

**Order of the
Inter-American Court of Human Rights
of July 8, 2004
Provisional Measures regarding Guatemala
Matter of Carpio-Nicolle *et al.***

HAVING SEEN:

1. The June 4, 1995 Order of the President of the Inter-American Court of Human Rights (hereinafter "the President of the Court") requesting, *inter alia*, the following:

1. [...] that the Government of the Republic of Guatemala adopt without delay all necessary measures to effectively ensure the protection of the lives and personal integrity of the following persons: MARTA ELENA ARRIVILLAGA DE CARPIO, KAREN FISCHER DE CARPIO, MARIO LOPEZ ARRIVILLAGA, ANGEL ISIDRO GIRON GIRON and ABRAHAM MENDEZ GARCIA, and [...] investigate the threats and harassment of the persons named and to punish those responsible.

2. [...] that the Government of the Republic of Guatemala adopt all necessary measures so that witnesses in the Carpio Case [might] testify, and so that the prosecutor in the case, Abraham Méndez García, [might] fulfill his duties without pressure or reprisals.

3. [...] that the Government of the Republic of Guatemala inform the military authorities of the Military Zone to which the Civil Defense Committees of San Pedro Jocopilas answer, to instruct these Committees to refrain from taking any actions that would put the lives or personal integrity of the individuals named at risk.

4. [...] that the Government of the Republic of Guatemala submit a report to the President of the Court every 30 days from the date of this Order, on the measures taken pursuant to this Order, so as to bring the information to the attention of the Court.

2. The July 26, 1995 Order of the President wherein he requested that the State, *inter alia*, expand the urgent measures set forth in the President's Order of June 4, 1995, to include Mrs. Lorraine Marie Fischer Pivaral, and that it investigate and punish those responsible for the events denounced by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission").

3. The September 19, 1995 Order of the Inter-American Court of Human Rights (hereinafter "the Court") wherein it confirmed and adopted as its own the urgent measures taken by the President in the Orders of June 4 and July 26, 1995.

4. The February 1, 1996 Order of the Court wherein it decided to extend the provisional measures ordered in the Court's September 19, 1995 Order.

5. The September 10, 1996 Order of the Court where, *inter alia*, it confirmed the provisional measures adopted in the Court's Order of September 19, 1995, and then extended in its Order of February 1, 1996.

6. The September 19, 1997 Order of the Court wherein it:

1. [...] call[ed] upon the State to include in its next report the appropriate documentation on the status of case No. 1011-97 and the concrete advances made into the investigations of the denounced threats and acts of intimidation.
2. [...] call[ed] upon the State to continue to report to the Court every two months from the date of notification of this Order on the measures it ha[d] taken in this case, and upon the Inter-American Commission on Human Rights to continue submitting its comments on that information to the Court not later than six weeks from the date of its receipt.

7. The June 19, 1998 Order of the Court wherein it resolved:

1. To lift the provisional measures adopted in favor of Mario López-Arrivillaga, Ángel Isidro Girón-Girón, Abraham Méndez-García and Lorraine Marie Fischer Pivaral.
2. To maintain the provisional measures adopted by the Court on September 19, 1995 in favor of Ms. Mart[h]a Elena Arrivillaga de Carpio and Karen Fischer de Carpio.
3. To call once more upon the State of Guatemala to include in its next report reliable documentation on the status of case No. 1011-97 and on specific progress made with the investigations into the threats and intimidation denounced.

8. The November 27, 1998 Order of the Court wherein it decided:

1. To declare that the State of Guatemala should take the necessary measures to settle the current and future situation of Karen Fischer de Carpio, in compliance with its obligation to effectively guarantee protection for Mrs. Carpio's life and personal integrity and should include the results of the corresponding measures in its next report.
2. To call upon the State to include in its next report the appropriate documentation on the status of case No. 1011-97 and the concrete advances made into the investigations of the denounced threats and acts of intimidation.

9. The September 30, 1999 Order of the Court wherein it decided:

1. To maintain the provisional measures adopted by the Court on September 19, 1995, February 1, 1996, September 10, 1996, June 19, 1998 and November 27, 1998, in favor of Mart[h]a Elena Arrivillaga de Carpio and Karen Fischer de Carpio.
2. To request the State to continue to report to the Court every two months on the measures that it has taken in this case, and the Inter-American Commission on Human Rights to continue to submit its observations on that information to the Court, within six weeks of receiving it.
3. To request the State of Guatemala to include detailed information on the proceeding by which it adopted the decision to close case N° 1011-97 in its next report, together with all the documentation it holds on this proceeding.

10. The September 5, 2001 Order of the Court wherein it decided:

1. To call upon the State to maintain the provisional measures ordered by the Court on September 19, 1995, February 1, 1996, September 10, 1996, June 19, 1998, November 27, 1998, and September 30, 1999, on behalf of Marta Elena Arrivillaga de Carpio and Karen Fischer de Carpio.
2. To call upon the State to continue to report to the Court every two months on the measures that it has taken in this case, and to call upon the Inter-American Commission on Human Rights to continue presenting to the Court its observations on the reports that the State files with the Court in this case, within six weeks of receiving those reports.

3. To request the State of Guatemala to include in its next report, detailed information on the security and protection measures being taken for Mrs. Marta Elena Arrivillaga de Carpio and Mrs. Karen Fischer de Carpio and on the measures being taken to investigate the threats made against the two women and what implications the decision to set aside case No. 1011-97 had for these measures.
11. The reports submitted by the State between October 2001 and December 2003 where, in response to the September 5, 2001 Order of the Court (*supra* 'Having Seen' 10), it reported on the measures taken on behalf of Mrs. Martha Arrivillaga de Carpio and Mrs. Karen Fischer.¹
12. The observations to the State's reports, submitted by the Inter-American Commission in the period from October 2001 and January 2004, wherein it reported on compliance and noncompliance with the operative paragraphs of the September 5, 2001 Order for provisional measures (*supra* 'Having Seen' 10).
13. The November 25, 2003 Order of the Court that amended, *inter alia*, Article 25(6) of the Court's Rules of Procedure. That article authorized the beneficiaries of provisional measures or urgent measures to "address their comments on the report made by the State directly to the Court."
14. The State's December 29, 2003 report wherein it stated that it continued to provide security to the beneficiaries of the provisional measures, through the National Police Force and the Ministry of the Interior.
15. The comments on the State's December 29, 2003 report, presented by the representatives of the beneficiaries on January 30, 2004, wherein they pointed out, *inter alia*, "that in recent months [Mrs. Karen Fischer] ha[d] been 'harassed' by the Public Ministry." The representatives stated further that the situation they described "ha[d] even caused her [Mrs. Karen Fischer] to prefer to stay inside her home for fear that her life or the integrity of her person might be in danger."
16. The comments on the State's December 29, 2003 report, submitted by the Inter-American Commission on February 17, 2004, wherein it stated, *inter alia*, that Mrs. Karen Fischer had been the target of "a number of acts of harassment" and had, "since [...] January 14, 2004, been receiving threatening phone calls from different people with male voices [...]." The Commission stated further that "while the threats [...] made against Mrs. Karen Fis[c]her [were] unrelated to the facts that led to the order of provisional measures, they [did] endanger her life and the integrity of her person."
17. The note from the Secretariat of the Court (hereinafter "the Secretariat") dated February 19, 2004 where, following instructions from the President, it asked the State to submit, by no later than March 5, 2004, a report on the measures it had

¹ Both in the application in the *Matter of Carpio-Nicolle et al.* and in its final list of witnesses, the Inter-American Commission on Human Rights gave "Fisher" as this person's surname. Therefore, the May 26, 2004 Order of the President wherein he convened the public hearing in the present case assumed the name given in the brief of application to be the correct one. However, a copy of the witness' passport supplied at the time of the public hearing on July 5 and 6, 2004, at the seat of the Court, showed her name to be "Fischer." The name shown on the passport will be presumed to be the correct name.

taken to investigate the facts related to the threats alleged to have been made against Mrs. Karen Fischer.

18. The State's March 17, 2004 report wherein it stated that it continued to provide security to Mrs. Martha Arrivillaga de Carpio and Mrs. Karen Fischer, through the National Police Force and the Ministry of the Interior. On the subject of perimeter security, Mrs. Karen Fischer told the State that "she ha[d] never noticed anyone making rounds [...] in the vicinity of her home." Mrs. Martha Arrivillaga de Carpio, for her part, told the State that "the agents in charge of her security [were] performing their job very professionally."

19. The additional information supplied by the beneficiaries' representatives on March 18, 2004, wherein they reported that the Vice Minister of the Interior of Guatemala had ordered that the security detail assigned to Mrs. Martha Arrivillaga de Carpio's place of work be suspended, as well as those assigned to escort her to ensure her personal safety.

20. The Secretariat's March 19, 2004 note wherein it again reminded the State to submit a report on the threats alleged to have been made against Mrs. Karen Fischer and, following the President's instructions, asked the State to report on the status of execution of the provisional measures that the Court had ordered for Mrs. Martha Arrivillaga de Carpio.

21. The March 23, 2004 brief submitted by the beneficiaries' representatives wherein they reported that the only security detail suspended had been the one assigned to Mrs. Martha Arrivillaga de Carpio's place of work.

22. The Secretariat's March 25, 2004 note where, following instructions from the President, it requested that the State submit a report on the security detail assigned to Mrs. Martha Arrivillaga de Carpio's place of work.

23. The State's April 6, 2004 report wherein it stated that, through the National Police Force and the Ministry of the Interior, the State continued to provide security to the persons on whose behalf provisional measures were ordered. It pointed out that Mrs. Martha Arrivillaga de Carpio had told it that she was "satisfied" with the personal security received. The State also acknowledged that the Deputy Minister of the Interior had suspended the perimeter protection at Mrs. Martha Arrivillaga de Carpio's place of work. Concerning Mrs. Karen Fischer's security, the State reported that it was providing "security in the form of constant surveillance and patrolling of the sector in which she lives." Mrs. Fischer, however, requested that the perimeter measures be intensified and their frequency increased.

24. The April 30, 2004 comments that the representatives of the beneficiaries submitted in regard to the State's April 6, 2004 report, where they asserted that the facts that necessitated the provisional measures had not been investigated and that Mrs. Karen Fischer continued to be the target of acts of intimidation. They also reported that, according to Mrs. Karen Fischer, "the claim that the Guatemalan State made in its report regarding the perimeter surveillance was not accurate, as she ha[d] never been told anything about this type of surveillance and ha[d] never noticed it." The representatives also pointed out that the service provided by the security detail assigned to protect Mrs. Karen Fischer "[wa]s not the best, as she herself had to supply them with weapons some time ago." As for Mrs. Martha Arrivillaga de Carpio, the representatives observed that the State had withdrawn "the

police protection at her place of work without any advance notification and for no reason and that [...] the security detail at her workplace had not been reinstated." The representatives asked the Court to call upon the State to:

properly and efficiently implement the provisional measures ordered by the [...] Court on behalf of Mrs. Mart[h]a Arrivillaga de Carpio and Mrs. Karen Fis[c]her[;] report on the State's decision to alter the regime of personal protection assigned to Mrs Arrivillaga by suspending police surveillance at her place of work; perform the investigation that the [...] Court has repeatedly requested and report its findings.

25. The Commission's May 4, 2004 comments on the State's April 6, 2004 report, wherein it observed that "it [wa]s the State's responsibility to report the reasons why the Ministry of the Interior [had] decided to suspend the security provided to Mrs. Martha Arrivillaga de Carpio at her place of work, and to report on the weapons and other logistical materials supplied to those assigned to protect Mrs. Karen Fischer to enable them to perform their security functions properly." The Commission further pointed out that the State had failed to provide information regarding "the investigation into the facts that necessitated the provisional measures in question," and the facts associated with the recent threats allegedly made against Mrs. Fischer.

26. The Secretariat's May 5, 2004 note where, following the President's instructions, it again asked the State to submit detailed information on: 1) the specific measures taken to investigate both the recent allegations of threats against Mrs. Karen Fischer and the facts that necessitated the provisional measures in question; and 2) the security detail assigned to Mrs. Martha Arrivillaga de Carpio's place of work.

27. The State's May 27, 2004 report wherein it observed, *inter alia*, that it was not providing perimeter security at the former residence of Mrs. Martha Arrivillaga de Carpio, as she no longer lived there. However, it added that after a visit from members of the Sacatepéquez National Police Force, Mrs. Arrivillaga de Carpio stated that she had two National Police officers at her service and that she did not believe that "perimeter security [wa]s needed at her new residence." The State also confirmed that the Second Deputy Minister of the Interior had suspended the perimeter measures at Mrs. Martha Arrivillaga de Carpio's place of work. Concerning Mrs. Karen Fischer, the State reported that it was providing perimeter security at her place of residence. It also stated that Mrs. Fischer "ha[d] not agreed to the detailing of police officers [and that she had] suggested the names of the persons that she wanted to provide her personal security measures, whose services the Ministry of the Interior [did] retain."

28. The Secretariat's May 28, 2004 note in which it reminded the State that the Court was expecting submission, forthwith, of the State's report on the specific measures it had taken to investigate the recent threats allegedly made against Mrs. Karen Fischer and the facts that necessitated the provisional measures. The Secretariat further stated that it was also expecting to receive an explanation of why the security detail assigned to Mrs. Martha Arrivillaga de Carpio's place of work had been suspended.

29. The representatives' June 23, 2004 submission wherein they stated that Mrs. Karen Fischer had been the victim of an attempt on her life on June 19, 2004 that left one member of her personal security detail "gravely" injured.

30. The Secretariat's June 23, 2004 note where, following the President's instructions, it requested that the State submit, by no later than June 29, 2004, detailed information on the alleged attempt made against Mrs. Karen Fischer's safety and the status of her security at the time, and on the measures that the State had taken to investigate the alleged threats made against her.

31. The State's failure to respond to the Secretariat's June 23, 2004 note.

32. The testimony given by Mrs. Martha Arrivillaga de Carpio on July 5, 2004, at the public hearing held at the seat of the Court, where she stated, *inter alia*, that she feared for her own safety and for the safety of her two sons, Jorge and Rodrigo Carpio Arrivillaga, because of her testimony before the Court.

33. The testimony given by Mrs. Karen Fischer at the public hearing held at the seat of the Court on July 5, 2004, wherein she confirmed, *inter alia*, the threats she had received throughout the domestic proceedings in the Carpio case. She also testified that she had to send her children abroad, as she feared for their security and physical safety. She stated that her children were currently living outside Guatemala. She also pointed out that the June 19, 2004 attempt, which had left one member of her security detail seriously injured, was related to the testimony she was to give before this Court. Mrs. Fischer stated further that because the State had not supplied the members of her security detail with sufficient equipment to protect her, she had had to outfit them with weapons. She also stated that the members of her security detail do not have licenses to bear arms or official identifications. Mrs. Fischer also stated that the members of her security detail do not have medical insurance and their salary is very low. Finally, she stated that she feared that she and her children –once they returned to Guatemala- might become the targets of reprisals or threats because of her testimony before the Court.

34. The statement made by Mr. Abraham Méndez García at the public hearing held at the seat of the Court on July 6, 2004, where he stated, *inter alia*, that as the Prosecutor in the Carpio case, he was the target of threats and attempts on his life which is why he and his family had to leave the country. They spent approximately one year in exile. He stated further that he was afraid that his testimony before the Court might make him and his family the targets of reprisals or threats.

35. The Commission's final oral pleadings, delivered at the public hearing held at the seat of the Court on July 6, 2004, where it stated, *inter alia*, that for the reasons Karen Fischer had explained during her testimony (*supra* 'Having Seen' 33), the provisional measures ordered on her behalf were inadequate and therefore needed to be strengthened.

36. The representatives' final oral pleadings, delivered at the public hearing held at the seat of the Court on July 6, 2004, where they stated, *inter alia*, that the provisional measures should be expanded to include Rodrigo and Jorge Carpio Arrivillaga, Abraham Méndez García, as well as Rodrigo and Daniela Carpio Fischer, Karen Fischer's two children, owing to the fear of the reprisals that might be taken against these persons because of the testimony given by Mrs. Martha Arrivillaga de Carpio, Mrs. Karen Fischer and Mr. Abraham Méndez García. The representatives also underscored the need to bolster the provisional measures ordered on behalf of Karen Fischer and to reinstate the perimeter security detail assigned to Mrs. Martha Arrivillaga de Carpio's place of work.

37. The State's final oral pleadings, delivered at the public hearing held at the seat of the Court on July 6, 2004, where, *inter alia*, it acknowledged the danger to various persons involved in the present case and, therefore, expressed its willingness to expand the existing measures.

CONSIDERING THAT:

1. Guatemala is a State party to the American Convention on Human Rights and, on March 9, 1987, pursuant to Article 62 of the Convention, recognized the Court's jurisdiction as binding.

2. Article 63(2) of the American Convention provides that "[i]n 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 25(1) of the Court's Rules of Procedure provides that "[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. Article 1(1) of the Convention establishes the duty of States parties to respect the rights and freedoms recognized therein and to ensure their free and full exercise to all persons subject to their jurisdiction. This duty is all the more compelling in the case of those involved in proceedings before the oversight bodies established by the American Convention.

5. The purpose of provisional measures in domestic legal systems (domestic procedural law) in general, is to preserve the rights of the parties to a dispute, thereby ensuring that execution of the judgment on the merits is not obstructed or otherwise prejudiced by their actions *pendente lite*.

6. Under the International Law of Human Rights, urgent and provisional measures serve a further purpose, which is to protect fundamental human rights, thereby avoiding irreparable harm to persons.

7. To effectively ensure the rights recognized in the American Convention, the State party has an obligation, *erga omnes*, to protect all persons subject to its jurisdiction.²

8. It is a basic principle of the law of the international responsibility of States that States parties to the Convention have an obligation to comply with its provisions

² Cf., *inter alia*, *Matter of Pueblo indígena de Sarayaku*. Provisional Measures. Order of the Inter-American Court of Human Rights of July 6, 2004, 'considering' ten; *Matter of the "El Nacional" and "Así es la Noticia" Newspapers*. Provisional Measures. Order of the Inter-American Court of Human Rights of July 6, 2004, 'considering' twelve; and *Matter of Pueblo indígena de Kankuamo*. Provisional Measures. Order of the Inter-American Court of Human Rights of July 5, 2004, 'considering' eleven.

in good faith (*pacta sunt servanda*).³ They must also guarantee the effectiveness of those provisions (*effet utile*).⁴

9. Under the President's June 4, 1995 Order and the Court's orders of September 19, 1995, February 1, 1996, September 10, 1996, June 19, 1998, November 27, 1998, September 30, 1999 and September 5, 2001, the State has an obligation to adopt the protective and investigative measures necessary to preserve the life and integrity of person of Mrs. Martha Arrivillaga de Carpio and of Mrs. Karen Fischer, on whose behalf the Court ordered provisional measures.

10. The following has been established from the reports submitted by the State and the comments submitted by the Commission and the representatives of the beneficiaries in 2004, and from the testimony and final oral pleadings given at the public hearing at the seat of the Court on July 5 and 6, 2004:

- a. Mrs. Martha Arrivillaga de Carpio has a security detail that ensures her personal safety, but the State withdrew the perimeter security detail at her place of work. Guatemala acknowledged this fact in its reports of April 6, 2004 and May 27, 2004 (*supra* 'Having Seen' 23 and 27);
- b. Mrs. Karen Fischer has been the target of a number of threats and an attempt on her life on June 19, 2004, none of which the State has investigated (*supra* 'Having Seen' 16 and 29). The State also failed to supply Mrs. Fischer's security detail with sufficient equipment, which meant that she had to provide them with weapons herself. Furthermore, the members of her security detail do not have weapons permits, official identifications or medical insurance and are paid very little. (*supra* 'Having Seen' 24 and 33); and
- c. The State acknowledged the danger that the persons involved in the present case are in and expressed its willingness to expand the existing measures (*supra* 'Having Seen' 37).

11. The Court notes with concern that for as long as these provisional measures have been ordered, the State has never fully complied with them, despite the fact that the underlying reason for the adoption of these measures is to effectively protect the life and the integrity of person of Mrs. Martha Arrivillaga de Carpio and Mrs. Karen Fischer.

12. The State has not fully reported on the specific measures it has taken to investigate the recent threats allegedly made against Mrs. Karen Fischer and the facts that necessitated the provisional measures.

³ *Cf., inter alia, Matter of Liliana Ortega et al.; Matter of Luisiana Ríos et al.; Matter of Luis Uzcátegui; Matter of Marta Colomina and Liliana Velásquez.* Provisional Measures. Order of the Inter-American Court of Human Rights of May 4, 2004, 'considering' seven; *Matter of Lysias Fleury.* Provisional Measures. Order of the Inter-American Court of Human Rights of December 2, 2003, 'considering' seven; and *Matter of James et al..* Provisional Measures. Order of the Inter-American Court of Human Rights of December 2, 2003, 'considering' six.

⁴ *Cf., inter alia, Matter of Liliana Ortega et al.; Luisiana Ríos et al.; Luis Uzcátegui; Marta Colomina and Liliana Velásquez.* Provisional Measures. Order of the Inter-American Court of Human Rights of May 4, 2004, 'considering' twelve; *Case of Bulacio.* Judgment of September 18, 2003. Series C No. 100, par. 142; and *Case of the "Five Pensioners"*. Judgment of February 28, 2003. Series C No. 98, par. 164.

13. Time and time again this Court has held that the duty to investigate must be undertaken in a serious manner and not as a mere formality preordained to be ineffective.⁵

14. *Prima facie* a situation of "extreme gravity and urgency" persists that warrants continuation of the provisional measures adopted on behalf of Mrs. Martha Arrivillaga de Carpio and Mrs. Karen Fischer in the Orders of June 4, 1995, September 19, 1995, February 1, 1996, September 10, 1996, June 19, 1998, November 27, 1998, September 30, 1999, and September 5, 2001.

15. Although the provisional measures ordered for Mr. Abraham Méndez García were lifted in the Order of June 19, 1998 (*supra* 'Having Seen' 7), this Court has assessed the statement he made before it, wherein he stated that as Prosecutor in the Carpio case, he was the target of threats and attempts on his life that ultimately forced him to leave the country together with his family. Further, now that Mr. Méndez García and his family have returned to Guatemala, he fears for his safety and that of his family because he has testified before this Court (*supra* 'Having Seen' 34). The representatives, too, fear for the safety of Mr. Méndez García and his family (*supra* 'Having Seen' 36). This Court therefore considers that Mr. Méndez García and his family are, *prima facie*, in a situation "of extreme gravity and urgency."

16. Young Rodrigo and Daniela Carpio Fischer have been affected by the extreme danger in which their mother, Mrs. Karen Fischer, lives, so much so that they have had to leave the country and now live outside Guatemala. Mrs. Fischer fears for the safety of her children, because of the possibility of reprisals for the testimony she gave before this Court (*supra* 'Having Seen' 33). The representatives also fear for the children's safety (*supra* 'Having Seen' 36). This Court therefore considers that should these two persons return to the country, theirs would be a situation "of extreme gravity and urgency."

17. Messrs. Jorge and Rodrigo Carpio Arrivillaga are in danger of possible reprisals that might be taken because of the testimony given by Mrs. Martha Arrivillaga de Carpio, who fears for her two sons' safety (*supra* 'Having Seen' 32). The representatives also fear for the safety of her two sons (*supra* 'Having Seen' 36). This Court therefore considers that *prima facie* the above-named persons are in a situation "of extreme gravity and urgency."

18. As an essential element of its duty to protect, the State must immediately adopt the measures necessary to effectively ensure protection of the life and the integrity of the person of Mrs. Martha Arrivillaga de Carpio, Mrs. Karen Fischer, Messrs. Jorge and Rodrigo Carpio Arrivillaga, Abraham Méndez García, the latter's wife and children, and young Rodrigo and Daniela Carpio Fischer, should they return to the country.

19. In this connection the Court has previously held that:

[t]he right to life is a fundamental human right, and the exercise of this right is essential for the exercise of all other human rights. If it is not respected, all rights lack meaning. Owing to the fundamental nature of the right to life, restrictive approaches to it are inadmissible. In essence, the fundamental right to life includes not only the right of

⁵ Cf., *inter alia*, *Case of Bulacio*. Judgment of September 18, 2003. Series C No. 100, par. 112; *Case of Juan Humberto Sánchez*. Judgment of June 7, 2003. Series C No. 99, par. 144; and *Case of Bámaca-Velázquez*. Judgment of November 25, 2000. Series C No. 70, par. 212.

every human being not to be deprived of his life arbitrarily, but also the right that he will not be prevented from having access to the conditions that guarantee a dignified existence. States have the obligation to guarantee the creation of the conditions required in order that violations of this basic right do not occur and, in particular, the duty to prevent its agents from violating it.⁶

20. The Court's adoption of provisional measures for Mrs. Martha Arrivillaga de Carpio and Mrs. Karen Fischer, Messrs. Jorge and Rodrigo Carpio Arrivillaga, Abraham Méndez García, the latter's wife and children, and young Rodrigo and Daniela Carpio Fischer, should these last two return to the country, does not imply a decision on the merits and reparations in the case of Carpio Nicolle *et al. vs. Guatemala* that the Inter-American Court is now hearing. By adopting provisional measures, this Court is merely ensuring that the Court is able to faithfully exercise its Convention mandate in cases of extreme gravity and urgency that require measures of protection to avoid irreparable harm to persons.

NOW, THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

pursuant to Article 63(2) of the American Convention on Human Rights and Article 25 of the Court's Rules of Procedure

DECIDES:

1. To confirm, in all its parts, its Order of September 5, 2001, adopted on behalf of Mrs. Martha Arrivillaga de Carpio and Mrs. Karen Fischer.
2. To call upon the State to maintain the provisional measures necessary to protect the life and the integrity of the person of Mrs. Martha Arrivillaga de Carpio.
3. To call upon the State, in its next report (*infra* operative paragraph 9), to submit detailed information on the reasons why it suspended the security detail assigned to Mrs. Martha Arrivillaga de Carpio's place of work and whether this security is currently being provided to her.
4. To call upon the State to maintain the measures necessary to protect the life and the integrity of person of Mrs. Karen Fischer, while providing the personnel charged with her security with the same working conditions accorded to any Guatemalan State security agent.
5. To call upon the State to investigate the recent events involved in the threats allegedly made against Mrs. Karen Fischer, including the alleged attempt on her life and on her security detail on June 19, 2004 (*supra* 'Having Seen' 15, 16 and 29), in order to identify those responsible and punish them in accordance with the law.

⁶ *Cf., inter alia, Matter of Puebla indígena Sarayaku.* Provisional Measures. Order of the Inter-American Court of Human Rights of July 6, 2004, 'Considering' eleven; *Matter of Puebla indígena Kankuamo.* Provisional Measures. Order of the Inter-American Court of Human Rights of July 5, 2004, 'Considering' eleven; and *Case of Myrna Mack-Chang.* Judgment of November 25, 2003. Series C No. 101, par. 152.

6. To call upon the State to investigate the facts that necessitated the provisional measures in question, in order to identify those responsible and punish them in accordance with the law.
7. To call upon the State to immediately expand the provisional measures called for in the Order of September 5, 2001, to protect the life and the integrity of the person of Messrs. Jorge and Rodrigo Carpio Arrivillaga, Abraham Méndez García, the latter's wife and children, and young Rodrigo and Daniela Carpio Fischer, should these last two young people return to the country.
8. To call upon the State to give the beneficiaries a role in planning and implementing the measures of protection and, in general, to keep them informed of the progress of the provisional measures ordered by the Inter-American Court of Human Rights.
9. To call upon the State to report to the Inter-American Court of Human Rights, within ten days of the date of notification of the present Order, on the provisional measures adopted pursuant thereto.
10. To call upon the representatives of the beneficiaries of these measures to submit their comments within five days of the date of notification of the State's report.
11. To call upon the Inter-American Commission on Human Rights to present its comments within seven days of the date of notification of the State's report.
12. To call upon the State, subsequent to its first communication (*supra* operative paragraph 9), to continue reporting to the Inter-American Court of Human Rights every two months on the provisional measures adopted; to call upon the representatives of the beneficiaries of these measures to submit their observations on the State's reports within one month of receiving them; to also call upon the Inter-American Commission on Human Rights to submit its observations on the State's reports within six weeks of receiving them.
13. To send notification of the instant Order to the State, the Inter-American Commission on Human Rights and the representatives of the beneficiaries.

Sergio García-Ramírez
President

Alirio Abreu-Burelli

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary