

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
JUNE 3, 1999**

**EXPANSION OF THE
PROVISIONAL MEASURES
ORDERED BY THE COURT IN THE CESTI HURTADO CASE**

HAVING SEEN:

1. The September 11, 1997 decision of the Inter-American Court of Human Rights (hereinafter "the Court") wherein it requested that the Peruvian State (hereinafter "the State") adopt provisional measures for Mr. Gustavo Adolfo Cesti Hurtado, as part of the Cesti Hurtado case now before this Court;
2. The observations that the Inter-American Commission on Human Rights (hereinafter "the Commission") submitted on May 17, 1999, concerning the State's seventh and eighth reports on the measures adopted, wherein it stated that Mrs. Carmen Judith Cardó Guarderas, wife of Mr. Cesti Hurtado, had to file a number of complaints because she was repeatedly harassed, threatened and followed. According to the Commission, the harassment was a consequence of Mrs. Cardó Guarderas' defense of her husband's rights with the inter-American system for the protection of human rights (hereinafter "the inter-American system"). The Commission therefore requested that the Court "order provisional measures to guarantee the safety" of Mrs. Cardó Guarderas and her daughter, Ms. Margarita del Carmen Cesti Cardó;
3. The documents that the Commission presented as an appendix to its request for expansion of the provisional measures ordered in the instant case, the majority being uncertified copies of a series of complaints that Mrs. Cardó Guarderas filed at police headquarters wherein she described the acts of aggression and threats to her physical safety;
4. A copy, submitted by the Commission, of an August 3, 1998 writ wherein the Mayor of Lima granted "personal assurances" to Mrs. Cardó Guarderas and her family, effective that same date, that their physical safety would be protected;
5. The brief filed by the Commission on June 3, 1999, wherein it stated that the complaints reported by Mrs. Cardó Guarderas (*supra* 3) demonstrated that the acts committed against her were a consequence of her active involvement in the case pending with the Court, that no serious and effective investigation was conducted into the complaints she had filed, and that the assurances given by the Mayor of

Lima (*supra* 4) were not an effective means to protect her safety. In its brief seeking expansion of the measures, the Commission petitioned the Court to order provisional measures for Mrs. Cardó Guarderas and her children, Mr. Gustavo and Ms. Margarita del Carmen Cesti Cardó. In the Commission's view,

[t]he purpose of these provisional measures should be to require that the Peruvian State provide effective guarantees, conduct a real investigation to identify the authors of the threats and harassment to which [Mrs. Cardó Guarderas and the Cesti Cardó children] have been subjected and prevent a recurrence of events similar to or worse than those described [...]

CONSIDERING:

1. That under Article 63(2) of the Convention:

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;

2. That the pertinent part of Article 25 of the Court's Rules of Procedure provides that:

At 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 it deems pertinent, pursuant to Article 63(2) of the Convention;

3. That the evidence of the allegations is sufficient to order provisional measures;

4. That the Commission has informed the Court that the acts of intimidation and aggression against Mrs. Cardó Guarderas are part of a pattern of systematic harassment and are a consequence of the fact that the instant case was brought to the inter-American system. Documents in the Court's possession reveal that State authorities themselves acknowledged the gravity of Mrs. Cardó Guarderas' situation (*supra*, paragraph 4 under Having Seen). Therefore, the evidence shown of the threats and acts perpetrated against Mrs. Cardó Guarderas are *prima facie* proof that her predicament and that of her children is of the extreme gravity and urgency required to seek provisional measures;

5. That the Court has the Cesti Hurtado case under consideration and it is the duty of the Court to avoid irreparable damage to persons; in the instant case, that means seeing to it that the alleged victim and his family are completely safe (*Cf. Order of the Inter-American Court of Human Rights of September 22, 1995; Provisional Measures requested by the Inter-American Commission on Human Rights in the matter of Guatemala, Blake Case; Inter-American Court of Human Rights, Provisional Measures – Compendium: 1987-1996, Series C No. 1, p. 140, operative paragraph five*), and

6. That the State, therefore, should be ordered to adopt measures to protect the wife and children of the alleged victim in the instant case and, thereafter, periodically check to ensure that the measures adopted are adequate and sufficient.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the authority conferred upon it in Article 63(2) of the American Convention on Human Rights and Article 25 of the Court's Rules of Procedure,

DECIDES:

1. To call upon the State of Peru to adopt the provisional measures necessary to guarantee the physical and mental integrity of Mrs. Carmen Judith Cardó Guarderas, Ms. Margarita del Carmen Cesti Cardó and Mr. Gustavo Cesti Cardó.
2. To call upon the State of Peru to investigate the acts denounced by Mrs. Carmen Judith Cardó Guarderas, which necessitated expansion of the provisional measures.
3. To request that in the periodic reports that the State of Peru presents concerning the provisional measures ordered in the instant case, it include a detailed account of the protective and preventive measures adopted for Mrs. Cardó Guarderas and the Cesti Cardó children.

Hernán Salgado-Pesantes
President

Antônio A. Cançado Trindade

Máximo Pacheco-Gómez

Oliver Jackman

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Hernán Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary