

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF NOVEMBER 21, 2000**

**PROVISIONAL MEASURES IN THE MATTER
OF THE STATE OF PERU¹**

IVCHER-BRONSTEIN CASE

HAVING SEEN:

1. The application submitted by the Inter-American Commission on Human Rights (hereinafter the "Commission" or the "Inter-American Commission") to the Inter-American Court of Human Rights (hereinafter the "Court" or the "Inter-American Court ") on March 3, 1999, against the State of Peru (hereinafter the "State" or "Peru") on the Ivcher-Bronstein Case.

2. The depositions of the witnesses and the expert witness at the public hearing on the merits of the Ivcher-Bronstein Case, held at the seat of the Court November 20 and 21, 2000, there having appeared,²

for the Inter-American Commission:

Hélio Bicudo, Delegate;
Claudio Grossman, Delegate;
Cristina Cerna, Adviser;
Debora Benchoam, Adviser;
Alberto Borea, Assistant;
Viviana Cristicevic, Assistant; and
María Claudia Pulido, Assistant.

Witnesses and expert witnesses proposed by the Inter-American Comisión:

Luis Ibérico, witness;
Baruch Ivcher-Bronstein, witness;
Fernando Viaña-Villa, witness;
Julio Sotelo-Casanova, witness;
Luis Pércovich-Roca, witness;
Rosario Lam-Torres, witness;
Samuel Abad-Yupanqui, expert witness;

¹ Judge Sergio García-Ramírez informe the Court that, because of *force majeure*, he was unable to participate in the deliberation or the adoption of these Provisional Measures.

² The State of Peru did not appear at the public hearing on the merits in the instant case, held at the seat of the court on November 20-21, 2000, for which reason the President of the Court read publicly, at the beginning of said hearing, Article 27 of the Rules of Procedure of the Inter-American Court, which refers to the "Default Procedure."

Emilio Rodríguez-Larraín, witness; and
Fernando Rospigliosi-Capurro, witness.

3. The final arguments stated by the Inter-American Commission during the cited public hearing (*supra* 2).

CONSIDERING:

1. That Peru became a State Party to the American Convention on July 28, 1978, and recognized the jurisdiction of the Court, pursuant to Article 62 of the Convention, on January 21, 1981.

2. That Article 63(2) of the American Convention provides that in cases of "extreme gravity and urgency, and when necessary to avoid irreparable damage to persons," the Court may, in matters it has under its consideration, adopt the provisional measures that it deems pertinent.

3. That, in the terms of Article 25(1) of the Rules of Procedure of the Court,

[a]t any stage of the proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

4. That on the basis of these provisions it becomes clear that the Court can act on its own motion in cases of extreme gravity and urgency to avoid irreparable damage to persons. The Court has done it before.³

5. That Article 1(1) of the Convention points out the obligation that the States Parties have, to respect the rights and freedoms therein recognized, and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.

6. That the depositions by the witnesses and the expert witness during the public hearing of November 20-21, 2000, and the final arguments of the Commission enable the Court to establish *prima facie* the existence of threats against the personal integrity and the legal guarantees of Mr. Baruch Ivcher-Bronstein, an alleged victim in the case, as well as against those of certain members of his family, certain members of his companies, and other persons related to the events that gave rise to the instant case. The *prima facie* case assessment standard and the application of presumptions *vis-à-vis* the needs for protection, have served as a basis for provisional measures adopted by this court on different occasions.⁴

³ Order of January 15, 1988, Provisional Measures in the *Velásquez-Rodríguez, Fairén-Garbi and Solís-Corrales, and Godínez-Cruz Cases*, Considering No. 4 and 5; Order of the President of the Court of April 7, 2000, in the case of the *Constitutional Court*, Considering No. 4.

⁴ (*cfr., inter alia*, Order of the Inter-American Court of Human Rights of November 17, 1999, Provisional Measures in the *Digna Ochoa and Plácido et al. Case*, Considering No. 5; Order of the Inter-American Court of Human Rights of June 3, 1999, Provisional Measures in the *Cesti-Hurtado Case*, Considering No. 4; Order of the Inter-American Court of Human Rights of May 27, 1999, Provisional Measures in the *James et al. Case*, Considering No. 8; Order of the Inter-American Court of Human Rights of June 19, 1998, Provisional Measures in the *Clemente-Teherán et al. Case*, Considering No. 5; Order of the President of the Inter-American Court of Human Rights of July 22, 1997, Provisional Measures in the *Álvarez et al. Case*, Considering No. 5; Order of the President of the Inter-American Court of Human Rights of August 16, 1995, Provisional Measures in the *Blake Case*, Considering No. 4; Order of the President of the Inter-American Court of Human Rights of July 26, 1995, Provisional Measures in the

7. That it is the responsibility of the State to apply security measures to protect all persons subject to its jurisdiction. This duty becomes even more evident in relationship to those persons related to proceedings before the supervisory organs of the American Convention.

8. That the purpose of the Provisional Measures in the national legal systems (internal procedural law) in general, is to preserve the rights of the parties to the controversy, ensuring that the future judgment on the merits not be harmed by their actions *pendente lite*.

9. That the purpose of Provisional Measures in international human rights law is broader since, in addition to their essentially preventive character, they protect effectively basic rights inasmuch as they seek to avoid irreparable damage to persons.

NOW, THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

In exercise of the powers conferred upon it by Article 63(2) of the American Convention, and Article 25 of its Rules of Procedure,

DECIDES:

1. To require that the State of Peru adopt, forthwith, whatever measures are necessary to protect the physical, psychological and moral integrity, and the right to the legal guarantees of Mr. Baruch Ivcher-Bronstein, his wife, Noemí Even-de-Ivcher, and his daughters, Dafna Ivcher-Even, Michal Ivcher-Even, Tal Ivcher-Even, and Hadaz Ivcher-Even.

2. To require that the State of Peru adopt, forthwith, whatever measures are necessary to protect the physical, psychological and moral integrity, and the right to the legal guarantees of Rosario Lam-Torres, Julio Sotelo-Casanova, José Arrieta-Matos, Emilio Rodríguez-Larraín, and Fernando Viaña-Villa.

3. To require that the State of Peru inform the Inter-American Court of Human Rights, no later than December 5, 2000, about the provisional measures it will have adopted in compliance with this Order, and that it continue, as of that date, to submit its reports every two months.

4. To require that the Inter-American Commission on Human Rights submit its observations to the reports of the State of Peru within six weeks of receiving them.

Carpio-Nicolle Case, Considering No. 4; Order of the President of the Inter-American Court of Human Rights of June 4, 1995, Provisional Measures in the *Carpio-Nicolle Case*, Considering No. 5; Order of the Inter-American Court of Human Rights of December 7, 1994, Provisional Measures in the *Caballero-Delgado and Santana Case*, Considering No. 3; Order of the Inter-American Court of Human Rights of June 22, 1994, Provisional Measures in the *Colotenango Case*, Considering No. 5; Order of the President of the Inter-American Court of Human Rights of April 7, 2000, Provisional Measures in the *Constitutional Court Case*, Considering No. 7; Order of the Inter-American Court of Human Rights of August 18, 2000, Provisional Measures in the *Haitians and Haitian-origin Dominican Persons in the Dominican Republic Case*, Considering No. 5 and 9; Order of the President of the Inter-American Court of Human Rights of October 9, 2000, Provisional Measures in the *Paz de San José de Apartadó Community Case*, Considering No. 4).

Antônio A. Caçado Trindade
President

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

Alirio Abreu-Burelli

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Caçado Trindade
President

Manuel E. Ventura-Robles
Secretary