

**ORDER OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF JUNE 26, 2012**

**PROVISIONAL MEASURES  
REGARDING THE REPUBLIC OF COLOMBIA**

**CASE OF THE 19 TRADESMEN *v.* COLOMBIA**

**HAVING SEEN:**

1. The Judgment on the merits, reparations, and costs delivered by the Inter-American Court of Human Rights (hereinafter the "Inter-American Court," "the Court," or "the Tribunal") on July 5, 2004.

2. The Orders issued by the President of the Court on July 30, 2004; April 28, 2006, and February 6, 2007, as well as the Orders of the Inter-American Court of September 3, 2004; July 4, 2006; May 12, 2007; July 8, 2009, and August 26, 2010. In this last Order, the Court decided:

1. To continue supervising the fulfillment of the State's obligation to guarantee the life, physical integrity, and security of Carmen Rosa Barrera Sánchez, Lina Noralba Navarro Flórez, Luz Marina Pérez Quintero, Miryam Mantilla Sánchez, Ana Murillo Delgado de Chaparro, Suney Dinora Jáuregui Jaimes, Ofelia Sauza Suárez de Uribe, Rosalbina Suárez Bravo de Sauza, Marina Lobo Pacheco, Manuel Ayala Mantilla, Jorge Corzo Viviescas, Alejandro Flórez Pérez, Luz Marina Pinzón Reyes, and their respective families, according to Operative Paragraph eleven of the Judgment, within the framework of the implementation of provisional measures and in conformity with this Court's Order of July 8, 2009.

2. To require the State of Colombia to maintain the measures it has thus far adopted and to adopt, without delay, those measures necessary to protect the rights to life and physical integrity of Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, Valeria Rodríguez Saravia, and William Rodríguez Quintero. In order to do so, the State must provide the beneficiaries or their representatives with the opportunity to participate in the planning and application of the measures and, in general, to keep them informed as to progress made in their timely implementation.

3. To abate the provisional measures adopted in favor of Salomón Flórez Contreras, Sandra Belinda Montero Fuentes, and their respective next of kin, in conformity with the facts established in [...] this Order.

4. To abate, in conformity with the facts established in [this] Order, the provisional measures ordered by this Court in favor of Luis José Pundor Quintero and his family for as long as they continue to reside outside the State of Colombia, pursuant to that established in [...] this Order.

3. The briefs of September 17 and November 2010; March 28, April 13, May 27, August 11, October 10, and December 7, 2011, and February 10, and April 12, 2012, wherein the Republic of Colombia (hereinafter “the State” or “Colombia”) reported on the implementation of the provisional measures and presented a request to rescind the measures in relation to some beneficiaries.

4. The briefs of August 12, October 14 and 26 and November 24, 2010; June 3, November 29, and December 2 and 26, 2011; and April 18 and June 21, 2012, and the annexes thereto, wherein the representatives of the beneficiaries (hereinafter “the representatives”) presented their observations to what was reported by the State and additional information regarding the implementation of these provisional measures.

5. The communications of April 12, May 26, July 14, and September 20, 2011, and January 13, April 11 and June 8 2012<sup>1</sup>, wherein the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) presented its observations with regard to the information presented by the State and the corresponding observations of the representatives.

6. The notes of September 22 and November 22, 2010, and April 6, 2011, wherein the Secretariat of the Court, on the instructions of the President of the Court, expressly requested that the representatives, in their observations to the State’s reports, refer to the request to rescind the measures ordered in favor of beneficiary William Rodríguez Quintero, as well as to the State’s request for the Court “to assess [...] the enforcement of the provisional measures granted in favor of the persons identified in operative paragraph one of the Order of the [...] Court of August 26, 2010”.

#### **CONSIDERING THAT:**

1. Colombia became a State Party to the American Convention on Human Rights (hereinafter the “American Convention” or the “Convention”) on July 31, 1973, and acknowledged the jurisdiction of the Inter-American Court, in accordance with Article 62 of the Convention, on June 21, 1985.

2. According to the provision established in Article 63(2) of the Convention, provisional measures ordered by the Court are binding on the State in conformity to a basic principle of the law of international responsibility of the States, as supported by international jurisprudence, under which States are required to comply with international treaty obligations in good faith (*pacta sunt servanda*).<sup>2</sup> These orders imply a special duty to protect the beneficiaries of the measures, insofar as they are in force, and any breach thereto may trigger international responsibility of the State.<sup>3</sup>

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<sup>1</sup> The Inter-American Commission presented these observations on June 8, 2012, without having the opportunity of viewing the respective observations of the representatives on the State’s report of April 12, 2012, given that they presented the observations on June 21, 2012.

<sup>2</sup> See *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of June 14, 1998, Considering clause 6; *Matter of Alvarado Reyes et al.* Provisional Measures regarding México. Order of the Court of May 26, 2010, Considering clause 5, and *Matter of the Forensic Anthropology Foundation.* Provisional Measures regarding Guatemala. Order of the President of the Court of July 21, 2010, Considering clause 4.

<sup>3</sup> See *Case of Hilaire, Constantine and Benjamin et al V. Trinidad and Tobago. Merits, Reparations and Costs.* Judgment of June 21, 2002. Series C No. 94, paras. 196 to 200; *Matter of Alvarado Reyes et al.* Provisional Measures regarding Mexico. Order of the Court of November 26, 2010; Considering clause 4.

3. In this regard, Article 27 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”)<sup>4</sup> establishes, in its pertinent part, 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.

[...]

3. In contentious cases before the Court, victims or alleged victims, or their representatives, may submit to it a request for provisional measures, which must be related to the subject matter of the case.

[...]

7. The monitoring of urgent or provisional measures ordered shall be carried out through the submission of reports by the State and the filing of observations to those reports by the beneficiaries of the measures or their representatives. The Commission shall submit observations to the State's reports and to the observations of the beneficiaries of the measures or their representatives.

4. Under international human rights law, the provisional measures are not only precautionary in the sense that they preserve a legal situation, but they are also mainly protective since they protect human rights, insofar as they avoid irreparable damage to people. Provisional measures are adopted provided the basic requirements of extreme gravity and urgency and the prevention of irreparable damage to persons are met. Hence, the provisional measures are transformed in a true judicial guarantee of a precautionary nature.<sup>5</sup>

5. Given its jurisdiction, in the framework of the provisional measures, the Court cannot consider the merits of any argument pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable harm to persons. It is in this manner that in deciding whether to maintain the provisional measures in force, the Tribunal must analyze whether the situation of extreme gravity and urgency that led to their adoption persists, or whether new circumstances, also extremely grave and urgent, warrant keeping them in force. Any other matter can only be brought before the Court in a contentious case.<sup>6</sup>

6. In this Order, the Tribunal shall analyze: (1) the implementation of the provisional measures ordered in favor of Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero<sup>7</sup> Nubia Saravia, Karen Dayana Rodríguez Saravia, and Valeria Rodríguez Saravia; (2) the implementation of the measures in favor of William Rodríguez Quintero<sup>8</sup> and the request to rescind made by the State regarding the measures in favor of this beneficiary; (3) the request of the State to assess the enforcement of the operative paragraphs four and one of the Orders of the Court of July 8, 2009, and August 26, 2010, respectively, and (4) the enforcement of the measures ordered in favor of Luis José Pundor Quintero and his family.

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<sup>4</sup> Rules of Procedure of the Court approved in the LXXXV Regular Period of Sessions, held on November 16 to 28, 2009.

<sup>5</sup> See Case of “*La Nación*” Newspaper. Provisional Measures regarding Costa Rica. Order of the Court of September 7, 2001, Considering clause 4; Matter of Haitians and Dominicans of Haitian-origin in the Dominican Republic regarding the Dominican Republic. Order of the Court of February 29, 2012, Considering clause 5.

<sup>6</sup> See *Matter James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the of August 29, 1998, Considering clause 6; *Matter of Juan Almonte Herrera et al.* Provisional Measures regarding the Dominican Republic. Order of the Court of May 25, 2010, Considering clause 6, and *Case of the Caracazo*. Provisional Measures regarding Venezuela. Order of the Court of May 28, 2010, Considering clause 7.

<sup>7</sup> The representatives use interchangeably the names “Yimmi,” “Jimmy,” or “Yimmy” when referring to that beneficiary. The Court shall identify him as “Yimmy Rodríguez Quintero,” as it appears in the Judgment on the *Merits, Reparations, and Costs* delivered by the Court in the present case.

<sup>8</sup> The parties interchangeably use the names “Huilian” and “William” when referring to the beneficiary. The Court shall identify him as “William Rodríguez Quintero,” pursuant to that reported to the Tribunal in the request for provisional measures in his favor. See *Case of the 19 Tradesmen*. Provisional Measures regarding Colombia. Order of the Court of May 12, 2007, Considering clause 14.

## **1. Regarding the situation of beneficiaries Wilmar and Yimmy Rodriguez Quintero and their families**

### *1.1 On the measures of protection implemented in favor of the beneficiaries*

7. The State reported that the National Police have created a comprehensive protection service for Mr. Yimmy Rodriguez Quintero and his family, and indicated the details of the security scheme that is being provided by means of a permanent post, motorized patrols in charge of the security of the town where the beneficiaries reside, and police escort service. Also, the State noted that a lieutenant was appointed as "chief of the security scheme" in favor of the beneficiaries.<sup>9</sup> Finally, the State indicated that prevention and protection actions are being taken through the Criminal Investigation Branch, Intelligence Branch and Gaula Group, for which patrol rounds have been planned to be carried out around the residence or in places where the beneficiaries stay, by personnel that is not always the same, since they are "subjected to rotations." With respect to some of the representatives' observations (*infra* Considering clause 8), the State indicated that during the month of October of 2011, there were some problems with the protection scheme of the beneficiaries, for which there were only two police agents assigned to it because the other officers had to reinforce the security in the department of Norte de Santander. Due to the foregoing, the State indicated that the Ministry of the Interior proposed to the beneficiaries "to supplement the material measures of protection [...] under the charge of the National Police," with the National Protection Unit (UNP) created by Presidential Decree in October of 2011, for which the State is awaiting the response of the representatives. In its last report, the State additionally referred to certain security measures that it has adopted in the municipality of Ocaña.

8. The representatives stated that the security scheme provided to the Rodriguez Quintero family had deficiencies but that "there has been a significant improvement as of the second trimester of 2012 and it is now working satisfactorily". According to what was informed by the representatives in their last brief, the meetings held with the Foreign Office and other national authorities as well as the direct intervention of the Captain of the Police Department of Norte de Santander "had allowed overcome the problems and serious deficiencies registered during 2011 and February 2012"<sup>10</sup>. They sustained that, on November 18, 2011, the State proposed to change the protection scheme provided by the National Police and replace it with another scheme to be operated by the Ministry of the Interior. In this respect the representatives informed that they are studying the offer and are committed to "present a written response to the offer" and communicate it to the Human Rights Department of the Ministry of the Interior

9. The Commission took note of the meetings held by the parties in relation to the implementation of the measures, but it observed that "the information submitted by the parties is not consistent in relation to the put into operation of the protection scheme". Moreover, it noted that "the parties had not presented information regarding the possibility that the protection measures will be provided for by the program of the Ministry of the Interior".

### *1.2 Regarding the situation of risk of the beneficiaries*

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<sup>9</sup> Previously, in the reports of August 11 and December 7, 2011, as well as on February 10, 2012, the State had noted that a liaison officer was appointed to the Rodriguez Quintero family, in order for them to "have constant and direct communication with the National Police."

<sup>10</sup> . Previously, in November and December 2011, the representatives had informed that the protection scheme of the Rodriguez Quintero family was "progressively thwarted unilaterally and without prior agreement with the beneficiaries" and that the "police officers invoked financial and administrative issues to that end".

10. The State indicated that “with the objective of overcoming any difficulty” with the implementation of the measures, as well as “improving the confidence of the beneficiaries in the National Police,” it held periodical meetings with the beneficiaries on October 7 and December 3, 2010; July 15, October 29, August 18, and November 18 and 25, 2011, and February 3, 2012. Regarding the events of May 2011, the State clarified that the National Police had “by no means” committed acts of harassment or intimidation against the Rodríguez Quintero family, since the presence of police officers is part of the comprehensive protection service that is being provided to the beneficiaries. Also, the State noted that the Police of Norte de Santander have adopted the necessary measures to overcome any difficulty that may appear. In October 2011, the State informed that the Ministry of the Interior had carried out risk assessment studies in relation to Yimmy and Wilmar Rodríguez Quintero and Nubia Saravia “which were considered to be extraordinary.”<sup>11</sup> Previously, the State had undertaken to submit “a report [to the Court] indicating both the actions taken by the National Police in the context of the conduct of the study on the Level of Risk and Type of Threat and the result thereof,” which was not forwarded to the Court. In its reports of September and November 2010, as well as those of August and October 2011, the State indicated that the beneficiaries continued exhibiting behaviors that endangered their safety, as well as the safety of other people (including the State agents in charge of their protection) and that they hinder the implementation of the security measures in their favor, for which the State repeatedly requested that the Court urge the beneficiaries to “avoid putting themselves at risk and to comply with the recommendations of the authorities that look after their safety.”

11. The representatives indicated that the harassment and acts of intimidation against the Rodríguez Quintero family “have not ceased.” They reported that, on October 25, 2010, neighbors of beneficiary Yimmy Rodríguez Quintero told him that armed men on motorcycles were asking for the location of his house and that the police officer in charge of the permanent post at his residence had indicated that they were possible officers of the Police Intelligence Branch (SIPOL for its acronym in Spanish). Subsequently, they informed that, on May 14, 2011, three members of the SIPOL were seated in a truck with tinted windows, observing beneficiary Yimmy Rodríguez Quintero for “several minutes,” who was with his young daughter, and that on May 17, 2011, that same vehicle “was suspiciously hanging around Jimmy Rodríguez Quintero’s house.” Also, in November of 2011, they indicated that the beneficiaries expressed before the Ombudsman of Ocaña their disagreement with the police officers who form part of their protection scheme, which has created a climate of grievances and harassment of the Police against the Rodríguez Quintero family. Moreover, they indicated that during the month of July 2011, William Rodríguez Quintero had informed his brothers that members of the SIJIN had been in the prison in Ocaña “inquiring with some prisoners about drug traffickers with whom his brothers [...] had worked,” since there was “a rumor and stigma spread by the Police, SIJIN, and the Office of the Prosecutor, labeling Yimmy Rodríguez and his brother [as] drug traffickers who work with groups acting outside the law.”<sup>12</sup> Additionally, they informed that on August 6, 2011, Yimmy Rodríguez Quintero had taken a cell phone from one of the officers of his security scheme, because she was recording him.<sup>13</sup> They further alleged

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<sup>11</sup> The Study informed that on October 22, 2010, a request was made to the National Police to conduct new risk assessment study to “the members of the Rodríguez Quintero family,” which included “Wilmar Rodríguez Quintero, Huilian Rodríguez Quintero, Yimmy Rodríguez Quintero, and Nubia Saravia.” The only thing indicated by the State upon communication of the results of the risk assessment studies was that, as a consequence of them, the Regulation and Risk Assessment Committee had extended two cellular communication means for a period of 6 months, in order to support the work of the security forces and accompaniment provided by the National Police.

<sup>12</sup> Regarding which was indicated by the representatives, the State informed that the Regional Prosecutor’s Office of Ocaña conducted a series of interviews, whereby it could verified the investigation work carried out at the Correctional and Prison Center of Ocaña, regarding the homicide investigation that was underway in the city of Ocaña.

<sup>13</sup> The representatives noted that it must be recalled that his brother, Jhon Carlos Rodríguez Quintero, was photographed before he was murdered, which caused “a fight with the police car chasing Yimmy, who was able to free himself and exit the car that was also damaged by the police”. Yimmy filed a complaint about this incident before the

that “in the last months of 2011, members of the SIJIN and the Police of Ocaña had been searching for people [...] who may in some way incriminate both brothers,” which was communicated to the Police authorities of Norte de Santander. In addition, they informed that on February 11, 2012, Yimmy Rodríguez Quintero was insulted by members of the SIJIN in a street, which was also reported to the Police. In the last brief, the representatives included additional information regarding the “situation of public order and citizen security” of Municipality of Ocaña, where the beneficiaries reside, a serious issue that they considered that “persisted”.

12. The Commission considered that, due to the risk of the beneficiaries, qualified as extraordinary by the State itself, the State should “urgently” adopt the measures of protection necessary to guarantee their life and personal integrity. Also, it observed that while the State had indicated that certain incidents reported corresponded to the customary inspections contemplated in the security scheme, the beneficiaries perceived them as acts of harassment, which is why the Commission considered it important for the State to clarify whether it is the agents who usually are in charge of providing protection to the beneficiaries. Likewise, the Commission noted that the State has not offered specific information about the other alleged acts of harassment, nor regarding the complaint of beneficiary Yimmy Rodríguez Quintero, according to whom an officer in charge of the protection scheme, had filmed him with her cellular phone. In relation to the alleged behavior of the beneficiaries that hinder the implementation of the measures, the Commission highlighted the importance of having good communication, in a context of coordination and cooperation between the beneficiaries and the State for better implementation of the measures.

### *1.3 Considerations of the Court*

13. The Court takes note of the measures implemented by the State in favor of the Rodríguez Quintero family. It also notes that the beneficiaries, their representatives and the State have held regular meetings in relation to the implementation of the present measures, which, according to the information submitted by the representatives, had contributed to a “significant improvement” in the implementation of these measures (*supra* Considering clause 8).

14. Moreover, the Court emphasizes the positive progress informed by the representatives, according to whom the measures “are being implemented in an acceptable manner”, thanks to the meetings held between the beneficiaries and the State authorities with which “it was possible to overcome the problems” (*supra* Considering clause 8). Notwithstanding the foregoing, the Tribunal notes that in order to strengthen the material measures of protection, in November 2011, the State offered the beneficiaries a new alternative of protection, to be provided by the Ministry of the Interior. Thus, the Tribunal deems pertinent that, in the next brief of observations, the representatives specifically refer to the offer made by the State and, if applicable, inform of the decision of the beneficiaries in that regard.

15. Furthermore, the Court takes note of the “extraordinary” nature of the situation of risk of the members of the Rodríguez Quintero family, according to the results of the latest risk assessment study conducted in relation to them. In this regard, the Court recalls that in its Order of August 26, 2010, it requested the State to submit [...] “information on any risk assessment studies that have been carried out, accompanied by documentation supporting the study its results, as well as the specific security measures that should be implemented in accordance with these results.” Moreover, the Court notes that, on at least two occasions, the

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Municipal Ombudsman with whom he left the police agent’s cell phone for her to “claim it in good condition,” in spite of which he filed a criminal complaint against him for theft.

State expressly agreed to submit "a report indicating both the actions taken by the National Police in the context of the conduct of the study on the Level of Risk and Type of Threat and the results thereof" (*supra* Considering clause 10). However, when communicating the results of those studies, the State merely indicated the level of risk of the beneficiaries and informed on a protective measure adopted in consequence of said result, without providing the supporting documentation. The Tribunal reiterates that without adequate information by the State, it cannot properly assess the implementation of the present provisional measures.

16. Moreover, the Court notes that, on some occasions, the lack of communication and trust between the parties had created difficulties in the implementation of these measures. To this end, the Court notes that, regarding some of the facts denounced by the representatives as new situations of harassment against the beneficiaries, the State had later on clarified that they were regular inspections and patrol rounds of the 'comprehensive protection' scheme put into operation in favor of the beneficiaries (*supra* Considering clause 10). The Tribunal highlights the importance for the State to allow the participation of the beneficiaries and their representatives in the planning and implementation of the provisional measures, so that they are fully informed of the security measures adopted in their favor. Moreover, it urges the beneficiaries and their representatives to work in close collaboration with the state authorities in order to implement the measures in an effective manner.

17. Additionally, this Court takes note of the latest facts reported by the representatives, according to which "in the last months of 2011," police officers had allegedly undertaken investigations in order to incriminate the Rodríguez Quintero brothers. The Court also notes that the State has repeatedly denied the existence of a campaign of harassment against the beneficiaries. However, it observes that it does not have specific observations from Colombia in relation to these recent allegations made by the representatives. Accordingly, the Court deems it is appropriate for the State to specifically refer to these alleged facts in its next report on the implementation of the present measures.

18. In light of the aforementioned considerations and taking into account the extraordinary risk to which the beneficiaries are exposed, according to the assessment studies conducted by the State itself, the Court considers that, *prima facie*, there still exists a situation of extreme gravity and urgency to the detriment of the beneficiaries, which could cause irreparable harm to their rights. Therefore, the Court considers it is appropriate to maintain the provisional measures to protect the life and personal integrity of Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, and Valeria Rodríguez Saravia.

## **2. Regarding the situation of beneficiary William Rodríguez Quintero and the request to rescind the measures ordered in his favor**

19. The State requested the Court to examine the possibility of rescinding the measures granted in favor of William Rodríguez Quintero, "who was convicted and is currently serving a sentence of seventeen (17) years." The State informed that the beneficiary was arrested on August 6, 2010, under preventive detention, and that "at no time did agents of the Police" prepare a press release in order to broadcast it through radio stations. The State "emphatically" reiterated that there is no strategy of persecution and harassment against Mr. William Rodríguez Quintero or his family members and that it "deeply regrets that such a serious accusation was made without sufficient factual support." The State indicated that the beneficiary is detained in the Correctional and Prison Center of Ocaña, "where there have been no safety problems" and that "his fundamental rights are fully guaranteed" through the different facilities of said center. Regarding the representatives' request that medical and psychological care be provided to this beneficiary, Colombia highlighted that said care

“responds to a measure of reparation ordered by the [...] Court and not to a measure of protection.” However, it informed that during the deprivation of the beneficiary’s liberty, “the competent authorities have effectively and timely guaranteed his right to health.”<sup>14</sup> Moreover, Colombia also indicated that the Group on Penitentiary and Prison Affairs of the Ombudsman’s Office Specialized in Human Rights and Ethnic Matters had requested the Provincial Attorney General of Ocaña to visit the beneficiary. The State requested the rescission of the provisional measures granted in favor of the beneficiary because “at present, there are no objective conditions for maintaining them”, due to the fact that the beneficiary is detained and serving a sentence and that “there have been no news regarding [his] situation of risk.”

20. In its observations, the representatives have repeatedly requested that the provisional measures ordered in favor of William Rodríguez Quintero be maintained. They noted that the deprivation of the beneficiary’s liberty “does not *per se* exonerate the Colombian State from its responsibility in relation to his protection and its obligation to provide him with adequate medical and psychological care.” In their briefs of August and October 2010, the representatives indicated that the detention of the beneficiary “is the continuation of the systematic harassment” of which the Rodríguez Quintero family “have been victims” and they objected to the presentation of the beneficiary’s guilt to the media, before being prosecuted. In November 2011, the representatives informed that, at his request, the beneficiary was transferred from the Cúcuta prison to the Ocaña prison, both for humanitarian and safety reasons, since the alleged perpetrator of the murder of his brother, Jhon Carlos Rodríguez Quintero, was being held in the Cúcuta prison. They claimed that they were unaware of the protective measures that had been implemented in favor of William Rodríguez Quintero in prison. In its observations of June 2012, they indicated that the relatives of Mr. William Rodríguez Quintero informed them that he had been “visited, on several occasions, from officials of governing bodies during the last weeks”. With regard to the medical and psychological care of the beneficiary, the representatives stated that the care provided “occasionally and specifically” to the beneficiary by CAPRECOM “does not meet the criteria for adequate medical and psychological treatment” given that, *inter alia*, it does not include mental health services.<sup>15</sup> They insisted that Mr. William Rodríguez Quintero’s addiction problems relate both to the disappearance and murder of two of his brothers and to “the stigmatization brought about in the past by members of the Police against him and the other members of [his] family.” They stated that “[i]t [was] interesting” that the State considers that this is not part of the provisional measures, taking into account that such measure of reparation “has not hitherto been duly implemented” by the State.

21. The Commission noted that “from the information submitted by the State, it does not spring that specific measures of protection would be implemented in relation to this beneficiary” and requested the Court to urge the State to adopt measures. It highlighted that the parties had presented contradictory information regarding the health condition of the beneficiary, and considered it was “important” to make all efforts so that he may receive adequate medical care. In relation to the request to rescind the measures in favor of William Rodríguez Quintero, the Commission repeatedly indicated that the situation of deprivation of liberty of said beneficiary “does not automatically imply the elimination of the risk to which the beneficiaries have been exposed and therefore does not constitute a circumstance *per se* to justify the rescission of the provisional measures.” Thus, it considered that the Court should have updated information in relation to the situation of risk of the beneficiary and the measures of protection that are being provided to the beneficiary at present, before issuing a decision regarding the State’s request to rescind the measures.

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<sup>14</sup> In its report of December 7, 2011, the State informed that beneficiary William Rodríguez Quintero had been taken care for “each time it was required” by medical personnel of CAPRECOM.

<sup>15</sup> In addition, they informed that in June 2012, the Director of the Penitentiary National Institute had announced that it would change the Health Care Provider, given the “inadequate care provided by CAPRECOM”.



22. Article 63(2) of the Convention requires that for the Court to order the adoption of provisional measures three conditions must be met: a) "extreme gravity"; b) "urgency" and c) an attempt to avoid "irreparable damage to persons." These three conditions coexist and must be present in all the situations where the intervention of the Tribunal is requested. By the same token, said conditions must continue to exist in order for the Court to maintain the protection it has ordered.<sup>16</sup> If one of them ceases to exist, the Tribunal has to assess the relevance of continuing with the measures of protection so ordered.<sup>17</sup>

23. The Court recalls that, when ordering provisional measures, the standard for the assessment of these requirements by the Court or its President is *prima facie*, because, at times, presumptions must be made when faced with the need for protection.<sup>18</sup> Nevertheless, maintaining measures of protection requires the Court to make a more rigorous assessment regarding the continuation of the situation that gave rise to these measures.<sup>19</sup> In order to maintain the provisional measures, it is necessary that the situation of extreme gravity and urgency, and the need to avoid irreparable damage, still exists, and it must be directly related to the facts that gave rise to the granting of the measures in the case. Therefore, before the requirements of the Court to evaluate the maintenance of the same, said information must be duly accredited and founded.<sup>20</sup>

24. The Court notes that, upon requesting the rescission of the provisional measures ordered in favor of Mr. William Rodríguez Quintero, the State based such request on two aspects: (i) the situation of the deprivation of liberty and conviction of the beneficiary, and (ii) the alleged absence of new facts proving the persistence of the situation of risk of the beneficiary.

25. In relation to the first reason alleged by the State, the Court notes that the mere deprivation of liberty of the beneficiary is not a sufficient reason for the rescission of the provisional measures ordered in his favor. The situation of extreme gravity and urgency may persist even with respect to beneficiaries who are deprived of liberty, as it has happened in other cases<sup>21</sup>, thus it is necessary the analysis of each individual case to determine whether to maintain the provisional measures adopted. If a State requests the rescission or modification of provisional measures, it must present sufficient evidence and arguments for the Tribunal to be able to assess that the risk or threat no longer complies with the requirements of extreme gravity and urgency to avoid irreparable harm. In addition, the burden of proof and argument on the beneficiaries and the Commission will increase with the passage of time and no more threats are issued. Certainly, the fact that there are no new threats may be due, precisely, to

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<sup>16</sup> See *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering clause 14, and *Matter of Wong Ho Wing*. Provisional Measures regarding Peru. Order of the Court of April 27, 2012, Considering clause 3.

<sup>17</sup> See *Matter of James et al. Provisional Measures regarding Trinidad and Tobago*. Order of the Court of August 29, 1998, Considering clause 6, and *Matter of Wong Ho Wing*. Provisional Measures regarding Peru. Order of the Court of April 27, 2012, considering clause 3 *in fine*.

<sup>18</sup> See *Case of Raxcacó Reyes et al.* Provisional Measures regarding Guatemala. Order of the Court of August 30, 2004, Considering clause 10; *Matter of A.J. et al.* Provisional Measures regarding Haití. Order of the Court of February 22, 2011. Considering clause 11.

<sup>19</sup> See *Matter the Indigenous People of Kankuamo*. Provisional Measures regarding Colombia. Order of the Court of April 3, 2009, Considering clause 7; and *Matter of Haitians and Dominicans of Haitian-origin in the Dominican Republic*. Provisional Measures regarding the Dominican Republic. Order of the Court of February 29, 2012. Considering clause 28.

<sup>20</sup> See *Case of the Constitutional Court*. Provisional Measures regarding Peru. Order of the Court of March 14, 2001, Considering clause 4, and *Case of the Rochela Massacre*. Provisional Measures regarding Colombia. Order of the Court of November 19, 2009, Considering clause 15.

<sup>21</sup> See *Matter of Mery Naranjo et al.* Provisional Measures regarding Colombia. Order of the Court of November 25, 2010. Considering clauses 41 to 43. *Matter of Kawas Fernández*. Provisional Measures regarding Honduras. Order of the Court of July 5, 2011. Considering clause 15.

the effectiveness of the protection provided or the dissuasive effects of the Court's order. Nonetheless, the Tribunal has considered that the passage of a reasonable period of time without threats or intimidation, coupled with the absence of an imminent risk, may lead to the rescission of the provisional measures.<sup>22</sup>

26. In relation to the second reason put forward by the State, the Tribunal notes that the representatives have not submitted information regarding recent facts, which may prove that a situation of extreme gravity and urgency persists to the detriment of the beneficiary William Rodríguez Quintero. The Court notes that, on repeated occasions, the representatives were required to refer specifically to said request for the rescission of these measures (*supra* Having Seen clause 6). However, instead of proving the persistence of a current situation of risk for beneficiary William Rodríguez Quintero, the representatives objected to the lack of information from the State regarding the measures of protection adopted within the prison, as well as the lack of implementation of the measure of reparation consisting in the provision of medical and psychological care. The Court notes that the information and comments regarding the compliance with said measure of reparation should be assessed in the context of the procedure to monitor compliance with the Judgment.

27. The Court recalls that provisional measures are of an exceptional nature, that they are ordered according to the needs of protection, and refer to a specific temporal situation and, because of their very nature, they cannot be perpetuated indefinitely.<sup>23</sup> In this sense, given that almost two years have passed since the last Order of the Court and up to date, the Tribunal has not received specific information proving a current situation of risk for the beneficiary, the Court considers it is appropriate to rescind the provisional measures ordered in favor of William Rodríguez Quintero.

28. Notwithstanding the foregoing, the Court considers it is relevant to recall that "since the State is the institution responsible for detention establishments, it is in a special position of guarantor of the rights of those under its custody."<sup>24</sup> Additionally, the Court has held that regardless of the existence of specific provisional measures, the State is especially obliged to guarantee the rights of the people in circumstances of deprivation of liberty.<sup>25</sup>

### **3. Regarding the provision established in operative paragraphs four of the Order of the Court of July 8, 2009, and one of the Order of the Court of August 26, 2010**

29. The State requested an assessment of the enforcement of the provisional measures in favor of the persons identified in the aforementioned operative paragraphs. In this regard, the Colombia stressed that the representatives have not informed on situations of extreme gravity and urgency in the case of these beneficiaries, nor on the specific and concrete facts that put their lives and personal integrity at risk, or have they even requested the implementation of

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<sup>22</sup> See *Matter of Children Deprived of Liberty in the "Complexo do Tatuapé" of FEBEM*. Provisional Measures regarding Brazil. Order of the Court of November 25, 2008; Considering clause 12, and *Matter of Haitians and Dominicans of Haitian-origin in the Dominican Republic*. Provisional Measures regarding the Dominican Republic. Order of the Court of February 29, 2012; Considering clause 45.

<sup>23</sup> See *Matter the Communities of Jiguamiandó and Curbaradó*. Provisional Measures regarding Colombia. Order of the Court of August 30, 2010, Considering clause 70, and *Matter of the Peace Community of San José de Apartadó*. Provisional Measures regarding Colombia. Order of the Court of August 30, 2010, Considering clause 46.

<sup>24</sup> *Case of Neira Alegría et al V. Perú. Merits*. Judgment of January 19, 1995. Series C No. 20, para. 60, and *Case of Vera Vera et al. V. Ecuador. Preliminary Exception, Merits, Reparations and Costs*. Judgment of May 19, 2011, Series C No. 224, para. 42.

<sup>25</sup> See *Matter of Capital El Rodeo I and 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 clause 11; *Matter of Natera Balboa*. Provisional Measures regarding Venezuela. Order of the President of the Court of December 1, 2009, Considering clause 14.

protective measures in their favor. The State highlighted that it is unaware of the location or current situation of risk of said beneficiaries, that the representatives are unaware if they require the protection of the State, and that an alleged situation of potential risk "is not sufficient." When referring to the allegations made by the representatives regarding a possible risk associated with open investigations at the domestic level, it stated that, *inter alia*, the representatives have not demonstrated situations of risk and harassment as a result of the investigations related to this case.

30. The representatives indicated that although they have not received information regarding new specific and concrete facts that have put the beneficiaries at risk, "risk factors related to the activity of the family members in their search for justice and truth still persist."<sup>26</sup> They pointed out that the absence of new facts that have jeopardized the safety of the beneficiaries did not mean that the situation had returned to normal. According to the representatives, "the family members [of the victims] may face acts of harassment and retaliation that could violate their rights" due to their protests regarding events related to the monument ordered by the Court as a measure of reparation, as well as for the commemoration of the 24 years from the massacre of the 19 Tradesmen. In recent months "there has been a true campaign of criticisms against the decisions of the [...] Court as well as stigmatization of the family members in these cases ruled by the Court [...] in which influential and notable former officials participated." According to the representatives, in various media communications, the victims have been shown as smugglers dedicated to illegal activities, "impliedly suggesting that those family members were not even worthy of Inter-American protection, nor of measures of reparation." According to the representatives, another of the risk factors comes from the criminal proceedings conducted for the massacre of the 19 Tradesmen, which extends to all family members, whether or not they were parties to the civil action. Thus, they stated that "not only does a risk persist against the safety of the beneficiaries of the [p]rovisional [m]easures, but also these could be magnified," therefore they believe that "there are well-founded fears that some family members may face acts of harassment and retaliation that could violate their fundamental rights".

31. The Inter-American Commission requested the Court "to maintain the provisional measures", "as long as the risk factors [mentioned by the representatives] persist", "especially, in relation to the expediting of proceedings and participation in activities at the domestic level which are connected with the clarification of the facts in the contentious case and the search for justice". It insisted in that the State has not presented information regarding the investigations into the facts that gave rise to these provisional measures, "not even if these measures had been related or formed part of the investigation into the forced disappearance of the victims in the case." [The Commission noted that the State was requesting the rescission of the measures without informing on the measures of protection and "without providing elements that may suggest an identifiable change in the situation of risk," for which it considers that there are signs of risk in the context of the case, and "it is of [the] opinion that the maintenance of these measures is appropriate."

32. The Court recalls that, in its Order of July 8, 2009, it ordered to "[c]ontinue monitoring compliance with the obligation to guarantee the life, safety and security [of 13 family members who rendered statements before this Court and their respective families], according to what is established in operative paragraph 11 of the Judgment, in the context of the implementation of the provisional measures."<sup>27</sup> On that occasion, the Court considered that by means of said

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<sup>26</sup> They informed that Mrs. Rosalbina Suárez de Souza had passed away "for which she cannot be considered a beneficiary of the provisional measures any longer," but the situation of her family group must continue being subjected to the procedure to monitor compliance by the Court.

<sup>27</sup> *Case of the 19 Tradesmen*. Provisional Measures regarding Colombia. Order of the Court of July 8, 2009, Operative paragraph 4.

measure “[the Court] emphasized the general duty to protect that falls upon the States as to the people related to the case before the Tribunal,” which was different from the provisional measure ordered in this case, in respect of whom the Court deemed that “there was a situation that met *prima facie* the conditions of “extreme gravity” and “urgency” as well as the need to “avoid irreparable damage” and ordered the State the implementation of certain protective measures.<sup>28</sup>

33. In this regard, the Court considers it is appropriate to clarify that the provision established in its Order of July 2009 and reiterated in its Order of August 2010, whereby it decided to “continue monitoring” compliance with the obligation to guarantee the rights of the family members who rendered a statement, established in operative paragraph 11 of the Judgment, in the context of the procedure of provisional measures, did not and does not constitute an order for the adoption of provisional measures under Article 63(2) of the Convention. As was indicated by the Tribunal upon issuing said decision, the provisional measures adopted in this case differ from the aforementioned obligation because the Court considered that the beneficiaries of the provisional measures were in a situation of extreme gravity and urgency, and there was a need to avoid irreparable harm to them, which had not happened in relation to the beneficiaries of said obligation.

34. Accordingly, as regards the provision of operative paragraph four of the Order of July 2009 and operative paragraph one of the Order of August 2010, it would not be appropriate to rescind the provisional measures, since such measures have not been ordered. However, based on the State’s request and the information provided by the parties and the Commission, the Court considers it is relevant to assess the enforcement of said provision, in order to determine whether monitoring of this obligation should continue or, otherwise, if it should cease.

35. The Court recalls that this measure of reparation was ordered for fear of retaliation expressed by the most of the victims’ relatives who rendered a statement before the Court in this case.<sup>29</sup> Moreover, the Court notes that seven years and nine months have passed since the notification of the Judgment, and the representatives or declarants<sup>30</sup> before the Court had not informed on specific and concrete situations revealing a situation of extreme gravity and urgency and the need to avoid irreparable harm. Additionally, almost three years have passed since the Court decided to transfer monitoring of this obligation to the procedure of provisional measures and the declarants, their relatives or their representatives had not informed the Court of specific and concrete facts that put them in a situation of risk. On the contrary, the representatives had informed the Court of the absence of specific facts that put their safety at risk, and had expressly indicated that “the beneficiaries, in favor of whom it was necessary to adopt material protective measures, are the members of the Rodríguez Quintero family,” current beneficiaries of the provisional measures.

36. The Court takes note of the observations of the representatives and the Commission, according to which all the family members of the victims in the instant case may face acts of harassment and retaliation that could violate their rights, due to the investigations conducted at the domestic level, as well as the alleged “campaign of [...] stigmatization of the relatives” of the victims of the cases decided by the Court (*supra* Considering clause 30). However, the Court considers that the risk described by the representatives constitutes a situation of potential danger, not confined to specific facts from which a situation of extreme gravity and

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<sup>28</sup> *Case of the 19 Tradesmen*. Provisional Measures regarding Colombia. Order of the Court of July 8, 2009, Considering clause 49.

<sup>29</sup> *See Case of the 19 Tradesmen. Merits, Reparations and Legal Costs*. Judgment of July 5, 2004. Series C N° 109, para. 280

<sup>30</sup> With the exception of Salomón Flórez Contreras, Sandra Belinda Montero Fuentes, and Wilmar Rodríguez Quintero, who are or have been beneficiaries of these provisional measures.

urgency and the need to avoid irreparable harm is derived, which would justify continuing with the monitoring of the obligation to guarantee the life, safety and security established in operative paragraph 11 of the Judgment.

37. The Tribunal recalls<sup>31</sup> that an alleged lack of investigation by a State does not necessarily constitute a circumstance of extreme gravity and urgency that merits adopting provisional measures. In addition, at times the obligation to investigate may extend over a considerable period of time during which the threat or danger does not necessarily remain extreme and urgent. Likewise, this Court has held that the analysis of the effectiveness of the investigations corresponds to the examination of the merits of the case<sup>32</sup>, thus failure to comply with the obligation to investigate is not in itself a sufficient reason to order provisional measures.

38. In any case, the Court notes that, if during the investigations being carried out at the domestic level or by reason of other facts related to the case, any specific situation of risk or threat arises jeopardizing the life or physical integrity of the aforementioned relatives of the victims who rendered statements, the Tribunal will analyze the situation in accordance with the jurisdiction provided for in Article 63(2) of the Convention.

39. Therefore, based on the foregoing considerations, the Court deems it is appropriate to terminate the monitoring of the obligation established in operative paragraph 11 of the Judgment, by means of which the State was ordered to "pay special attention to guaranteeing the lives, safety, and security of those who testified before the Court and their next of kin."

#### **4. Regarding the enforcement of the provisional measures in favor of Luis José Pundor Quintero and his family**

40. The Court recalls that, in its Order of August 26, 2010, it requested the representatives to inform "on the genuine likelihood and disposition of [Jose Luis Pundor Quintero] and his family to return to Colombia and receive state protection", who, by that time, lived outside of Colombia but had expressed the wish to return. Based on the foregoing, the Court considered that, during the time that Mr. Luis José Pundor Quintero and his family continue to reside away from Colombia, and until they affirm their wish to return to Colombia, the provisional measures in their favor would remain inchoate..

41. In its report of October 2010, the representatives informed, *inter alia*, there were "circumstances not attributable to the will of the Pundor Estrada family that hinder its return to Colombia". They explained that, "due to security reasons", in 2006, Jose Luis Pundor and his family had moved to Venezuela "seeking refuge", for which they were facing different problems that made it difficult for them to return. They indicated that said beneficiaries "had the strong will to return to Colombia", for which they had promised to notify in advance on the exact date of their return, once the problems previously mentioned are solved and they had also expressed interest in receiving the State's protection.

42. In its report of October 10, 2011, the State communicated that the representatives had informed that Mr. José Luis Pundor Quintero and his family "expressed a wish to continue residing in Venezuela," so "for the time being they do not want to return to Colombia." In their

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<sup>31</sup> See *Case of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009; Considering clause 24, and *Matter of Lilliana Ortega et al.* Provisional Measures regarding Venezuela. Order of Court of July 9, 2009; Considering clause 17.

<sup>32</sup> *Matter of Pilar Noriega Garcia et al.* Provisional Measures regarding Mexico. Order of the Court of February 6, 2008. Considering clause 14. *Matter of Lilliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of July 9, 2009; Considering clause 18.

observations, the representatives did not refer to this piece of information submitted by the State. The Commission did not refer to these beneficiaries either, in any of their written observations.

43. In this regard, the Court takes note of what was informed by the representatives in October 2010, but observes that they have not submitted updated information regarding the beneficiaries since that date. Moreover, the Court also takes note of the State's report of October 2011, according to which the beneficiaries had decided to continue living outside of Colombia. This Court emphasizes that the representatives have not denied or objected to said information in their briefs presented after the State report of October 2011. The Court also notes that in the Order of August 26, 2010, it did not rescind the provisional measures ordered in favor of José Luis Pundor Quintero and his family, by virtue of the fact that said beneficiaries had expressed their desire to return to Colombia, and that they had left the country due to the situation of insecurity in which they found themselves. On that occasion, the Court found it relevant to revoke the provisional measures ordered in favor of the beneficiaries, as long as there was uncertainty as to the wishes of the family to return and the date on which they would return. However, the Court notes that almost two years have passed and the beneficiaries had still not expressed their genuine and true willingness to return to Colombia or the precise dates thereof. On the contrary, according to the last piece of information forwarded to the Court by the State, which was not objected by the representatives, the beneficiaries had decided to live outside of Colombia.

44. The Court recalls that the usefulness (*effet util*) of provisional measures depends, to a great extent, on the real possibility that they can be implemented,<sup>33</sup> for which, due to the lack of information regarding the situation of risk over a prolonged period, the protection measures are illusory. Additionally, the Court notes that neither the representatives nor the Inter-American Commission have alleged the need to maintain the provisional measures in favor of said beneficiaries. In consequence, the Tribunal considers it is appropriate to rescind the provisional measures ordered in favor of Mr. José Luis Pundor Quintero and his family.

45. The Court recalls that Article 1(1) of the Convention embodies the general obligations of States Parties to respect the rights and freedoms recognized therein and to ensure to all persons subject to their jurisdiction, in all circumstances, the free and full exercise of those rights and freedoms. For their part, provisional measures are of an exceptional nature and are complementary to this general obligation of States. In this sense, the cases where rescission of the provisional measures has been ordered by the Court cannot imply that the State is relieved of its treaty-based protection obligations. Therefore, the Court stresses that, irrespective of the existence of specific provisional measures, the State is obliged to guarantee the rights of individuals in a situation of risk and must promote the necessary investigations to elucidate the facts, followed by the consequences that the pertinent laws establish,<sup>34</sup> particularly in relation to the rights and the protection of victims and their relatives in the instant case.

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<sup>33</sup> See *Case of Caballero-Delgado and Santana*. Provisional Measures regarding Colombia. Order of Court of July 4, 2006; Considering clause 13; *Matter of the Peace Community of San José de Apartadó regarding Colombia*. Order of the Court of August 30, 2010; Considering clause 35 and *Matter of Perez Torres et al ("Cotton Field")*. Provisional Measures regarding Mexico. Order of the Court of June 30, 2011. Considering clause 13.

<sup>34</sup> See *Case of Velásquez Rodríguez*. Provisional Measures regarding Honduras. Order of the Court of January 15, 1988; Considering clause 3, and *Matter of the Forensic Anthropology Foundation regarding Guatemala*. Provisional Measures regarding Guatemala. Order of the Court of February 22, 2011; Considering clause 41 and *Case of Fernandez Ortega et al*. Provisional Measures regarding Mexico. Order of the Court of February 20, 2012; Considering clause 31.

46. Finally, the Court takes note of the information submitted by the State, as well as the corresponding observations of the representatives and the Commission regarding the investigations conducted in the context of these provisional measures. In this respect, the Court considers it is appropriate to clarify that, due to the characteristics of these provisional measures and the fact that they had been subjected to a process for a long time, the issue of the investigations into the facts that gave rise to the provisional measures would imply for the Tribunal to examine the merits of the case, which goes beyond the scope of these measures. Thus, hereafter, in the context of the present provisional measures and as has been decided in other matters and cases<sup>35</sup>, the Court will not refer to the investigation of the facts or the way in which the State is investigating, even though it had previously taken into account and analyzed information related to the investigations. To this end, the Tribunal reiterates that it will no longer request information from the parties about this aspect.

47. However, the foregoing does not exonerate the State from its duty to investigate the facts denounced supporting the context of these measures, pursuant to Article 1(1) of the American Convention. As it has held in other cases<sup>36</sup>, the Court recalls that in conducting this investigation, the State in question must make every effort to determine all the facts surrounding the threat and how they were manifested; to determine whether there is a pattern of threats against the beneficiary or the group or entity to which he or she belongs; to determine the object or purpose of the threat; and to determine those responsible for the threat and, if appropriate, punish them.

**THEREFORE:**

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

In exercise of the authority conferred upon it by Article 63(2) of the American Convention on Human Rights and Articles 27 and 31 of the Rules of Procedure,

**DECIDES:**

1. To require the State of Colombia to maintain the measures that it has adopted and adopt, without delay, the necessary measures to protect the right to life and personal integrity of Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, and Valeria Rodríguez Saravia, for which it must allow the beneficiaries to participate in the planning and implementation of the measures, and, in general, to keep them informed of any progress in their execution.

2. To consider closed the procedure to monitor compliance with the obligation to guarantee life, safety, and security of Carmen Rosa Barrera Sánchez, Lina Noralba Navarro Flórez, Luz Marina Pérez Quintero, Miryam Mantilla Sánchez, Ana Murillo Delgado de Chaparro, Suney Dinora Jáuregui Jaimes, Ofelia Sauza Suárez de Uribe, Rosalbina Suárez Bravo de Sauza, Marina Lobo Pacheco, Manuel Ayala Mantilla, Jorge Corzo Viviescas, Alejandro Flórez Pérez, Luz Marina Pinzón Reyes and their families, as established in operative paragraph eleven of the

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<sup>35</sup> See *Matter of Children Deprived of Liberty in the "Complexo do Tatuapé" of FEBEM*. Provisional Measures regarding Brazil. Order of the Court of July 3, 2007, Operative Paragraph 7; *Matter of Giraldo Cardona et al.* Provisional Measures regarding Colombia. Order of February 22, 2011; Considering clause 41 and *Matter of the Indigenous Community of Kankuamo*. Provisional Measures regarding Colombia. Order of the Court of November 21, 2011; Considering clause 18.

<sup>36</sup> See *Matter of Liliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of July 9, 2009; Considering clause 17 and *Case of Caballero Delgado y Santana*. Provisional Measures regarding Colombia. Order of the Court of February 25, 2011, Considering clause 21.

Judgment monitored by way of the procedure of provisional measures, pursuant to the terms established in Considering clauses 32 to 39 and 45 of this Order.

3. To rescind and consider terminated the provisional measures ordered in favor of William Rodríguez Quintero, pursuant to the terms established in Considering clauses 22 to 28 of this Order.

4. To rescind and consider terminated the provisional measures ordered in favor of Luis José Pundor Quintero and his family, pursuant to the terms established in Considering clauses 43 to 45 of this Order.

5. To request the State to present to the Court, no later than September 3, 2012, a detailed and comprehensive report on the implementation of these provisional measures, as well as the information required in Considering clauses 15 and 17 of this Order.

6. To require the representatives of the beneficiaries to present their observations to the report of the State required in the aforementioned operative paragraph, as well as the information requested in Considering clause 14 of this Order, within the term of four weeks, as notice of the State's report. Moreover, the Inter-American Commission on Human Rights must present its observations to the State's report and the respective observations of the representatives within the term of six weeks, as of receipt of the corresponding State's report.

7. To reiterate to the State that it must continue informing on the provisional measures already adopted on a two-month basis and to require the representatives of the beneficiaries and the Inter-American Commission on Human Rights to submit their observations within a period of four and six months, respectively, as of notice of said State's reports.

8. To require the Secretariat of the Court to notify this Order to the State of Colombia, the Inter-American Commission on Human Rights, and the representatives of the beneficiaries.

Diego García-Sayán  
President

Manuel E. Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi



Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary

**CONCURRING OPINION OF JUDGE EDUARDO VIO GROSSI  
ORDER OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF JUNE 26, 2012  
PROVISIONAL MEASURES REGARDING THE REPUBLIC OF COLOMBIA  
CASE OF THE 19 TRADESMEN v. COLOMBIA**

This Concurring Opinion is issued together with the Order indicated in the title, hereinafter the Order, despite the fact that said Order would be in contradiction with the terms established in dissenting and concurring opinions issued in cases in which provisional measures were also adopted after the delivery of the final judgment in the respective cases<sup>1</sup>.

However, we proceed in this manner bearing in mind that, on the one hand, in relation to this case, an opinion in favor of such measures has been already issued<sup>2</sup>, though before the opinions already mentioned and, on the other hand, in the Order with which I concur, the rescission of the measures still continues in force, and the measures are only valid with respect to some persons. But, we proceed in this manner also taking into account that in a judgment delivered, during this same period of sessions, in another case<sup>3</sup>, it was decided that the provisional measures ordered by the Court are part of the reparations ordered, a judgment that, then, may imply a consistency between the position sustained until now by the Court and the one expressed in the dissenting and concurring opinions before mentioned.

Eduardo Vio Grossi  
Judge

Pablo Saavedra Alessandri  
Secretary

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<sup>1</sup> Dissenting Opinions regarding the Orders related to "*Provisional Measures regarding the Republic of Colombia, Case of Gutierrez Soler V. Colombia*", of June 30, 2011; "*Provisional Measures regarding the United Mexican States, Case of Rosendo Cantu et al V. Mexico*", of July 1, 2011; and "*Provisional Measures regarding the Republic of Honduras, Case of Kawas Fernandez V. Honduras*", of July 5, 2011; Record of Complaint [Constancia de Queja] in relation to the same Orders of August 17, 2011; Concurring Opinion, *Case of Torres Millacura et al V. Argentina*, Judgment of August 26, 2011, Merits, Reparations and Legal Costs; Concurring Opinion, *Case of the Barrios Family V. Venezuela*, Judgment of November 24, 2011, Merits, Reparations and Legal Costs; Dissenting Opinion, *Order on Provisional Measures, Matter of Millacura Llaipén regarding Argentina*, of November 25, 2011; and Concurring Opinion in Order related to "*Provisional Measures regarding the United Mexican States, Case of Fernandez Ortega et al*", of February 20, 2012.

<sup>2</sup> Order "*Provisional Measures regarding the Republic of Colombia, Case of the 19 Tradesmen V. Colombia*", of August 26, 2010.

<sup>3</sup> *Judgment in the case of "Kichwa de Sarayaku Indigenous Community V. Ecuador"*, Merits, Reparations and Legal Costs.