

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF NOVEMBER 26, 2013**

**PROVISIONAL MEASURES REGARDING THE REPUBLIC OF ARGENTINA**

**MATTER OF FLORES *ET AL.* IN RELATION TO THE CASE OF TORRES MILLACURA *ET AL.* v.  
ARGENTINA**

**HAVING SEEN:**

1. The Order of the President of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court," or "the Tribunal") of June 21, 2006, as well as the Orders of the Court of July 6, 2006, February 6, 2008, November 25, 2011, November 21, 2012, and February 13, 2013. In the latter, the Court held, *inter alia*:

1. [I]ft the provisional measures in favor of María Leontina Millacura Llaipén, Marcos Torres, Valeria Torres, Ivana Torres, Romina Torres, Evelyn Paola Caba, Miguel Ángel Sánchez and Tamara Bolívar, pursuant to Considering clauses 6 to 9 of [...] Order.

2. [d]ismiss the request to extend the [...]provisional measures in favor of Luis Alberto Bolívar, pursuant to Considering clauses 20 to 22 of the [...] Order.

3. [t]hat the Republic of Argentina adopt all measures that are necessary to protect the right to life and the personal integrity of Guillermo Flores and Alba Rosana Vera González, pursuant to Considering clauses 23 to 30 of the [...] Order.

4. [t]hat the Republic of Argentina carry out all relevant procedures in order for the measures of protection that were ordered in the [...] Order be planned and implemented with the participation of the beneficiaries of the measures or their representatives, in order for these measures to be provided in a diligent and effective manner, and that they keep the Court informed on any progress in their implementation, pursuant to Considering clauses 31 and 32 of [the] Order.

5. [t]hat the Republic of Argentina present before the Inter-American Court of Human Rights, by no later than March 18, 2013, a detailed report on the risk to Guillermo Flores and Alba Rosana Vera González, as well as on the specific actions carried out in regard to planification, coordination, and implementation of these provisional measures, pursuant to Considering clauses 30 to 32 of [the] Order. Subsequently, the State must continue informing the Inter-American Court of Human Rights on the implementation of the [...] provisional measures every three months.

[...]

7. [t]hat the representatives of the beneficiaries of the provisional measures provide the Inter-American Court of Human Rights, by no later than March 18, 2013, with a detailed report on the risk to Guillermo Flores and Alba Rosana Vera González, as well as on the specific actions carried out in regard to planification, coordination, and implementation of the [...] provisional measures, pursuant to Considering clauses of [this] Order. [...]

2. The brief of April 17, 2013, wherein the Republic of Argentina (hereinafter “the State” or “Argentina”) filed the brief required by operative paragraph five of the Order of February 13, 2013 (*supra* Having seen clause 1). Moreover, the briefs of May 28 and July 12, 2013, wherein the State presented information on the implementation of these provisional measures. Moreover, the brief of August 16, 2013, wherein it expressed its position on the request made by the representatives to the Court asking that the provisional measures be newly adopted in favor of specific persons, as well as on the actions taken in regard to Ms. Verónica Heredia, which the representatives reported (*infra* Having Seen clause 3). Lastly, the brief of October 1, 2013, wherein the State provided information on whether there is risk to Ms. María Leontina Millacura Llaipén, her children, Fabiola Valeria Torres Millacura and Marcos Alejandro Torres Millacura, and her grandchildren, Evelyn Paola Caba, Ivana Valeria Torres Hernández and Romina Marcela Torres Hernández, as well as to Ms. Verónica Heredia. By way of this brief, the State also reported on the procedures being taken to reach a consensus on the measures of protection in favor of Mr. Guillermo Flores and Ms. Alba Rosana Vera González, beneficiaries of these provisional measures.

3. The briefs of May 2 and 21, 2013, wherein the representatives of the beneficiaries (hereinafter “the representatives”) presented their observations to the State’s brief of April 17, 2013 (*supra* Having Seen clause 2). By way of these briefs, the representatives requested the Court to “newly adopt the provisional measures” that were lifted in the Court’s Order of February 13, 2013 (*supra* Having Seen clause 1), in favor of María Leontina Millacura Llaipén, Fabiola Valeria Torres Millacura, Marcos Alejandro Torres Millacura, Evelyn Paola Caba, Ivana Valeria Torres Hernández, Romina Marcela Torres Hernández, Miguel Ángel Sánchez and Tamara Bolívar. Moreover, they requested that the provisional measures be extended in favor of Iván Eladio Torres and they provided information on the risk to Guillermo Flores, beneficiary thereof, and Verónica Heredia, the attorney of Millacura Llaipén. Moreover, the brief of August 7, 2013, wherein the representatives provided their observations to the State’s briefs of May 28, and July 12, 2013 (*supra* Having Seen clause 2). Lastly, the briefs of October 18 and 25, 2013, in which they provided their observations to the information provided by Argentina on October 1, 2013 (*supra* Having Seen clause 2) and they indicated that they would not continue representing Mr. Guillermo Flores nor Ms. Alba Rosana Vera González.

4. The brief of June 14, 2013, wherein the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) filed its observations on the State’s report of April 17, 2013 and the briefs provided by the representatives on May 2 and 21, 2013 (*supra* Having Seen clause 2 and 3). Moreover, the briefs of August 13 and 14, 2013, wherein the Commission presented its observations on the State’s briefs of May 28, July 12, and August 16, 2013. Lastly, the brief of October 31, 2013, it provided its observations to the information presented by Argentina on October 1, 2013 (*supra* Having Seen clause 2).

5. The note of the Secretariat of August 19, 2013, wherein the representatives and the Commission were asked to present the observations they deemed relevant to the information provided by the State on August 16, 2013, by no later than August 26, 2013. The representatives did not present the required observations.

#### **CONSIDERING THAT:**

1. The Republic of Argentina became a State Party to the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) since September 5, 1984 and according to Article 62 thereof, acknowledged the jurisdiction of the Court on the day of ratification.

2. Article 63(2) of the Convention establishes 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 [...].” This provision is also regulated in Article 27 of the Court’s Rules of Procedure (hereinafter “the Rules of Procedure”) <sup>1</sup> and is obligatory in nature for States, given that the basic principle of the law on State responsibility, supported by international jurisprudence, indicates that a State must comply with its international treaty obligations in good faith (*pacta sunt servanda*). <sup>2</sup>

3. Under international human rights law, provisional measures are not merely precautionary in nature, in the sense that they preserve a juridical situation; however, they are also fundamentally protective, because they safeguard human rights, inasmuch as they seek to avoid irreparable harm to persons. <sup>3</sup> In this manner, Article 63(2) of the Convention requires that the Court offer provisional measures that encompass these three conditions: a) “extreme gravity,” b) “urgency,” and c) prevention of irreparable harm to persons.” In this way, provisional measures become a real jurisdictional guarantee of a preventive nature. <sup>4</sup> These three conditions must be present in every situation in which the intervention of the Court is sought, and they must persist for the Court to maintain the order for protection, and if one ceases, the Court must assess the appropriateness of continuing with the order for protection. <sup>5</sup>

4. Given its competence, in the framework of the provisional measures, the Court must only consider those arguments that strictly and directly relate to the requirements of extreme gravity and urgency and prevention of irreparable harm to persons. Any other fact or argument can only be analyzed and resolved by the Court during its consideration of the merits in a contentious case or in the proceeding on monitoring of compliance with the respective judgment. <sup>6</sup>

***A. Request to extend the present provisional measures in favor of María Leontina Millacura Llaipén, Fabiola Valeria Torres Millacura, Marcos Alejandro Torres Millacura, Evelyn Paola Caba, Ivana Valeria Torres Hernández, Romina Marcela Torres Hernández, Miguel Ángel Sánchez, Tamara Bolívar and Iván Eladio Torres, and actions allegedly taken against Ms. Verónica Heredia, reported by the representatives***

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<sup>1</sup> Article 27(1) of the Rules of Procedure (hereinafter “the Rules of Procedure”) establishes 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, on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.”

<sup>2</sup> Cf. *Matter of James et al. Provisional Measures regarding Trinidad and Tobago*. Order of the Inter-American Court of Human Rights of June 14, 1998, considering clause six, and *Case of Matter of Castro Rodríguez regarding México*. Order of the Inter-American Court of Human Rights of August 23, 2013, considering clause six .

<sup>3</sup> Cf. *Case of Newspaper “La Nación”. Provisional Measures regarding Costa Rica*. Order of the Inter-American Court of Human Rights of September 7, 2001, considering clause four, and *Case of Matter of Castro Rodríguez regarding México*. Order of the Inter-American Court of Human Rights of August 23, 2013, considering clause seven.

<sup>4</sup> Cf. *Case of Newspaper “La Nación”. Provisional Measures regarding Costa Rica*. Order of the Inter-American Court of Human Rights of September 7, 2001, considering clause four, and *Matter of Wong Ho Wing regarding Perú*. Order of the Inter-American Court of Human Rights of August 22, 2013, considering clause six .

<sup>5</sup> Cf. *Case of Carpio Nicolle. Provisional Measures regarding Guatemala*. Order of the Inter-American Court of Human Rights of July 6, 2009, considering clause fourteen, and *Case of Matter of Castro Rodríguez regarding México*. Order of the Inter-American Court of Human Rights of August 23, 2013, considering clause seven.

<sup>6</sup> Cf. *Matter of James et al. Provisional Measures regarding Trinidad y Tobago*. Order of the Inter-American Court of Human Rights of August 29, 1998, considering clause six, and *Case of Matter of Castro Rodríguez regarding México*. Order of the Inter-American Court of Human Rights of August 23, 2013, considering clause eight.

### *A.1. Request by the representatives and observations of the State and Commission*

5. By way of briefs of May 2 and 21, 2013, the representatives made a request to the Court to newly adopt the provisional measures that were lifted in the Order of the Court of February 13, 2013 (*supra* Having Seen clause 1), in favor of María Leontina Millacura Llaipén, Fabiola Valeria Torres Millacura, Marcos Alejandro Torres Millacura, Evelyn Paola Caba, Ivana Valeria Torres Hernández, Romina Marcela Torres Hernández, Tamara Bolívar, and Miguel Ángel Sánchez. They also requested the extension of the provisional measures for Iván Eladio Torres Millacura. In this regard, they expressed that, since the moment that Iván Eladio Torres was detained, tortured and forcibly disappeared,<sup>7</sup> police of the “Chubut Province [...] have] constantly harassed” Ms. María Leontina Millacura Llaipén and her family, threatening them with death.<sup>8</sup> In addition, they said that , even though “the Secretariat of Human Rights of the Ministry of Justice and Human Rights [...] consider[ed] that it was of great importance that the safety measures that were ordered [...] remain in force despite the fact that they were lifted [...] pursuant to the Inter-American Court’s Order,” the guard booth near their home<sup>9</sup> where personnel of the Argentine Coast Guard were stationed was removed on May 1, 2013. The next day, “they parked [...] cars and trucks in front of their house and various people [...] would stop those walking by [...] in order for them to ‘sign,’ thereby provoking feelings of unease against the family, given that the Coast Guard would tell them that “they had to carry out these procedures because of the family of Iván Torres’ [and] that Iván ‘was a criminal [...].” According to the representatives, despite the fact that this information was provided to the State, the State has not “made” contact with the Millacura family in regard to the mentioned activities. Moreover, “since [that] guard booth was removed [...], a car parks in front of their [home], [...] and inside there are 3 males.” As such, they requested that the “authorities once again install personnel of the Coast Guard in the guard booth [by their] home,” among other measures of protection. The representatives also mentioned that the family continues “to face constant threats [...] at their personal home telephone[, in which] they leave messages with Ivan’s voice,” and at “night they hear whistling and laser lights shinning into their home.” In addition to the aforementioned, the representatives noted that, on May 11, 2013, around 6:30pm, a gunshot was heard coming from the home of the Torres Millacura’s family. Upon leaving her home, Ms. Fabiola Valeria Torres saw “ a red car with tinted windows and two ‘hooded’ people inside on the pavement of the home.” Moreover, the representatives requested the Court to require the State to provide information on Miguel Ángel Sánchez, who according to them is the only alleged witness who saw Iván Eladio Torres in the First Police Station in October and November 2003, given that they have not been able to establish communication with him “using the numbers [they were given]” and “were unaware of his status.”

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<sup>7</sup> In the Judgment issued by the Court in the *Case of Torres Millacura et al. V. Argentina* it was established that Mr. Iván Eladio Torres Millacura was detained and disappeared in 2003. *Cf. Case of Torres Millacura et al. V. Argentina. Merits, Reparations, and Costs.* Judgment of August 26, 2011. Series C No. 229, paras. 65 to 67.

<sup>8</sup> They noted that “on the street [they] yell [at Ms. Millacura ] that [they] will kill [her] and [her] children, [ ... ] they stop their patrol next to [her], and [her] car [ ... ] and [they] tell her that they will kill her, that they are only waiting for the [provisional] measures to be lifted, [and] they say , ‘what about a stray bullet?’ [...].” Also, they stated that “the police who patrol the Province of Chubut continue passing through her street and stationing themselves at the door, without the personnel of the Prefecture being [ sic ] aware of these circumstances.” In this sense, in a brief of October 18, 2013, they noted that “[t]he police personnel of the Province of Chubut continues to harass [her] family every day, [ yelling that ... ] ‘Ivan cries over returning again’ [ and ] ‘that he can’t even recognize himself.’” According to the representatives, on October 16, 2013, a police officer “went slowly” with his motorcycle and he looked “into the home and another [parked his motorcycle] at the entrance to the home [ ... ] in a threatening manner.”

<sup>9</sup> According to the representatives, those living in said home are “the family of Fabiola Valeria Torres and her three daughters, Evelyn [Paola Caba] (14 years old), Mia and Zoe [Torres] (1 year old and 10 months); the family of Marcos Alejandro Torres Millacura and her two daughters, Ivana (14 years old) and Romina (11 years old), and the family of María [Leontina Millacura Llaipén], the place where the daughters of Marcos Alejandro live on the days he works.”

6. Furthermore, although the representatives did not formulate a specific request in regard to Veronica Heredia, the attorney who “handles the cases at the domestic level in hopes of determining the whereabouts of Ivan [ Eladio Torres ] and identifying those responsible for the forced disappearance [ ... ],” reported on the risk she would face. Thus, they argued that on May 18, 2013, Ms. Verónica Heredia met with Mr. Guillermo Flores, beneficiary of the provisional measures, who warned her to be careful and told her that “they would not do anything to her in the city, but on the road, they would put a car in her way, and use the car to tap her car.” According to the representatives , that same day Ms. Heredia traveled from the city of Rada Tilly to the town of Caleta Olivia, 80 miles away, driving through a “desert road where there is no phone signal.” After “a few kilometers of driving [on that] route,” “a red Ranger truck,” whose description matched that of the vehicle stationed in front of the home of Mr. Flores, on May 7, 2013, which was commissioned to the First Police Station of Comodoro Rivadavia in 2003 (*infra* Considering clause 19). This truck followed her very closely, even when she sped up. “After showing [the driver] of the truck [ ... ] that [she ] was taking pictures with her phone, she gained distance and finally left [the truck behind ] who slowed down significantly.” Ms. Heredia reported what happened to the Association of Lawyers of Argentina. On May 19, 2013, Mr. Flores informed the President of the Association that he had heard on the streets that Ms. Heredia “would end up badly.” According to Mr. Flores, those warnings came “from police officers.”

7. The State noted, in regard to the request for extension of the provisional measures that was filed by the representatives, that “it understood that it “needs to heed to the Court’s decision in the Order of February 13, 2013]”. Notwithstanding, on August 16, 2013, it noted that, “after evaluating the situation of [...] María Millacura Llaipén, Marcos Torres, Ivana Torres, Romina Torres, Evelyn Paola Caba, Miguel Ángel Sánchez and Támara Bolívar together with the Ministry of security, it was decided that periodic rounds would continue to be made by agents of the Argentine Coast Guard for a period of 6 months at the homes of María Leontina Millacura Llaipén and of Miguel Ángel Sánchez. Once that period is met, the need to continue with those measures of protection and/or the adoption of other type of measures of protection if the circumstances so require would be determined.” Notwithstanding, according to the State, Ms. Millacura has refused to give notice of these rounds, “reason for which witnesses have been found near the home, and they have signed declarations establishing that they have not witnessed any need for police intervention nor that she faces a risk.”<sup>10</sup> On the other hand, in regard to the alleged shots near Ms. Millacura Llaipén’s home, the State provided the email address of General Prefect Hugo Ilacqua,<sup>11</sup> informing that “rounds were made [...that same day,] and nothing new was detected regarding the shots or other anomalies [...].” In this same sense, it noted that “the Chief of the First Police Station [...] with jurisdiction in the area near Ms. Millacura’s home had been consulted by phone about whether or not there had been [...] complaints and/or actions in relation to gunfire shootings in the area, and he responded that there had not been.” In regard to Miguel Ángel Sánchez, in a note of the Secretariat of Human Rights of June 27, 2013, it was stated that “the scheduled rounds [were also] carried out with no abnormalities or circumstances that put

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<sup>10</sup> Note DDHH No. 452/12 of September 19, 2013, Ministry of Security of Argentina (case file on provisional measures, folio 6829). Furthermore, the State submitted to the Court another note from the Secretariat on Human Rights of the Nation of June 27, 2013, in which it stated that the Ministry of Security of the Nation had reported that “during the rounds made at Ms. Millacura Llaipén’s home, no signs or circumstances were observed that could pose a risk to the safety of those being protected.” Cf Note SDH-DAI No.: 419/13, Ministry of Justice and Human Rights (case file on provisional measures, folio 6267).

<sup>11</sup> The email provided by the State was sent from an email address that is not official, nor has an electronic signature or other means of verifying its authenticity. However, the authenticity of the document was not questioned by the representatives and the Commission.

her physical integrity at risk.”<sup>12</sup> On the other hand, in regard to the situation of Verónica Heredia, Argentina noted that the risk stated by the representatives (*supra* Considering clause 6) has not been reported “before the domestic judicial authorities [...]. That is, in this case, the representatives have not exhausted domestic remedies[, ...] which would have provided the State with an opportunity to handle the situation using its domestic legal order.”

8. The Commission “made note” of the State’s decision to “reactive the periodic rounds made by the Argentine Coast Guard at the homes of Ms. Millacura and Mr. Miguel Ángel Sánchez and “value[d]” this “change of position,” indicating that these measures should be communicated to the beneficiaries thereof, in order to ensure a greater effectiveness. It also stated that “it is important that the State, under the framework of the willingness expressed to continue granting this protection, make reference to the feasibility of reinstalling the guard station with Coast Guard personnel. Also, it considered it appropriate that the Court continue to monitor this case taking into account “i) the continuity of the incidents of harassment and intimidation reported by the representative, and ii) a set of particular circumstances in this case that allow for the inference of continuity of risk for both to next-of-kin and to witnesses in the framework of the investigations that remain in force at the domestic level.” With regard to Ms. Veronica Heredia, it said that “the representative had informed the authorities of that situation.”

## A.2. Considerations of the Court

### A.2.1. Situation de María Leontina Millacura Llaipén, Fabiola Valeria Torres Millacura, Marcos Alejandro Torres Millacura, Evelyn Paola Caba, Ivana Valeria Torres Hernández, Romina Marcela Torres Hernández, Tamara Bolívar, Miguel Ángel Sánchez and Iván Eladio Torres

9. In its Order of February 13, 2013, the Court lifted the provisional measures ordered in favor of María Leontina Millacura Llaipén, her children, Marcos Alejandro and Fabiola Valeria Torres and her grandchildren, Ivana and Romina Torres, and Evelyn Paola Caba, as well as Tamara Bolívar and Miguel Ángel Sánchez, in the absence of evidence that proved the continued existence of a situation of extreme gravity and urgency and risk of irreparable damage to the lives and integrity of those persons.<sup>13</sup> To do so, the Court took into account, in particular, that the representatives had not argued the existence of recent threats related to the events that led to the adoption of these measures, those stemming from the investigation into the disappearance of Mr. Iván Eladio Torres Millacura.<sup>14</sup>

10. The Court recalls that the provisional measures mechanism requires proof of the conventional requirements of extreme gravity and urgency and irreparable harm set out in Article 63(2) of the Convention in regard to those persons for whom they are intended (*supra* Having Seen clause 3). In this regard the Court has already held that, under the Convention and the

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<sup>12</sup> Note of SDH- DAI N°: 419/ 13, Ministry of Justice and Human Rights (case file on provisional measures, folio 6267).

<sup>13</sup> Cf. *Matter of Millacura Llaipén et al. regarding Argentina*. Order of the Inter-American Court of Human Rights of February 13, 2013, considering clauses eleven, twelve, seventeen.

<sup>14</sup> Cf. *Matter of Millacura Llaipén et al. regarding Argentina*. Order of the Inter-American Court of Human Rights of February 13, 2013, considering clause eleven.

Rules of Procedure, the burden of proving these requirements *prima facie* rests with the applicant.<sup>15</sup>

11. In this regard, in terms of gravity for the adoption of provisional measures, the Convention requires that it involve “extreme” gravity, that is, an intense or high level of gravity. The urgency implies that the risk or threat must be imminent, which also presupposes that the response to remedy it must be immediate. Finally, as to the damage, there must exist a reasonable probability that the damage is caused and it must not involve a legally protected interest capable of being repaired.<sup>16</sup>

12. In this regard, the Court finds that, on this occasion, the representatives did not provide information proving *prima facie* that Ms. Millacura and her next-of-kin are in a situation of extreme gravity and urgency and risk of irreparable harm to their lives and personal integrity. As such, the Court notes that the only specific risk mentioned by the representatives was that of an alleged gunshot outside the family home on May 11, 2013, after which Ms. Fabiola Valeria Torres had left her home and saw two “hooded” persons in a car parked 40 meters away. It is not clear from the information provided whether these events were related to the events that led to the adoption of provisional measures in this case, those being, a result of the investigation of the forced disappearance of Iván Eladio Torres Millacura.<sup>17</sup> The Court also notes that, according to information provided by the State, on the day of the events described by the representatives, no anomalies were perceived during the rounds carried out by the Argentine Coast Guard, nor were there any complaints filed. Moreover, while the representatives reported that Ms. Millacura Llaipén’s life was threatened “repeatedly” by police in the province of Chubut, they did not provide sufficient specific information regarding the time, manner, and place to prove that these threats occurred to Ms. Millacura Llaipén and her next-of-kin, thereby placing their lives and personal integrity at risk.

13. For these reasons, the Court finds that the information submitted by the parties and the Commission concludes that the conditions established in Article 63(2) of the Convention were not met, for which the request for provisional measures submitted by the representatives regarding Ms. Millacura Llaipén and her next-of-kin must be dismissed.

14. On the other hand, in regard to Miguel Angel Sanchez and Tamara Bolívar, the representatives did not present any information to establish, *prima facie*, that they face a situation of extreme gravity and urgency and risk of irreparable harm. Indeed, as reported by the representatives, their concern regarding Mr. Miguel Ángel Sánchez arises from the fact that they have tried unsuccessfully to contact him at the numbers they were provided by him, which is not in itself sufficient to establish the conventional requirements. Thus, the request for provisional measures filed on behalf of such persons is dismissed.

15. Finally, in regard to Iván Eladio Torres, the Court notes that the representatives had previously requested an extension of the provisional measures for him. The Court ruled on those requests in its Orders of November 25, 2011, and November 21, 2012, that were issued in this

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<sup>15</sup> Cf. *Matter of Belfort Istúriz et al. Provisional Measures regarding Venezuela*. Order of the Court of April 15, 2010, considering clause five, and *Case of De la Cruz Flores V. Perú*. Order of the Inter-American Court of Human Rights of February 29, 2012, considering clause eleven.

<sup>16</sup> Cf. *Matter of Yare I and Yare II Capital Region Penitentiary Center regarding Venezuela*. Order of the Inter-American Court of Human Rights of November 24, 2009, considering clause three, and *Matter of Natera Balboa regarding Venezuela*. Order of the Inter-American Court of Human Rights of August 19, 2013, considering clause four.

<sup>17</sup> Cf. *Matter of Millacura Llaipén et al. Provisional Measures regarding Argentina*. Order of the Inter-American Court of Human Rights of July 6, 2006, considering clauses nine and ten.

case (supra Having Seen clause 1). In this regard, the Court reiterates that in the Judgment delivered in the case of *Torres Millacura et al v. Argentina*, the Republic of Argentina was ordered to remove all obstacles, *de facto and de jure*, that maintain the impunity regarding that which occurred to Mr. Ivan Eladio Torres Millacura and to initiate and continue the investigations necessary to determine and, where necessary, punish those responsible for such acts, within a reasonable time.<sup>18</sup> In this Judgment, the Court also ordered the State to continue the search for Mr. Torres Millacura, for which it must make every effort as soon as possible. Therefore, the claims of the representatives had already been considered by the Court in said Judgment. The orders relating to the search for Mr. Torres Millacura and the investigations on forced disappearance will be considered by the Court during the monitoring of compliance with the Judgment rendered in the case of *Torres Millacura et al v. Argentina*. Accordingly, the Court considers the request for extension of the provisional measures in favor of Mr. Iván Eladio Torres Millacura made by the representatives to be inadmissible.

#### *A.2.2. Situation of Verónica Heredia*

16. By way of the Order of November 25, 2011, the Court lifted the provisional measures ordered in favor of Veronica Heredia,<sup>19</sup> since the representatives had not demonstrated a situation of extreme gravity and urgency and risk of irreparable harm to her life and personal integrity. Even though on this occasion the representatives did not submit a formal request for provisional measures in favor of Ms. Heredia to be adopted once again, it is clear from the brief of May 21, 2013, that they consider her to be in danger and should be subject to protection.

17. In this regard, the Court considers that the information provided by the representatives on what Mr. Guillermo Flores had heard "on the street " and in regard to the alleged car following Ms. Heredia when driving "on her route" is insufficient to determine that there is a situation of extreme gravity and urgency and a risk of irreparable damage to her life and personal integrity. Moreover, according to that which has been reported by the State, Ms. Heredia has not reported this incident to the corresponding authorities. This was not contested by the representatives.<sup>20</sup> In this regard, the Court recalls that, in the International Law of Human Rights, the principle of subsidiary presupposes that it corresponds to States, as the first instance, to respect and ensure rights in their jurisdiction.<sup>21</sup> In view of the foregoing, the Court considers that it is not appropriate to adopt provisional measures in favor of Verónica Heredia at this time.

### ***B. Adoption of the necessary measures to protect the life and personal integrity of Guillermo Flores and Alba Rosana Vera González***

#### *B.1. Information provided by the parties and observations of the Commission*

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<sup>18</sup> Cf. *Case of Torres Millacura et al. V. Argentina. Merits, Reparations, and Costs*. Judgment of August 26, 2011. Series C No. 229, paras. 164 and 166.

<sup>19</sup> Cf. *Matter of Millacura Llaipén et al. Provisional Measures regarding Argentina*. Order of the Inter-American Court of Human Rights of November 25, 2011, operative paragraph one.

<sup>20</sup> The representatives provided the Court with "evidence that Veronica [Heredia] went to the Office of the Delegation of the Ministry of Government of the Province of Chubut in the city of Comodoro Rivadavia on 10/9/13," where she denounced "harassment [...due to] her professional capacity." However, in said document there is no evidence of the alleged threats reported before this Tribunal (*supra* Considering clause 6).

<sup>21</sup> Cf. *Matter of Communities of the Jiguamiandó and of the Curvaradó regarding Colombia*. Order of the Inter-American Court of Human Rights of May 22, 2013, considering clause fifty-two.



18. The *State* presented a note to the Secretariat of Human Rights of the Ministry of Justice and Human Rights on July 2, 2013, wherein it reported that the beneficiaries of these provisional measures stated that “they wished [that] monitoring be done by way of an official cell phone as a safety measure in their favor.” Notwithstanding, by way of a brief of August 16, 2013, Argentina noted that, pursuant to the Ministry of security of the Nation, the measure requested by the beneficiaries “did not effectively protect these persons, when the distance separating the home of the beneficiaries with the closest national security force delegation did not allow a fast enough reaction to ensure the protection of [Mr.] Flores and [Ms. Vera] González.”<sup>22</sup> Notwithstanding, after having explained “the scope of Law No. 25.764 [Law of National Protection for Witnesses and the Accused] and the measures of special protection that could possibly be applied in the case, Mr. Flores refused to join [said program,] as well as other measures of protection, aside from expressing his desire to remain in the city of Comodoro Rivadavia [...]” Subsequently, according to the State, Mr. Flores and Ms. Vera González had requested that the “proposed measures be granted to them, [...] regarding collaboration in exiting the country for employment purposes until the case is settled.” As a consequence, “it requested the opinion of the Ministry of Security of the Nation, in regard to the viability of the measure of protection requested by the beneficiaries.”

19. The *representatives* informed the Court that, “after requiring protection of the rights to life and integrity [...] of Mr. Flores and Ms. González, they] have suffered escalating intimidation and attacks[,] and they think that it is because those persons whom they filed the complaint against are the same as those who are appointed to ‘protect’ them.” Moreover, they noted that “on May 7, 2013, the [...] Commissioner of the First Police Station of Comodoro Rivadavia in 2003, [who is allegedly being prosecuted in relation to the forced disappearance of Iván Eladio Torres], posted in front of Mr. Flores’s home in a red Ranger truck, next to another person, a man[, ...] for approximately three hours, since 8:30pm until 12 pm [*sic*].” Moreover, the representatives stated that on May 15, 2013, “the First Corporal Marine of the Police Province of Chubut showed up at the home of Mr. Flores and Ms. Gonzalez[, and...] told them ‘he had something for them to read and to check off the corresponding location.’” According to them, the official had told Mr. Flores that he must check off whether he “accepted” the protection scheme “or not,” without explaining “the type of protection offered, nor who would carry out the task,” reason for which Mr. Flores did not sign the document. Notwithstanding, by way of the brief of October 18, 2013, the representatives noted that, due to a “conflict of interests,” they would not continue to represent neither Mr. Flores nor Ms. Verá González in the current provisional measures proceeding.

20. For its part, the Commission noted that “from the information available, it is evident that the specific measures of protection in favor of [the] beneficiaries are not being implemented, reason for which [ ... it] expressed concern regarding their security situation.” Furthermore, it considered that “the argument presented by the State” that rejected the request made by the beneficiaries for cellular phones in order to better contact police officers “is not a justification for denying said means of protection, along with other means, to contribute to a comprehensive improvement of the security situation.” Thus, it noted that the State indicated that it is analyzing the viability of the request by the beneficiaries to exit the country due to employment offers. It also noted that “the alleged threats and harassment that led the Court to grant and maintain these provisional measures involves the police agency of Chubut,” reason for which it stressed “the importance of [...] mechanisms between the State, the beneficiaries, and their representative [ ... ].” Moreover, it noted that “[i]n regard to these types of agreements, it is necessary to explore diverse alternatives and that sufficient information be offered to accommodate the needs of the beneficiaries, as well as those that instill a greater sense of

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<sup>22</sup> Note of DDHH N° 152/12 of August 7, 2013, Ministry of security (case file on provisional measures, folio 6754).

security and confidence." In this manner, "the Commission requests the State of Argentina in its next bimonthly report to provide information on the viability of the request on the other implemented measures of protection."

### *B.2. Considerations of the Court*

21. By way of Order of February 13, 2013, the Court determined that from the information presented at that time, there was *prima facie* evidence that Mr. Guillermo Flores had recently received threats to his personal safety and life at his home, and had apparently been harassed by State authorities, allegedly due to the information he provided in connection with the disappearance of Iván Eladio Torres and the case *Millacura Llaipén et al v. Argentina*. Thus, the Court found that Mr. Flores was in a situation of extreme gravity and urgency that justified the extension of measures of protection to avoid irreparable damage to his rights to life and integrity.<sup>23</sup> However, by way of said Order, the Court asked the representatives and the State to submit, by no later than March 18, 2013, current and detailed information on the risk facing Mr. Guillermo Flores, reporting on specific facts, if applicable and on the actions taken to implement the measures ordered in his favor, and establishing the grounds for the need to maintain or, where applicable, lift them.<sup>24</sup>

22. The Court values that Argentina has coordinated with Mr. Flores and Ms. Vera González to establish the mode of protection that will be provided to them. However, despite the Court's requirements, the State did not provide information about the risk faced by these persons. Furthermore, from the information provided, it does not indicate that to date it has implemented any measures to protect the beneficiaries, as was ordered in said Order (*supra* Having Seen clause 1 and Considering clause 21). For their part, the representatives stated that Mr. Flores has "suffered escalating intimidation and attacks" without specifying, beyond the facts that occurred on May 7, 2013, what these incidents consist of, nor when and where they took place. They also did not specify if these were reported to the relevant authorities. On the contrary, by way of a brief of October 18, 2013, they stated that they no longer represent the beneficiaries mentioned in the proceedings before this Court.

23. This Court has held that, in order to decide whether to maintain the provisional measures in force, the Court must consider whether the situation of extreme gravity and urgency that led to its adoption remains in force, or whether new and equally serious and urgent circumstances warrant keeping them in force.<sup>25</sup> In this case, it is not clear from the information provided by the representatives that the previously accredited situation of extreme gravity and urgency in regard to Mr. Flores and Ms. Vera Gonzalez persists, so the Court considers it appropriate to lift the provisional measures in their favor.

### **C. Obligations of the State of Argentina**

24. Notwithstanding, that which was decided in paragraphs A and B of this Order, the Court recalls that Article 1(1) of the Convention establishes the general obligations of States Parties to

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<sup>23</sup> Cf. *Matter of Millacura Llaipén et al. regarding Argentina*. Order of the Inter-American Court of Human Rights of February 13, 2013, considering clause twenty-nine.

<sup>24</sup> Cf. *Matter of Millacura Llaipén et al. regarding Argentina*. Order of the Inter-American Court of Human Rights on February 13, 2013, considering clause thirteen, and operative paragraphs five and seven.

<sup>25</sup> Cf. *Matter of James et al. Provisional Measures regarding Trinidad y Tobago*. Order of the Inter-American Court of Human Rights of August 29, 1998, considering clause six, and *Case of Matter of Castro Rodríguez regarding México*. Order of the Inter-American Court of Human Rights of August 23, 2013, considering clause eight.

respect the rights and liberties recognized therein and to ensure their free and full exercise to all persons subject to their jurisdiction, those of which are imposed not only in relation to State power but also in relation to actions by third parties.<sup>26</sup> Therefore, the State must ensure the rights of the persons referred to in those paragraphs by way of the existing domestic mechanisms that are in place.<sup>27</sup> The Court observes that in the judgment delivered on August 26, 2011, in the *case of Torres Millacura et al v. Argentina*, which relates to this matter, the State was ordered to ensure that persons involved in the investigation of the facts regarding the victim Mr. Iván Eladio Torres Millacura, which includes the next-of-kin of the victim and witnesses are provided with the necessary protection.<sup>28</sup> The case is in the stage of monitoring compliance with the judgment. Therefore, the Court reiterates that, in accordance with the provisions of Articles 67 and 68(1) of the American Convention and Article 69 of the Court's Rules of Procedure, as part of the State's obligation to inform the Court about the measures taken to comply with the Judgment,<sup>29</sup> Argentina must provide, through briefs on compliance, accurate and detailed information on the security measures that it will eventually adopt in favor of such persons.<sup>30</sup>

**THEREFORE:**

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

In exercise of the powers granted to it by Articles 63(2) of the American Convention on Human Rights and 27 of the Rules of Procedure,

**DECIDES TO:**

1. Dismiss the request for extension of the provisional measures in favor of María Leontina Millacura Llaipén, Fabiola Valeria Torres Millacura, Marcos Alejandro Torres Millacura, Evelyn Paola Caba, Ivana Valeria Torres Hernández, Romina Marcela Torres Hernández, Miguel Ángel Sánchez, Tamara Bolívar and Iván Eladio Torres, pursuant to Considering clauses 9 to 15 of this Order. Moreover, the Inter-American Court decides to not adopt provisional measures in favor of Ms. Verónica Heredia, pursuant to Considering clauses 16 and 17 of this Order.

2. Lift the provisional measures ordered by the Inter-American Court of Human Rights in its Order of February 13, 2013, in favor of Guillermo Flores and Alba Rosana Vera González, pursuant to Considering clauses 21 to 23 of this Order.

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<sup>26</sup> Cf. *Matter of Community of Paz de San José de Apartadó*. Provisional Measures regarding Colombia. Order of the Court of June 18, 2002, considering clause eleven, and *Matter of Natera Balboa regarding Venezuela*. Order of the Inter-American Court of Human Rights of August 19, 2013, considering clause fourteen.

<sup>27</sup> Cf. *Case of Gutiérrez Soler V. Colombia*. Provisional Measures regarding Colombia. Order of the Inter-American Court of Human Rights of 23 de octubre de 2012, considering clause vigésimo primero, and *Matter of Millacura Llaipén et al. regarding Argentina*. Order of the Inter-American Court of Human Rights of February 13, 2013, considering clause eighteen.

<sup>28</sup> Cf. *Case of Torres Millacura et al. V. Argentina*. Merits, Reparations, and Costs. Judgment of August 26, 2011. Series C No. 229, para. 164.b.

<sup>29</sup> Cf. *Case of Barrios Altos V. Perú*. Monitoring of Compliance with the Judgment. Order of the Inter-American Court of Human Rights of September 22, 2005, considering clause seven, and *Matter of Millacura Llaipén et al. regarding Argentina*. Order of the Inter-American Court of Human Rights of February 13, 2013, considering clause nineteen.

<sup>30</sup> Cf. *Matter of Millacura Llaipén et al. regarding Argentina*. Order of the Inter-American Court of Human Rights of February 13, 2013, considering clause nineteen.

3. In the terms of Article 1(1) of the American Convention, as well as that which was ordered in the Judgment issued on August 26, 2011, in the case *Torres Millacura et al. V. Argentina*, lifting the provisional measures in this Matter does not imply that the State is relieved of its conventional obligations of protection, pursuant to Considering clause 24 of this Order.

4. Request the Secretariat of the Inter-American Court of Human Rights to provide notification of this Order to the Republic of Argentina, the Inter-American Commission on Human Rights, the representatives and Mr. Guillermo Flores and Alba Rosa González Vera.

5. Close the case file on this matter.

Diego García-Sayán  
President

Manuel E. Ventura Robles

Alberto Pérez Pérez

Eduardo Vio Grossi

Roberto F. Caldas

Humberto Antonio Sierra Porto

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary