Case of Durand and Ugarte v. Peru
(Monitoring Compliance with Judgment)**

HAVING SEEN:

1. The judgment on reparations and costs (hereinafter "the judgment") delivered by the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") on December 3, 2001, in which it:

Decide[d]

Unanimously:

1. That it endorses, in the terms of th[e] judgment, the agreement on reparations that the State and the victims' next of kin and their legal representatives concluded on November 26, 2001.

2. That the State shall pay the sum of US\$125,000.00 (one hundred and twenty-five thousand United States dollars) to Virginia Bonifacia Ugarte Rivera de Durand and Nolberto Durand Vargas, parents of Nolberto Durand Ugarte and sister and brother-in-law of Gabriel Pablo Ugarte Rivera. To that end, it shall adopt the measures necessary to pay a portion of the pecuniary damages during the course of this fiscal year or, failing that, make full payment of the pecuniary damages during the second quarter of the 2002 fiscal year, pursuant to paragraphs 32, 33 and 34 of the [...] judgment. The sum will be divided between the beneficiaries and disbursed in equal shares.

3. That the State shall provide health care services, psychological support, interpersonal development services and assistance with the construction of a residence to the beneficiaries of the reparations, as detailed in paragraphs 36, 37, 38 and 40 of th[e] judgment.

4. That, pursuant to paragraphs 39 and 40 of the [...] judgment, the State shall make the following non-pecuniary reparations:

(a) Publish the judgment of the Court of August 16, 2000, in the Official Gazette *El Peruano* and circulate its contents via such other media as deemed appropriate for that purpose, within the 30 days following the signing of the agreement;

(b) Include in the Executive Decree ordering publication of the agreement "a public apology to the victims for the grievous damage caused" and confirmation of the State's resolve that events of this nature shall never recur;

(c) Investigate and punish those responsible for the facts, pursuant to the seventh operative paragraph of the Court's judgment on merits of August 16, 2000, and advance the investigation instituted through the 41st Criminal Prosecutor's Office of Lima for the murder of 30 persons, including Nolberto Durand Ugarte and Gabriel Pablo Ugarte Rivera; and

* Judge Diego García-Sayán, as a national of Peru, considered it necessary to disqualify himself; consequently he did not take part in the deliberation and signature of this Order.

(d) Take concrete measures to locate and identify the bodies of Nolberto Durand Ugarte and Gabriel Pablo Ugarte Rivera and deliver them to their next of kin, pursuant to the seventh operative paragraph of the Court's judgment on merits of August 16, 2000.

5. That, within six months of notification of the [...] judgment, the State shall submit to the Inter-American Court of Human Rights a report on compliance with the reparations.

6. That the Court will monitor compliance with the obligations established in the [...] judgment and will close this case once the State has fully complied with the judgment.

2. The Order on monitoring compliance with judgment of June 13, 2002, in which the Court decided as follows:

1. To declare that, pursuant to the *pacta sunt servanda* principle, and in accordance with the provisions of Article 68(1) of the American Convention on Human Rights, the State has the obligation to comply promptly with all aspects of the judgments of August 16, 2000, and December 3, 2001, delivered by the Inter-American Court of Human Rights in the case of Durand and Ugarte.

2. To require the State of Peru to continue the investigation into the facts and to prosecute and punish those responsible; consequently, re-opening the respective judicial proceedings.

3. To require the State of Peru to continue taking all possible measures to find and identify the remains of Nolberto Durand Ugarte and Gabriel Pablo Ugarte Rivera and to deliver them to their next of kin.

[...]

3. The Order on monitoring compliance with judgment of November 27, 2002, in which the Court decided as follows:

[...]

CONSIDERING:

[...]

4. That, despite the above, and although the time for complying with the judgment on reparations has expired, the following elements are still pending compliance:

(a) The health care services, psychological support, interpersonal development services and assistance with the construction of a residence, pursuant to the third operative paragraph;

(b) The publication of the judgment of the Court of August 16, 2000, and the dissemination of its contents in other media, pursuant to subparagraph (a) of the fourth operative paragraph;

(c) The inclusion of "a public apology to the victims for the grievous damage caused" in the Executive Decree ordering publication of the agreement, pursuant to subparagraph (b) of the fourth operative paragraph;

(d) The investigation and punishment of those responsible for the facts, pursuant to the seventh operative paragraph of the Court's judgment on merits of August 16, 2000, and continuing to advance the investigation instituted through the 41st Criminal Prosecutor's Office of Lima for the murder of 30 persons, including Nolberto Durand Ugarte and Gabriel Pablo Ugarte Rivera, pursuant to subparagraph (c) of the fourth operative paragraph;

(e) The execution of concrete measures to find and identify the bodies of Nolberto Durand Ugarte and Gabriel Pablo Ugarte Rivera, pursuant to subparagraph (d) of the fourth operative paragraph.

[And] decide[d]:

1. To declare that, pursuant to the *pacta sunt servanda* principle, and in accordance with the provisions of Article 68(1) of the American Convention on Human Rights, the State has the obligation to comply promptly with all aspects of the judgments of August 16, 2000, and December 3, 2001, delivered by the Inter-American Court of Human Rights in the case of Durand and Ugarte.

2. To require the State to investigate, prosecute and punish those responsible for the facts.

3. To require the State to continue taking all possible measures to find and identify the remains of Nolberto Durand Ugarte and Gabriel Pablo Ugarte Rivera and to deliver them to their next of kin, as ordered in subparagraph (d) of the fourth operative paragraph of the judgment on reparations.

[...]

4. The reports of the State of Peru (hereinafter "the State" or "Peru") on the progress made in complying with the judgment, submitted on November 29 and December 19, 2002; June 12 and September 5, 2003; May 6, June 29, July 15, July 26 and September 20, 2004; January 11, February 21 and April 15, 2005; April 25, June 14, August 18 and September 4, 2006; July 9 and December 18, 2007.

5. The observations of the representatives of the victims (hereinafter "the representatives") on the State's reports on compliance submitted on September 11, 2003; May 24, August 17 and November 12, 2004; September 7, 2007, and May 13, 2008.

6. The observations of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") on the State's reports on compliance submitted on September 8, 2003; June 7 and November 12, 2004; April 6 and May 27, 2005; September 14, 2007 and March 27, 2008.

CONSIDERING:

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

2. That Peru has been a State Party to the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") since July 28, 1978, and accepted the obligatory jurisdiction of the Court on January 21, 1981.

3. That the obligation to comply with the decisions in the Court's judgments corresponds to a basic principle of the law of the international responsibility of the State, supported by international case law, according to which, 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, the State may not invoke the provisions of its internal law as justification for its failure to perform a treaty.¹ The treaty obligations of the States Parties are binding on all the powers and organs of the State.

¹ 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; *Fermin Ramirez v. Guatemala*. Monitoring compliance; *Raxcacó Reyes v. Guatemala*. Monitoring compliance. *Case of Raxcacó-Reyes et al.* Provisional measures with regard to Guatemala. Order of the Inter-American Court of Human Rights of May 9, 2008, fourth considering paragraph; *Sawhoyamaya Indigenous Community v. Paraguay*. Monitoring compliance with judgment. Order of the Inter-American Court of Human Rights of February 8, 2008, fifth considering paragraph; and *Case of Castillo Petruzzi et al.* Compliance with judgment. Order of the Inter-American Court of Human Rights of November 17, 1999. Series C No. 59, fourth considering paragraph.

4. That 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 shall be interpreted and applied so that the protected guarantee is truly practical and effective, bearing in mind the special nature of human rights treaties.²

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5. That, regarding the second operative paragraph of the judgment (*supra* first having seen paragraph), the State reported that it had complied with payment of the sum of US\$125,000.00 (one hundred and twenty-five thousand United States dollars) to Virginia Bonifacia Ugarte Rivera de Durand and Norberto Durand Vargas.

6. That, regarding the pecuniary reparations, the representatives observed that, on December 22, 2001, the State had made a partial payment of S/.289,587.00 (two hundred and eighty-nine thousand five hundred and eighty-seven new soles) to Virginia Bonifacia Ugarte Rivera de Durand and Norberto Durand Vargas. Then, on January 11, 2002, it made a second partial payment of S/.10,306.48 (ten thousand three hundred and six new soles and forty-eight cents). The amounts paid in soles equaled US\$86,000.00 United States dollars. Subsequently, on May 28, 2003, a final payment was made, which was the equivalent of US\$39,000.00 (thirty-nine thousand United States dollars) and, with this, the State has complied fully with this obligation.

7. That the Commission indicated that it acknowledged the payment of the compensation ordered by the Court, which the State had made in three installments.

8. Based on the information submitted by the parties, the Court considers that the State has complied with the second operative paragraph of the judgment.

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9. That, regarding the third operative paragraph of the judgment, in which the State was ordered to provide health care services, psychological support and interpersonal development, and assistance for the construction of a residence, in its briefs of June 14, August 18 and September 4, 2006, and July 9 and December 18, 2007 (*supra* fourth having seen paragraph), the State reported on various steps taken to comply with these measures. In this regard, it indicated the following: (a) regarding the obligation to provide health care services, and in order to implement and comply with the undertaking made, the Ministry of Health had authorized the incorporation of Virginia Bonifacia Ugarte Rivera and Norberto Durand Vargas into Plan "E" of the

² Cf. *Case of Ivcher Bronstein. Competence*. Judgment of September 24, 1999. Series C No. 54, para. 37; *Fermin Ramirez v. Guatemala*. Monitoring compliance; *Raxcacó Reyes v. Guatemala*. Monitoring compliance. *Case of Raxcacó Reyes et al.* Provisional measures. Order of the Inter-American Court of Human Rights of May 9, 2008, forty-third considering paragraph; and *Case of the Sawhoyamaya Indigenous Community*. Monitoring compliance with judgment, *supra* nota 1, sixth considering paragraph.

Comprehensive Health Insurance System, as victims of human rights violations benefiting by order of the Court. The State also affirmed that it had complied with the health care services and psychological support for the victims, and indicated that "it was continually supporting the measures taken to comply with these services through the Ministry of Health, as established in Ministerial Resolution No. 474-2006/MINSA of May 18, 2006, which resolved to provided medical and psychological care to the beneficiaries, Nolberto Durand Vargas and Virginia Bonifacia Ugarte Rivera; and (b) regarding the obligation to provide support for the construction of a residence, in official communication No. 7351-06-GG, the State indicated that the work had been carried out in 2002 and that it had therefore complied with the obligation.

10. That, on September 11, 2003, prior to the above-mentioned State reports, the representatives had indicated that the State had not provided the health care services. They mentioned that, in relation to the psychological support, a visit to the Lima zoological gardens had been scheduled in 2002 and that the State had not taken any other relevant measure. Regarding the support for the construction of a residence, they indicated that the State, through the Materials Bank, had begun to comply with this obligation. Nevertheless, the representatives made no subsequent mention of the actions taken by the State in this regard.

11. That the Commission indicated in its observations of September 8, 2003, and April 6, 2005, that, regarding the health care and interpersonal development services, psychological support and support for the construction of a residence, the State had not provided any elements that would allow it to ascertain the measures adopted to offer the victims the said support. Subsequently, in its observations of September 14 and November 14, 2007, and March 27, 2008, the Commission stated that, according to the Court's Order of November 27, 2002, several measures were pending compliance (*supra* third having seen paragraph); nevertheless, it indicated that subsequent to the said Order, the State had complied with some measures, without making any specific reference to the obligations established in the third operative paragraph of the judgment.

12. That, based on the information forwarded by the State and the corresponding evidence that has been provided, the Court finds that the State has made significant progress in providing the health care services and psychological support and interpersonal development to Nolberto Durand Vargas and Virginia Bonifacia Ugarte Rivera, and also to support the construction of their residence. However, in the observations they submitted following the State's reports of June 14, August 18 and September 4, 2006, and July 9 and December 18, 2007 (*supra* fourth having seen paragraph), the representatives and the Commission have not made a specific reference to the status of compliance with these measures. Consequently, the Court considers it essential that both the representatives and the Commission forward their specific and precise observations on the status of compliance with the said obligations ordered in the third operative paragraph of the judgment, so that the Court can duly assess the status of compliance with them.

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13. That, regarding subparagraph (a) of the fourth operative paragraph (*supra* first having seen paragraph), the State reported that it had published the judgment on merits in the Official Gazette *El Peruano* on November 14, 2002. It also reported that, on the same day, it had published the judgment on reparations and costs. Regarding

the obligation to publish in another national newspaper, the State indicated that it was coordinating with the Special Commission to follow up on and Monitor International Proceedings, in order to comply with the measures ordered in the judgment on reparations.

14. That the representatives also indicated that the State had published the judgment on merits delivered by the Court on August 16, 2000, in the Official Gazette *El Peruano* on November 14, 2002.

15. That the Commission indicated that the State had submitted copies of the publication of the judgment on merits and the judgment on reparations in the Official Gazette on November 14, 2002; and that, despite the delay, it considered that the State had complied. Nevertheless, it observed that the State had not mentioned the measures adopted to comply with the obligation to publish the contents of the judgment on merits in other media.

16. That, based on the information provided by the parties, the Court finds that the State has complied partially with subparagraph (a) of the fourth operative paragraph of the judgment delivered in the instant case, by publishing the judgment on merits of August 16, 2000, in the Official Gazette *El Peruano* (*supra* first having seen paragraph). In addition, it assesses positively the publication of the judgment on reparations in the same Official Gazette. However, the judgment on merits has not yet been published in another national newspaper, as the State itself has admitted, indicating that it was taking steps to make this publication. In this regard, the Court considers that it requires a report on the progress made in relation to the publication that remains pending, in order to assess the status of compliance with subparagraph (a) of the fourth operative paragraph of the judgment.

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17. That, regarding subparagraph (b) of the fourth operative paragraph (*supra* first having seen paragraph), the State advised that it had published "a public apology to the victims for the grievous damage caused" in the Executive Decree published in the Official Gazette *El Peruano* on November 22, 2002.

18. That, in this regard, the representatives indicated that the State had not issued an executive decree with a public apology to the victims in this case.

19. That the Commission indicated that the State had published the said agreement in the Official Gazette *El Peruano* on November 22, 2002, by means of Executive Decree No. 259-2002-JUS; and therefore "the State has complied with its undertaking to make a public apology to the victims and to confirm its resolve that events of this nature will never recur."

20. That, based on the information provided by the parties, the Court observes that on November 22, 2002, Peru published Executive Decree No. 259-2002-JUS, in the Official Gazette *El Peruano* indicating that the State "publicly apologizes to the victims for the grievous damage caused, and [confirms] its firm resolve to avoid a recurrence of this type of event in the country [...]." Based on the above, the Court finds that the State has complied with the fifth operative paragraph of the judgment delivered in this case (*supra* first having seen paragraph).

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21. That regarding subparagraph (c) of the fourth operative paragraph (*supra* first having seen paragraph), in relation to the obligation to investigate, the State reported that, by a resolution of September 19, 2002, an investigation had been initiated by the Office of the Special Prosecutor for Forced Disappearances [and] Clandestine Graves (hereinafter "Office of the Special Prosecutor for Forced Disappearances"), against military and police agents and those found responsible in this case. In addition, a multidisciplinary team had been established to study the remains of the detainees who died in the former San Juan Bautista Prison. In this regard, the State indicated that it had "complied by doing everything possible to encompass all the masterminds and perpetrators, a criminal complaint having been filed [on April 5, 2002,] by the Office of the Special Prosecutor for Forced Disappearances against some of the perpetrators, and the proceedings were being heard by the First Supra-provincial Court of Lima, while a complaint relating to a point of law [*queja de derecho*] filed by the State and the next of kin was pending a decision [...]."

22. That, regarding the investigation into the facts, the representatives indicated that, to date, the military courts had not forwarded the complete judicial case file to the Office of the Special Prosecutor for Forced Disappearances, which had repeatedly asked the Supreme Council of Military Justice for the file corresponding to the events of June 18 and 19, 1986. They also referred to various measures taken in the domestic sphere. Among these, they indicated that, on November 30, 2004, the Office of the Special Prosecutor for Forced Disappearances had "filed a criminal complaint against ten members of the Peruvian Navy" before the sitting Supra-provincial Criminal Court for the events that had occurred on June 18 and 19, 1986. In the same decision, that Office ordered "the definitive filing of the investigations in favor of those who, at the time of the facts, occupied either a position of authority or senior commands in the Peruvian navy." They also indicated that an application for habeas corpus had been filed by one of the men criminally accused by the Special Prosecutor's Office, and this had been decided by the Third Criminal Chamber for the accused who are at liberty (*Reos Libres*) on May 10, 2007, "in final and definitive instance, adduc[ing] that it had not observed any actions by the Attorney General's Office (*Ministerio Público*) or the Judiciary that would have interrupted the time period before the statute of limitations came into force, and that the exceptional period was not applicable; consequently it referred to a period of 20 years," as established by Peruvian law. The representatives also advised that, since the Third Criminal Chamber was unable to decide unanimously, as required by article 141 of the Organic Law of the Judiciary, an additional member had to make a ruling in this regard. Hence, the representatives considered that, based on the Criminal Chamber's decision and the ruling of the provisional member, Malson Urbina La Torre, declaring the criminal action filed by the complainant on March 12, 2007, to be time-barred, the State had failed to comply with the Court's judgment.

23. That, regarding the obligation to investigate and, if applicable, punish those responsible, the Inter-American Commission indicated, *inter alia*, that the State had adopted various measures to conduct investigations to prosecute and, if applicable, punish those responsible. Despite those efforts, the Commission also noted that the investigations needed to be conducted with sufficient promptness, objectivity and impartiality to guarantee the timely adoption of the appropriate judicial decisions, in order to avoid the facts going unpunished. The Commission drew attention to the fact that a prosecutor is conducting an investigation into the military and police agents and

those who are found responsible for the facts that occurred in the San Juan Bautista Prison. It also indicated that, although it recognizes that some progress has been made as regards finding and identifying the bodies of the victims by the Office of the Special Prosecutor for Forced Disappearances, it shared the concern of the victims' representatives regarding the lack of continuity in the leadership of the investigation. The Commission emphasized that, despite the contribution made by the Final Report of the Truth and Reconciliation Commission, the State had not provided information on how this Commission's evidence and conclusions were being used in the context of the investigation by Office of the Special Prosecutor for Forced Disappearances.

24. That, according to the information provided by the parties, the State has taken several measures to clarify the facts of the instant case. Despite this, the Court finds it essential that the State provide information on the current situation of the investigations, so that it can assess the status of compliance with subparagraph (c) of the fourth operative paragraph of the judgment regarding the State's obligation to conduct investigations designed to prosecute and, if applicable, convict those responsible for the facts.

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25. That regarding subparagraph (d) of the fourth operative paragraph (*supra* first having seen paragraph), in relation to the obligation to find and deliver the remains of Norberto Durand Ugarte, the State advised that the decision of June 24, 2004, issued by the Office of the Special Prosecutor for Forced Disappearances, ordered the delivery of his identified remains to his duly accredited next of kin. The State affirmed that, in this regard, "the remains of Norberto Durand Ugarte had been handed over and received by his father, Norberto Durand Vargas and his father's wife [Virginia Bonifacia Ugarte]; this act was attended by Carlos Rivera Paz, in his capacity as legal representative, and he prepared the respective official record[. T]he act was carried out in the presence of the Head of the Institute of Forensic Medicine." On September 20, 2004, the State forwarded a copy of the autopsy and cause of death of Norberto Durand Ugarte. Regarding the obligation to identify the remains of Gabriel Pablo Ugarte Rivera, the State added that exhumations had been conducted in several public cemeteries, but his name did not appear on the list of those identified by the Frontón Commission of the Forensic Identification Team of the Institute of Forensic Medicine. On April 18, 2006, the State reported that the remains of Gabriel Ugarte Rivera had still not been found.

26. That, regarding the exhumation of the remains, the representatives observed that: (a) to date, the Office of the Special Prosecutor for Forced Disappearances had conducted exhumations in the "Zapallal", "Baquijano and Carrillo", "Presbítero Maestro" and "Pucusana" cemeteries; (b) although the number of human remains exhumed to date had not yet been determined, according to information from the Institute of Forensic Medicine of the Attorney General's Office there were probably approximately one hundred persons; and (c) after six months of work, it had been possible "to identify the remains of Norberto Durand Ugarte." On June 24, 2004, the Provisional Provincial Prosecutor responsible for the Office of the Special Prosecutor for Forced Disappearances issued a decision in which he ordered the delivery of the human remains that had been identified to their respective duly accredited families. In their observations of May 6, 2008, the representatives added that the obligation to find and identify the body of Gabriel Pablo Ugarte Rivera remained pending. Official communication No 401-04-FE-DF-EE-EFC-MP-FN of October 21, 2004, issued by the

Office of the Special Prosecutor for Forced Disappearances stated that, by a decision of June 27, 2004, the experts proposed by the families to conduct the work of anthropological identification of the human remains of 26 individuals had been accepted, and that the head of the Institute of Forensic Medicine would appoint forensic experts to take part in these measures as observers. However, the experts have not been designated and the anthropological identification of the said human remains has not begun.

27. That, with regard to finding the human remains, the Commission observed that it acknowledged the progress made in complying with this aspect. By a decision of June 24, 2004, the Office of the Special Prosecutor for Forced Disappearances decided to deliver the remains that, following examination by the Institute of Forensic Medicine, corresponded to Norberto Durand Ugarte, together with the death certificate and the burial voucher. The next of kin of Norberto Durand Ugarte, Virginia Bonifacia Ugarte and Norberto Durand Vargas were notified; they received the remains on July 5, 2004, and held a vigil for him and buried him. The Commission considered that the documentation forwarded was insufficient to determine how the exhumation and the examination of the osseous remains were carried out in this case and whether they were in keeping with the international standards in force, because the copy of the autopsy provided by the State on September 7, 2004, did not include a determination of the sex, age or race of the osseous remains that were examined, did not mention whether any DNA testing had been performed, and referred to clothing without evaluating it. Nevertheless, the Commission considered it significant that Norberto Durand Ugarte's parents had acknowledged the remains delivered to them to be those of their son, and had proceeded to hold a vigil for him and bury him. The Commission indicated that the State has not presented any new information on measures taken following the Final Report of the Forensic Identification Team of the Institute of Forensic Medicine (Criminal Commissions – Frontón case) to comply with the obligation to find the remains of Gabriel Pablo Ugarte Rivera.

28. That, based on the above, the Court considers that the State has complied partially with its obligation to identify the remains of the victims, by identifying the remains of Norberto Durand Ugarte and delivering them to his next of kin, as established in subparagraph (d) of the fourth operative paragraph of the judgment. However, the Court finds that the State must continue taking the necessary measures to identify the body of Gabriel Pablo Ugarte Rivera and deliver it to his next of kin, and submit information on any recent measures it has taken, so that the Court can assess the status of compliance with this aspect.

THEREFORE

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of its authority to monitor compliance with its decisions and in accordance with 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, as described in the fifth to eighth considering paragraphs of this Order, the State has complied totally with the requirement to pay the sum of US\$125,000.00 (one hundred and twenty-five thousand United States dollars) to Virginia Bonifacia Ugarte Rivera de Durand and Nolberto Durand Vargas, parents of Nolberto Durand

Ugarte, as well as sister and brother-in-law of Gabriel Pablo Ugarte Rivera (*second operative paragraph of the judgment*).

2. That, as indicated in the seventeenth to twentieth considering paragraphs of this Order, the State has complied entirely with the requirement to order, by Executive Decree, the publication of the agreement "apologizing to the victims for the grievous damage caused" and confirming its resolve that such events would never recur (*subparagraph (b) of the fourth operative paragraph of the judgment*).

3. That, as indicated in this Order, the State has complied partially with the following operative paragraphs of the judgment on reparations and costs:

(a) Publication of the judgment on merits delivered by the Court on August 16, 2000 in the Official Gazette, *El Peruano* (*subparagraph (a) of the fourth operative paragraph of the judgment*); and

(b) Identification and delivery of the remains of Norberto Durand Ugarte to his next of kin (*subparagraph (c) of the fourth operative paragraph of the judgment*).

4. That it will keep the procedure of monitoring compliance with the pending aspects of the instant case open. They are:

(a) Publication of the judgment on merits delivered by the Court on August 16, 2000 in other media considered appropriate for this purpose (*subparagraph (a) of the fourth operative paragraph of the judgment*).

(b) Provision of health care and interpersonal development services and also psychological support to the beneficiaries, as well as support for the construction of a residence (*third operative paragraph of the judgment*);

(c) Investigation and, if applicable, punishment of those responsible for the facts, in accordance with the seventh operative paragraph of the judgment on merits delivered by the Court on August 16, 2000, and continuing to advance the investigation instituted through the 41st Criminal Prosecutor's Office of Lima for the murder of 30 persons, including Norberto Durand Ugarte and Gabriel Pablo Ugarte Rivera (*subparagraph (c) of the fourth operative paragraph of the judgment*); and

(d) Continuation of concrete measures to find and identify the remains of Gabriel Pablo Ugarte Rivera, so as to deliver them to his next of kin, in accordance with the seventh operative paragraph of the judgment on merits delivered by the Court on August 16, 2000 (*subparagraph (d) of the fourth operative paragraph of the judgment*).

AND DECIDES:

5. To require the State to adopt any necessary measures to comply promptly and effectively with the aspects pending compliance pursuant to the provisions of Article 68(1) of the American Convention on Human Rights.

6. To request the representatives to submit, within one month, their observations on the status of compliance with the third operative paragraph of the judgment,

pursuant to the twelfth considering paragraph of this Order. To require the Inter-American Commission on Human Rights to submit its observations on the observations of the representatives within two weeks of receiving them.

7. To request the State to submit to the Inter-American Court of Human Rights, by January 12, 2009, at the latest, a report indicating all the measures adopted to comply with the reparations ordered by this Court that are pending compliance.

8. To request the representatives of the victims and the Inter-American Commission on Human Rights to submit any observations they deem pertinent on the State's report mentioned in the preceding operative paragraph within four and six weeks, respectively, of receiving it.

9. To continue monitoring the aspects pending compliance of the judgment on reparations and costs delivered by the Inter-American Court on December 3, 2001.

10. To require the Secretariat of the Court to notify this Order to the State, the Inter-American Commission on Human Rights, and the representatives of the victims.

Cecilia Medina Quiroga
President

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