

**ORDER OF THE PRESIDENT OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
MARCH 24, 2010**

**REQUEST FOR PROVISIONAL MEASURES PRESENTED BY
THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
REGARDING THE DOMINICAN REPUBLIC**

MATTER OF JUAN ALMONTE HERRERA *ET AL.*

HAVING SEEN:

1. The brief by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") dated March 3, 2010, submitting a request to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") for provisional measures under the terms of Article 63(2) of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") and Article 27 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), requesting that the Dominican Republic (hereinafter "the State" or "Dominican Republic") protect the life and personal safety of Juan Almonte Herrera, Yuverky Almonte Herrera, Joel Almonte, Ana Josefa Montilla, Genaro Rincón and Francisco de León Herrera.

2. The alleged facts on which the request for provisional measures presented by the Commission is based, to wit:

a) Mr. Juan Almonte Herrera was detained without a court order on September 28, 2009, by police officers of the Anti-Kidnapping Department of the National Police in the context of an investigation into the kidnapping of the son of a financial businessman. His whereabouts have been unknown since that date. That same day, the police announced through an evening news item that "they were after Juan Almonte Herrera, who was a fugitive," and showed five photographs of individuals presumably linked with the kidnapping, among them the photo of Mr. Almonte Herrera;

b) On September 29, 2009, the National Police and the National Directorate for Narcotics Control performed a search of a residence owned by Mr. Almonte Herrera without a warrant and without the presence of personnel from the Office of the Attorney General. At that time, they arrested 11 people, among them Ms. Yuberkis [*sic*] Almonte Herrera, the sister of Mr. Juan Almonte Herrera.

c) On September 30, 2009, Mr. Almonte's attorneys applied for a writ of *habeas corpus* on his behalf. The writ was granted on October 2, 2009, and the judge magistrate of the Second Court of the Criminal Chamber of the First Lower Court of the National District ordered Mr. Almonte Herrera released. That court concluded that he had been arrested without the order of a judge with jurisdiction. The order was communicated in a timely fashion to National Police

Headquarters. However, it has not yet been complied with. On October 4, 2009, the National Police stated that Mr. Almonte was in their custody. However, they denied responsibility for his detention and disappearance.

d) The petitioners indicated that since September 28, 2009, Mr. Almonte Herrera has been subjected to constant torture in a "secret location" to get him to confess to his alleged participation in the kidnapping. They pointed to the possibility that after having been beaten in the head with an aluminum bat, Mr. Almonte died, together with another individual, on the way to the hospital in a vehicle that was later intentionally set on fire by police officers;

e) The Institute for Forensic Pathology of the National District carried out two DNA tests on the bodies found in the burned vehicle, one of which supposedly belonged to Mr. Almonte Herrera. The results indicated that neither of the bodies were his, however the petitioners attribute this result to the likely intervention of the national police, which has held that Mr. Almonte Herrera is a fugitive;

f) Since October 3, 2009, the National Police have increased the persecution of, surveillance of, and threats against Mr. Almonte Herrera's representatives, relatives, and friends. Specifically, the homes of Yuverky and Joel Almonte Herrera and Ana Josefa Montilla, siblings and wife of Mr. Almonte Herrera, respectively, "have been constantly watched by members of the National Police" and their telephones are being tapped. Likewise, after being "followed" and harassed by police officers dressed as civilians, Ms. Ana Josefa Montilla decided to "leave once again for the United States" due to the fear and lack of safety she felt. Mr. Joel Almonte has been the victim of "followings," discouraging him from taking action toward demanding that his father be brought forth. Genaro Rincón and Francisco León Herrera, attorneys for Mr. Almonte Herrera, have stated that they have been "followed" by police officers, their telephones are being tapped, and their offices are being watched. Mr. Genaro Rincón is on a list kept by the Department of Criminal Investigations for having brought a complaint in the case;

g) On November 30, 2009, the Inter-American Commission sent the State an urgent request for information, asking it to report on the whereabouts of Mr. Juan Almonte Herrera within 48 hours and on the actions taken toward complying with the habeas corpus ruling as well as on the security situation of the family and the representatives. The State did not respond to that request;

h) On December 4, 2009, the petitioners reported on new harassment and threats suffered by the relatives and representatives of Mr. Almonte Herrera at the hands of agents of the National Police, supposedly in response to actions they took in the investigation into the whereabouts of Mr. Juan Almonte;

i) On December 11, 2009, the Commission granted precautionary measures to the benefit of Juan Almonte Herrera, Yuverky Almonte Herrera, Joel Almonte and Ana Josefa Montilla, as well as Genaro Rincón and Francisco de León Herrera, to guarantee their lives and personal safety. In that communication, the Commission ordered the State to report on the whereabouts of Mr. Almonte Herrera, his state of health, and his safety within a period of no more than 10 days. They also asked the State to indicate the actions taken toward investigating the facts justifying the adoption of precautionary measures;

j) On January 22, 2010, the State presented a report to the Commission stating that the Office of the Attorney General of the Republic had received several complaints on the "alleged disappearance" of Mr. Almonte Herrera. It also indicated that it had contacted his family in order for them to submit a complaint to move the investigation forward, "but their cooperation was not obtained." The State did not make any reference to the fact that Mr. Almonte Herrera was in the custody of the National Police when he disappeared. The State also mentioned that it had launched an investigation in which it asked the Immigration Directorate for the registries of Mr. Almonte Herrera's entrances to and exits from the country and asked for medical information "in order to make comparisons with the autopsies [of other cadavers] obtained on the dates of his alleged disappearance." Finally, the State reported on the measures taken toward safeguarding the lives and safety of the other beneficiaries. It communicated that, with the exception of Ms. Ana Josefa Montilla, who was in the United States, it had provided a police guard for the other beneficiaries;

k) The petitioners reported that they are lobbying for the Office of the Attorney General of the Republic to bring criminal charges against the National Police officials and that they have received threats from the National Police "for if they file suit against them," and;

l) Finally, the petitioners reported having met "with the Directorate of Criminal Investigations of the National Police," which proposed assigning a police officer to each of the beneficiaries of the measures. Regarding this, they stated that they would present a counter-proposal, as they do not agree that the same institution that is in question should be the one that carries out the improvement, compliance with, and supervision of the measures to be granted.

3. The Commission's arguments on which it based its request for provisional measures, to wit:

a) the existence of a situation of extreme gravity and urgency due to the facts that: i) Mr. Juan Almonte Herrera was detained on September 28, 2009, and since then his whereabouts have been unknown; ii) as a result of the filing of the *habeas corpus* writ, Mr. Juan Almonte's effective detention by the police was proven; iii) the disappearance of Mr. Almonte Herrera while in the custody of the State, the existence of indications that State agents participated in covering up his whereabouts, and the absence of news about him demands that the Dominican Republic deploy special search efforts, establish what happened, and protect his life and personal integrity; iv) based on this, it is reasonable to infer that Mr. Almonte Herrera is facing a situation of grave risk; v) although his relatives and representatives filed for a writ of *habeas corpus*, which resulted in a ruling ordering Mr. Almonte Herrera be released, the State has not complied with that order and has also denied that he is in its custody; and vi) the State has expressed that "the relatives are the ones who should file a complaint on the facts." Yet in a case such as this one, the investigation should be launched *ex officio*;

b) A situation of extreme gravity and urgency also arises with regard to the relatives of Mr. Almonte Herrera and his attorneys as: i) they have been subjected to threats, harassment, and following by State agents due to their public statements and actions taken before State authorities to learn of the whereabouts

of Mr. Almonte; ii) there is no indication from the information provided by the petitioners that an agreement has been reached with regard to their protection, for which reason those individuals are not currently being protected; and iii) the threats against those individuals would "increase with the opening of an investigation into the facts;"

c) in a case such as this one, State efforts cannot be based on the assumption that the individual in question is a fugitive. Rather, they must take into account that what is at issue could be a forced disappearance and that the individual affected could be in a situation of extreme risk, especially when there is evidence favoring this possibility, and

d) the nature of the rights threatened - the right to life and to personal integrity - constitutes "the extreme irreparable nature of the consequences that these provisional measures seek to prevent."

4. The Inter-American Commission's request, based on Article 63(2) of the American Convention and Article 27 of the Rules of Procedure of the Court, to require the State to carry out the following:

a) adopt the measures necessary to establish the whereabouts of Mr. Juan Almonte Herrera and report immediately to the Inter-American Court and to his relatives in this regard;

b) once his whereabouts are determined, take the measures necessary to protect Mr. Juan Almonte Herrera's life and personal integrity after carrying out an evaluation of the reasons behind his disappearance while in State custody. These measures must be agreed upon with the possible beneficiary and his representatives;

c) take, without delay, the measures necessary to safeguard the life and personal integrity of Yuverky Almonte Herrera, Joel Almonte, Ana Josefa Montilla, Genaro Rincón and Francisco de León Herrera and report immediately to the Inter-American Court. In the event that Ms. Ana Josefa Montilla is abroad, grant her the aforementioned measures as soon as she returns;

d) launch an investigation into the facts motivating the request for provisional measures as a mechanism for preventing any situation that puts the life and personal safety of Juan Almonte Herrera, Yuverky Almonte Herrera, Joel Almonte, Ana Josefa Montilla, Genaro Rincón and Francisco de León Herrera at risk.

e) reach an agreement with the beneficiaries on the most appropriate mechanisms for implementing the protective measures in such a way as to ensure their effectiveness and relevance; and

f) report on the measures taken under the foregoing clauses.

5. The March 11, 2010, note through which the Secretariat of the Court, following the instructions of the President of the Tribunal, asked the State to submit any comments it deems pertinent with regard to this request for provisional measures (*supra* Having Seen 1).

6. The brief dated March 11, 2010, in which the State requested a deadline extension for the submission of the requested comments (*supra* Having Seen 5) and indicated that as of December 14, 2009, "Mr. Almonte *et al.* became the beneficiaries of Precautionary Measures that have been implemented in coordination with the beneficiaries."

7. The note from the Secretariat dated March 11, 2010, in which, following the instructions of the President of the Tribunal, the deadline extension requested by the State was granted (*supra* Having Seen 6); the communication requested that the State make specific reference to the precautionary measures allegedly implemented to the benefit of each of the beneficiaries and attach a copy of the court ruling in which a writ of *habeas corpus* was supposedly granted to the benefit of Mr. Juan Almonte Herrera. Likewise, in that note, the Inter-American Commission was asked to report on the status of implementation of the supposed precautionary measures adopted by the State (*supra* Having Seen 6).

8. The brief dated March 15, 2010, in which the State indicated that:

a) it is complying with the precautionary measures requested by the Inter-American Commission, measures which "consist of an investigation into the disappearance of [Mr.] Juan Almonte Herrera and of the safety of [his] family [...] and his representatives;"

b) regarding the investigation, in compliance with the ruling of the Second Criminal Chamber of the National District [on the *habeas corpus* writ] ordering the release of Mr. Jun Almonte Herrera, it is stated that Mr. Almonte "is not being held by the National Police and the pertinent steps are being taken to determine his location and punish those eventually found to be guilty of his disappearance;"

c) the Office of the Attorney General has contacted the relatives of Mr. Almonte Herrera to "urge them to file a complaint over the disappearance;"

d) it reviewed the country's entry and exit registries and "did not find any indication that [Mr. Juan Almonte Herrera] left Dominican Territory;"

e) it is investigating the "identity of the alleged captors of Mr. Almonte Herrera in the heart of the National Police;"

f) it has carried out "autopsies on the bodies of unidentified individuals to compare them with the anthropometric dimensions of Mr. Almonte Herrera;"

g) on December 22, 2009, "after having met with the beneficiaries, a police guard was ordered set up for all [the relatives of Mr. Almonte Herrera], with the exception of Ms. Ana Josefa Montilla," who is residing in the United States; and

h) based on all the foregoing, it argues that "the Precautionary Measures ordered [by the Inter-American Commission] are being complied with."

9. The communication dated March 16, 2010, in which the Inter-American Commission indicated that:

a) based on the reports filed by the State and on communication with the "petitioners" during the processing of the precautionary measures, it could be argued that "the State response does not appreciate the gravity and urgency of the situation as it does not indicate having taken specific measures to investigate and establish [the] whereabouts [of Mr. Almonte Herrera]. Therefore, the immediate results required in situations such as this one have not been obtained;"

b) the "petitioners" stated that they have not been able to establish anything specific with regard to the implementation of the precautionary measures, "in particular because the State intends to provide protection through members of the national police who have been repeatedly identified [...] as those responsible for the disappearance of [Mr. Almonte Herrera] and for the threats and harassment against them," from which it can be deduced that "they are currently not being protected;" and

c) the Commission reiterated "emphatically" that taking into account the specifics of the case, without prejudice to the fact that the design and implementation of the protective measures must be carried out by the State by agreement with the possible beneficiaries, "it is necessary to keep in mind that the individuals assigned to protect the beneficiaries should not be connected with the National Police."

CONSIDERING THAT:

1. The Dominican Republic has been a State Party to the American Convention since April 19, 1978, and, in keeping with Article 62 of the Convention, recognized the contentious jurisdiction of the Court on March 25, 1999.

2. Article 63(2) of the American Convention holds that, "In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission."

3. Article 27 of the Rules of Procedure of the Court¹ holds that:

1. At any stage of proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, on its own motion, order such provisional measures as it deems appropriate, pursuant to Article 63(2) of the Convention.

2. With respect to matters not yet submitted to it, the Court may act at the request of the Commission.

[...]

6. If the Court is not sitting, the Presidency, in consultation with the Permanent Commission and, if possible, with the other Judges, shall call upon the State concerned to

¹ Rules of Procedure of the Inter-American Court of Human Rights Rules of Procedure passed in the LXXXV Regular Period of Sessions held from November 16 to 28, 2009.

adopt such urgent measures as may be necessary to ensure the effectiveness of any provisional measures that may be ordered by the Court during its next period of sessions.

4. The provisions established in Article 63(2) of the Convention make the provisional measures ordered by this Tribunal obligatory for the State, as the basic legal principle of State responsibility, based on international case law, has indicated that States must comply with their obligations under the Convention in good faith (*pacta sunt servanda*).²

5. In International Human Rights Law, provisional measures are not solely precautionary, in the sense that they preserve the legal situation. Rather they are fundamentally tutelary, in that they protect human rights by seeking to prevent irreparable damage to persons. An order to take measures is applicable as long as it meets the basic requirements of extreme gravity and urgency and prevention of irreparable damage to persons. In this way, provisional measures become a true jurisdictional guarantee of a preventative nature.³

6. From the information provided by the Commission, it can be deduced that Mr. Juan Almonte Herrera has been missing since September 28, 2009, (*supra* Having Seen 2(a)) the date on which he was detained by the National Police and following which he has not had any contact with his relatives or representatives. It can likewise be deduced that Yuverky Almonte Herrera, Joel Almonte and Ana Josefa Montilla, relatives of Mr. Juan Almonte Herrera, as well as Genaro Rincón and Francisco de León Herrera, attorneys, have been subjected to threats and harassment as a consequence of the steps taken toward determining the whereabouts of Mr. Almonte Herrera. Ms. Montilla is not currently in the Dominican Republic (*supra* Having Seen 2(f)).

7. Article 63(2) of the Convention requires that in order for the Court to issue provisional measures, three conditions must be met: i) "extreme gravity;" ii) "urgency," and iii) "avoiding irreparable damage to persons." These three conditions coexist and must be present in every situation in which the Court's intervention is requested⁴ In this matter, the extreme situation of risk reported on due to the alleged disappearance of Mr. Juan Almonte Herrera while in State custody can be noted. Likewise, the President finds that protection in order to avert the threat cannot be postponed. Finally, the irreparable character of the situation of extremely grave and urgent risk related to the rights to life and personal integrity is evident.

² Cf. *Case of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Inter-American Court of Human Rights of June 14, 1998, 19, Considering six; *Matter of Guerrero Larez*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of November 17, 2009, Considering 5, and *Case of 19 Tradesmen v. Colombia*. Monitoring Compliance with Judgment and Provisional Measures. Order of the Inter-American Court of Human Rights of July 8, 2009, Considering 4.

³ Cf. *Case of the Newspaper "La Nación."* Provisional Measures regarding Costa Rica. Order of the Inter-American Court of Human Rights of September 7, 2001, Considering four; *Matter of Guerrero Larez*, *supra* footnote 2, Considering 4, and *Case of Gomes Lund et al. (Guerrilha do Araguaia)*. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 15, 2009, Considering 4.

⁴ Cf. *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of July 2009, Considering 14; *Matter of Guerrero Larez*, *supra* footnote 2, Considering 10, and *Matter of Natera Balboa*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of December 1, 2009, Considering 10.

8. In particular, it should be taken into account in this matter that both the relatives of Mr. Juan Almonte and his attorneys have taken several steps toward discovering his whereabouts, among them: a) the filing of a writ of *habeas corpus*, which was granted; b) the Inter-American Commission's request for precautionary measures; c) several filings before the Office of the Attorney General of the Republic and the Directorate for Criminal Investigations of the National Police; and d) news items in the media on the disappearance of Mr. Juan Almonte Herrera. Of the aforementioned steps, the President has not been informed of specific results or progress that would allow for a clear determination of Mr. Almonte Herrera's whereabouts, nor his current situation.

9. For its part, despite the deadline extension requested (*supra* Having Seen 6), the State reported generally on certain actions apparently taken toward locating Mr. Juan Almonte Herrera and protecting his relatives and representatives. However, it can be deduced from that information that Mr. Almonte Herrera remains missing. The President highlights that, despite it having been requested (*supra* Having Seen 7), the State did not submit to the Tribunal a copy of the court ruling in which a writ of *habeas corpus* was granted to the benefit of Mr. Almonte Herrera, despite having made reference to that ruling in its comments (*supra* Having Seen 8(b)).

10. Likewise, the President observes that the State did not report on whether the "pertinent steps toward establishing the location [of Mr. Almonte Herrera] and punishing those eventually determined to be guilty of his disappearance" and the steps taken toward determining the identity of his "alleged captors" are being carried out in the context of formal investigations. Furthermore, the State indicated that the office of the Attorney General this has urged the relatives to file a complaint on the disappearance (*supra* Having Seen 8(b), c) and e)).

11. In this regard, it is important to recall that whenever there is a good reason to suspect that an individual has been subjected to a disappearance, it is crucial that prompt and immediate action be taken by prosecutorial and judicial authorities to order timely and necessary measures aimed at determining the whereabouts of the victim or the place where the victim might be found deprived of liberty.⁵ Separately, in situations of individuals deprived of liberty - like this one - *habeas corpus* should represent, within the range of indispensable judicial guarantees, the ideal measure for guaranteeing the liberty of the individual and overseeing respect for life and protection of the individual's personal integrity; for ensuring that the detainee is brought before a judicial body charged with confirming the legality of the detention; and for preventing the disappearance of the detainee or lack of information on the detainee's place of detention, as well as and for protecting the detainee from torture or other cruel, inhuman, or degrading treatment or punishment⁶ Nevertheless, despite the *habeas corpus* ruling ordering Mr. Juan Almonte Herrera be released for having apparently been detained by State authorities without a court order, he remains disappeared. Given the lack of information on his whereabouts, it can be assumed that Mr. Almonte Herrera faces a

⁵ Cf. *Case of Anzualdo Castro v. Peru. Preliminary Objections, Merits, Reparations and Costs*. Judgment of September 22, 2009. Series C No. 202, para. 134, and *Matter of Natera Balboa*, *supra* footnote 4, Considering 13.

⁶ Cf. *Case of Neira Alegría et al. v. Peru. Merits*. Judgment of January 19, 1995. Series C No. 20, para. 82; *Case of Anzualdo Castro v. Peru*, *supra* footnote 5, para. 72, and *Matter of Natera Balboa*, *supra* footnote 4, Considering 13. Also see *Habeas corpus in Emergency Situations (Arts. 27(2), 25(1) and 7(6) American Convention on Human Rights)*. Advisory Opinion OC-8/87 of January 30, 1987. Series A No. 8, para. 35.

grave risk that his rights to life and personal integrity will be violated.

12. It should be recalled that Article 1(1) of the American Convention sets forth the general obligations of States Parties to respect the rights and liberties enshrined in the Convention and to guarantee the free and full exercise of these rights for all individuals subject to their jurisdiction. These obligations apply not only with regard to State power, but also with regard to the actions of private third parties. This Court has found that the State is in a special position to guarantee rights with regard to individuals deprived of liberty due to the fact that penitentiary authorities exercise total control over those individuals.⁷

13. Likewise, the information provided by the Inter-American Commission alleges the existence of acts of surveillance, harassment, intimidation, and threats against Yuverky Almonte Herrera, Ana Josefa Montilla, Joel Almonte, Genaro Rincón and Francisco de León Herrera.

14. The President takes into account that, as according to information provided by the Inter-American Commission, Ms. Ana Josefa Montilla wife of Mr. Juan Almonte Herrera, is not currently living within the territory of the Dominican Republic, as she apparently left upon feeling fear and insecurity over the alleged surveillance and harassment by plainclothes police officers (*supra* Having Seen 2(f)). The Inter-American Commission requested provisional measures to her benefit, to be implemented once she returns to the country.

15. The State reported that a police guard was ordered set up for all the relatives of Mr. Almonte Herrera, with the exception of Ms. Ana Josefa Montilla (*supra* Having Seen 8(g)). However, the State did not make reference to the manner in which this police guard would function. Likewise, the President is not aware of whether Genaro Rincón and Francisco de León Herrera currently enjoy protective measures implemented to their benefit, as the State did not report on this aspect.

16. The State's adoption of particular measures of protection is not enough. Rather, these measures and their implementation must be effective such that the threats toward and harassment of the individuals whose protection is sought cease. For its part, the State is particularly obliged to guarantee the rights of individuals in a situation of risk and must move forward with the investigations necessary to clear up the facts, followed by the consequences established in the pertinent legislation.⁸

17. The *prima facie* evaluation standard in a given matter and the use of assumptions given the need for protection have moved the President and the Court to order provisional measures on several occasions.⁹

⁷ Cf. *Matter of Capital El Rodeo I & El Rodeo II Judicial Confinement Center*. Request for Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 8, 2008, Considering 11; *Matter of Guerrero Larez*, *supra* footnote 2, Considering 13, and *Matter of Natera Balboa*, *supra* footnote 4, Considering 14.

⁸ Cf. *Case of 19 Tradesmen v. Colombia*, *supra* footnote 2, Considering 93 and 94.

⁹ Cf. *inter alia*, *Matter of Monagas Judicial Confinement Center ("La Pica")*. Provisional Measures regarding Venezuela. Order of the President of the Inter-American Court of Human Rights of January 13, 2006, Considering 16; *Matter of Guerrero Larez*, *supra* footnote 2, Considering 14, and *Matter of Natera Balboa*, *supra* footnote 4, Considering 5.

18. Mr. Juan Almonte Herrera and Yuverky Almonte Herrera, Ana Josefa Montilla, Joel Almonte, Genaro Rincón and Francisco de León, indicated by the Inter-American Commission in its request for provisional measures, are *prima facie* facing a situation of extreme gravity and urgency, given that their personal integrity and lives are threatened and at grave risk. As a consequence, the President finds the protection of those individuals through provisional measures necessary in light of the provisions of the American Convention.

19. However, Ms. Ana Josefa Montilla is not in the Dominican Republic. Regarding this, and as the Tribunal has done on prior occasions, as well as taking into account the specific context of this matter, the President finds it pertinent for the State to take protective measures to her benefit to be implemented once Ms. Montilla returns to the territory within its jurisdiction.¹⁰ Toward doing so, it is essential for Ms. Montilla or her representatives to notify the State with all due anticipation on her eventual return to the Dominican Republic so that the State might be able to take the proper measures for her protection.

20. In addition, the President observes that in its brief requesting provisional measures (*supra* Having Seen 1) the Inter-American Commission specifically indicated that "without prejudice to the fact that the design and implementation of the protective measures must be carried out by the State and in agreement with the possible beneficiaries, it is necessary to keep in mind that the individuals assigned to protect the beneficiaries should not be connected with the National Police." This is based on the fact that the threats toward and harassment of Mr. Almonte Herrera's relatives and attorneys have been carried out by members of that police force. In a communication dated March 16, 2010, (*supra* Having Seen 9) the Commission reiterated its request.

21. The information submitted by the Commission, the representatives, and the State (*supra* Considering 8 to 13) demonstrates, *prima facie*, that the individuals indicated by the Inter-American Commission in its request for provisional measures and in the Order of the President are facing a situation of extreme gravity and urgency, given that their personal integrity and lives are threatened and at grave risk. As a consequence, the Inter-American Court finds the protection of those individuals through provisional measures necessary in light of the provisions of the American Convention.

22. The provisional measures must be designed and implemented with the full participation of their beneficiaries and representatives, taking into account their special need for protection in accordance with the specific circumstances of this matter. The State shall weigh the particular risks faced by each of the beneficiaries in order to determine the specific protective measures.

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22. The President deems it crucial for the State to submit to the Tribunal, within the time period established in the operative paragraphs of this order, specific and detailed information on the provisional measures implemented to the benefit of each of the beneficiaries in order for those measures to be assessed by the Tribunal as soon as

¹⁰ Cf. *Case of Wilson Gutiérrez Soler v. Colombia*. Provisional Measures. Order of the Inter-American Court of Human Rights of July 9, 2009, Considering 22.

possible. The State shall submit all the documentation it considers pertinent in this regard. Likewise the President asks the State for second time to submit to the Tribunal a copy of the court ruling in which a writ of *habeas corpus* was granted to the benefit of Mr. Juan Almonte Herrera (*supra* Having Seen 7).

THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by way of the authority conferred by Article 63(2) of the American Convention on Human Rights and articles 27 and 31 of the Rules of Procedure of the Tribunal,

DECIDES TO:

1. Require the State to adopt, immediately, the measures necessary to determine the whereabouts of Mr. Juan Almonte Herrera and to protect his life and personal integrity, in keeping with the provisions set forth in Considering clauses 7 and 16 to 18 of this Order.
2. Require the State to adopt, without delay, the measures necessary to guarantee the lives and personal integrity of Yuverky Almonte Herrera, Joel Almonte, Genaro Rincón and Francisco de León Herrera, in keeping with the provisions set forth in Considering clauses 13 and 15 to 18 of this Order.
3. Require the State to adopt the measures necessary to guarantee the lives and personal integrity of Ms. Ana Josefa Montilla should she decide to return to the Dominican Republic, in keeping with the provisions set forth in Considering clauses 13 and 18 to 19 of this Order.
4. Require the State to provide opportunity for the beneficiaries to participate in planning and implementing the protective measures, in keeping with the provisions set forth in Considering clauses 20 and 21 of this Order.
5. Require the State to report to the Inter-American Court of Human Rights no later than April 12, 2010, with regard to the orders found in the first, second, and - where applicable - third operative paragraphs of this Order.
6. Request that the Inter-American Commission and the representatives of the beneficiaries present to the Inter-American Court any comments they deem necessary on the report mentioned in the fifth operative paragraph of this Order, and to do so no later than April 19, 2010.
7. Likewise require the State to continue reporting to the Inter-American Court of Human Rights every two months, counting from the date on which the parties are notified of this order, on the provisional measures adopted under it.

8. Request that the representatives of the beneficiary and the Inter-American Commission present their comments within four and six weeks, respectively, counting from notification of the State reports indicated in the seventh operative paragraph.

9. Request that the Secretariat of the Court notify the State, the Inter-American Commission and the representatives of this Order.

Diego García-Sayán
President

Pablo Saavedra-Alessandri
Secretary