

# Cantoral Huamaní and García Santa Cruz v. Perú

## I. COMPLIANCE AND FOLLOW-UP ADDENDUM<sup>1</sup>

**April 28, 2009:** After the State failed to report on its compliance by the deadline on August 3, 2008, the Court gave an update on the State's compliance.<sup>2</sup> The Court found that the State failed to comply with its obligation to inform the Court on the measures that it adopted in compliance with the provisions in the Judgment.<sup>3</sup> The Court kept open the proceeding for monitoring compliance for all of the reparations.<sup>4</sup>

**September 21, 2009:** The Court gave an update on the State's compliance after receiving observations from the victims' representatives and the Commission.<sup>5</sup> The Court found that the State failed to comply with its duty to investigate, identify, and prosecute those responsible, by holding various proceedings against the perpetrators.<sup>6</sup> Although State had begun investigations, it failed to forward any information regarding the proceedings that it carried out to fulfill effectively its obligation.<sup>7</sup> The State also failed to provide information regarding its obligation to publish the Judgment in the Official Gazette and in a newspaper with widespread national circulation.<sup>8</sup> Further, the State failed to include a direct link to access the Judgments of the Court on the web pages of the State's most important newspapers with national circulation.<sup>9</sup>

The Court also found that the State failed to comply with its obligation to have a public ceremony of acknowledgement of international

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1. Patricia Kim, Author; Kevin Zipser, Editor; Elizabeth Russo, Chief IACHR Editor; Cesare Romano, Faculty Advisor.

2. Cantoral Huamaní and García-Santa Cruz v. Perú, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. "Decides," ¶ 1; "Considering," ¶ 8 (April 28, 2009).

3. *Id.* "Declares" ¶ 1.

4. *Id.* "Declares," ¶ 2.

5. Cantoral Huamaní and García Santa Cruz v. Perú, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. ¶¶ 5-6 (Sept. 21, 2009).

6. *Id.* "Considering," ¶¶ 8-9.

7. *Id.* ¶ 11.

8. *Id.* ¶¶ 14-15.

9. *Id.* ¶ 16.

liability.<sup>10</sup> The State failed to provide any information on the status of its compliance with this reparation measure.<sup>11</sup> The State partially complied with its obligation to provide scholarships for Mr. Ulises Cantoral-Huamaní, Ms. Pelagia Mélida Contreras-Montoya de Cantoral, and Mr. Saúl Cantoral-Huamaní's children.<sup>12</sup> The Court acknowledged the State's progress, specifically that the State requested that the President of the National University of San Marcos grant a scholarship to Ms. Brenda Cantoral-Contreras so that she received a professional Bachelor of Anthropology degree.<sup>13</sup> However, full compliance with this obligation was still pending.<sup>14</sup>

The Court also acknowledged the State's efforts to comply with its obligation to provide psychological care and medical treatment to the victims' next of kin including several State-led meetings with the petitioners to gather information from the victims' families regarding their medical needs.<sup>15</sup> However, the Court determined that the State had not yet fully complied with this reparation measure.<sup>16</sup> The State partially complied with its obligation to pay damages and costs and expenses. The State made a partial payment on May 11, 2009 to Mr. Cantoral-Huamaní and Ms. Consuelo García-Santa Cruz's next-of-kin. However, it failed to provide information regarding any payments made for costs and expenses or payments made to Ms. Contreras-Montoya de Cantoral.<sup>17</sup> Thus, the Court kept open the proceeding for monitoring compliance for all of the reparations.<sup>18</sup>

**February 22, 2011:** The Court gave an update on the State's compliance.<sup>19</sup> The Court found it failed to comply with its duty to investigate, identify, and prosecute the perpetrators by conducting proceedings, and failed to report on its progress.<sup>20</sup> The State had made little progress regarding its obligation to provide scholarships for the victims, and again

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10. *Id.* ¶ 18.

11. Cantoral Huamaní and García Santa Cruz v. Perú, Monitoring Compliance with Judgment, Order of the Court, ¶ 18.

12. *Id.* ¶ 21; "Declares," ¶ 2.

13. *Id.* ¶ 21.

14. *Id.* ¶ 25.

15. *Id.* ¶ 26.

16. *Id.* ¶ 31.

17. Cantoral Huamaní and García Santa Cruz v. Perú, Monitoring Compliance with Judgment, Order of the Court, ¶¶ 32; 34; 37.

18. *Id.* "Declares" ¶ 1-2.

19. Cantoral Huamaní and García Santa Cruz v. Perú, Monitoring Compliance, Order of the Court, Inter-Am. Ct. H.R. (Feb. 22, 2011).

20. *Id.* "Considering," ¶¶ 9; 12.

failed to report on its efforts taken regarding this measure.<sup>21</sup> However, the Court noted that Mr. Ulises Cantoral Huamaní, Mr. Marco Antonio Cantoral Lozano, and Mr. Ronny Cantoral Contreras have not yet made arrangements to attend a university and thus, agreed to notify the State of such arrangements at a later date.<sup>22</sup> The State published the Judgment in *Expreso Newspaper* (*Diaro Expreso*) on April 26, 2010 and reported that it would soon publish the Judgment in the Official Gazette.<sup>23</sup> However, the State failed to provide actual proof of publication<sup>24</sup> and did not publish the Judgment on an official website or provide electronic access to the Court's Judgments using a link.<sup>25</sup>

The Court again acknowledged efforts taken by the State to comply with its obligation to provide psychological and medical treatment to the victims.<sup>26</sup> The victims' representatives reported that the State provided victims' family members with health insurance, but some of the family members had yet to be included in the program.<sup>27</sup> Thus, the Court could not confirm full compliance by the State with this reparation measure.<sup>28</sup> Further, the State partially complied with its obligation to pay damages to victims and reimburse for costs and expenses.<sup>29</sup> Victims' representatives reported that the State complied with making payments to some beneficiary family members. However, the State had yet to make payments to all beneficiaries.<sup>30</sup>

Last, the State failed to provide an update on its compliance with the duty to hold a public ceremony to acknowledge its international responsibility.<sup>31</sup> Therefore, the Court kept open the proceeding for monitoring compliance for all of the reparations.<sup>32</sup>

**May 14, 2019:** The Court gave an update on the State's compliance.<sup>33</sup> It found that the State fully complied with its obligations to publish the Judgment in the Official Gazette and in a newspaper with

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21. *Id.* ¶¶ 14–16.

22. *Id.* ¶ 14.

23. *Id.* ¶ 20.

24. *Id.* ¶ 23.

25. *Cantoral Huamaní and García Santa Cruz v. Perú*, Monitoring Compliance, Order of the Court, ¶ 21.

26. *Id.* “Considering,” ¶ 28.

27. *Id.* ¶ 29.

28. *Id.*

29. *Id.* “Declares,” ¶ 1.

30. *Id.* ¶ 31.

31. *Cantoral Huamaní and García Santa Cruz v. Perú*, Monitoring Compliance, Order of the Court, ¶¶ 38–39.

32. *Id.* “Declares,” ¶ 2.

33. *Cantoral Huamaní and García Santa Cruz v. Perú*, Monitoring Compliance with Judgment, Order of the Court, Inter-Am. Ct. H.R. (May 14, 2019).

widespread national circulation, and its obligation to hold a public act of recognition acknowledging its international responsibility.<sup>34</sup> The Court noted that the State-led public apology occurred several years after the Judgment, and that some of Mr. Cantoral-Huamani's relatives were not present due to a lack of communication.<sup>35</sup> The Court acknowledged the State's ongoing efforts to investigate, identify, and punish the perpetrators of crimes. However, it failed to report on the status of the criminal proceedings against those responsible for such crimes.<sup>36</sup> It also partially complied with its duty to provide scholarships to Mr. Cantoral Huamani's children; three children had not yet communicated with the State regarding their desire to coordinate this obligation.<sup>37</sup> The Court ordered the State to hold a meeting with the victims and their representatives to come to an agreement on the most effective mechanisms for full compliance with this measure, and the State must take into account each of the victims' situations and whether they have paid for their own education to date.<sup>38</sup>

The Court found that although the State provided some of the victims with access to medical care through State-led programs, it failed to ensure that victims actually received adequate psychological and medical care through such programs.<sup>39</sup> The State failed to provide information regarding: (1) the distinction between the health services programs and the criteria required for membership to each; (2) how each health insurance program met the Court's standard as outlined in the Judgment; and (3) the actions that the State took to provide ongoing psychological treatment for Ms. Vanessa Cantoral-Contreras and Ms. Brenda Cantoral-Contreras.<sup>40</sup>

The Court found that the State fully complied with its obligation to reimburse victims' representatives for costs and expenses. However, payments were made beyond the established deadlines, and the State owed accordingly the victims' interest.<sup>41</sup> Further, the State failed to make any restitution payment to Ms. Contreras-Montoya de Cantoral.<sup>42</sup> Thus, the Court kept open the proceeding for monitoring compliance for all incomplete reparation measures.<sup>43</sup>

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34. *Id.* "Resolves" ¶ 1.

35. *Id.* "Considering," ¶ 23.

36. *Id.* "Considering," ¶ 14.

37. *Id.* ¶ 27.

38. *Id.* ¶ 34.

39. Cantoral Huamani and García Santa Cruz v. Perú, Monitoring Compliance with Judgment, Order of the Court, ¶ 38.

40. *Id.* ¶¶ 39-40.

41. *Id.* ¶ 45.

42. *Id.* "Considering," ¶ 50.

43. *Id.* "Resolves," ¶ 3.