

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF NOVEMBER 27, 2002**

**PROVISIONAL MEASURES REQUESTED BY
THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
WITH RESPECT TO THE REPUBLIC OF VENEZUELA**

LUIS UZCÁTEGUI V. VENEZUELA

HAVING SEEN:

1. The November 27, 2002 brief and its appendices, in which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court"), pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and 74 of the Rules of Procedure of the Commission, a request for Provisional Measures in favor of Luis Enrique Uzcátegui Jiménez. In said brief, the Commission asked the Court to order the Bolivarian Republic of Venezuela (hereinafter "the Venezuelan State", "the State" or "Venezuela") the following:

- a. To urgently adopt effective security measures to ensure the rights to life [and to] humane treatment (Articles 4 and 5 of the American Convention) of Luis Enrique Uzcátegui Jiménez.
- b. To coordinate the protection measures stated in subparagraph "a", above, in agreement with Luis Enrique Uzcátegui Jiménez or the applicants.
- c. To adopt, as an essential component of the duty to provide protection, effective measures to investigate the facts that give rise to these measures, so as to identify and punish those responsible for such acts in accordance with due process.
- d. To request the State of the Bolivarian Republic of Venezuela to ensure access to justice for Luis Enrique Uzcátegui Jiménez.
- e. To inform the [...] Court within a brief term of compliance with the Provisional Measures adopted in favor of Luis Enrique Uzcátegui Jiménez.

2. The grounds argued by the Inter-American Commission for its request of Provisional Measures, based on the following facts:

- a. that during the *in loco* visit conducted by the Commission to Venezuela, in May, 2002, it "received information from the Ombudsman that in Venezuela there are 'extermination groups' constituted by State security officials acting in the States of Portuguesa, Yaracuy, Anzoátegui, Bolívar, Miranda, and Aragua";
- b. that the Commission "noted with serious concern that the 'extermination groups' are not only an unlawful mechanism of social control

but also part of a profit-seeking criminal organization within the State police force;”¹

c. that “the Commission t[ook] cognizance of the fact that said organizations continue to act in seven States (including Falcón State) and threaten the next of kin of victims and witnesses, who are absolutely defenseless;”

d. that on “October 18, 2002 the Inter-American Commission [...] asked the [Venezuelan State] to adopt precautionary measures in favor of Luis Enrique Uzcátegui Jiménez, with the aim of protecting his life and his right to humane treatment (Art. 4 and 5 of the American Convention).” Therefore, it requested that the State:

1. Provide the protection required by Luis Enrique Uzcátegui Jiménez, to safeguard his life and his right to humane treatment, pursuant to Article 4 and 5 of the American Convention [on] Human Rights.

2. Conduct an extensive investigation of the acts of intimidation suffered and threats received by Luis Enrique Uzcátegui Jiménez[;]

e. that said precautionary measures (*supra* 2.d) were granted due to acts of harassment and threats suffered by Mr. Uzcátegui Jiménez.² Also, these “explicit death threats, together with the public accusations made by Luis Enrique Uzcátegui against the Police authorities of the State of Falcón, and the acts of harassment (*sic*) that he has suffered, created the fear that there was a real and imminent danger to his life and physical safety,” and

f. that on November 25, 2002 “CEJIL and the *Comité de Familiares de Víctimas de los Sucesos de Febrero-Marzo de 1989* asked the Commission to, in turn, agree to request that the [...] Inter-American Court of Human Rights grant Provisional Measures in favor of Luis Enrique Uzcátegui Jiménez with the aim of protecting his rights to life and to humane treatment.”

3. The additional statement by the Commission, in its request for Provisional Measures, that despite granting of precautionary measures by the Commission in October, 2002, the threats and acts of harassment, lack of protection by the State to safeguard the life and personal safety of Luis Enrique Uzcátegui and lack of investigation of the acts of intimidation have continued:

¹ The Inter-American Commission stated that in the press release regarding its *in loco* visit to the State of Venezuela, it referred to the extermination groups, and it stated that:

[...] lack of due diligence by the authorities responsible for investigating, prosecuting and punishing the members of the so-called “extermination groups” is a fundamental factor that allows them to act.

² In its request, the Inter-American Commission mentioned various facts, among which the following stand out: 1) “Luis Enrique Uzcátegui Jiménez [...] is the brother of Néstor José Uzcátegui Jiménez, who [was] murdered at his home in [the] [...] State of Falcón on January 1, 2001 by more than forty [...] officials of the local Police corps, the Armed Police Forces of the State of Falcón, a fact that was reported to the Public Prosecutor’s Office [...]” 2) Mr. Uzcátegui “has devoted himself to investigating insofar as possible for him the circumstances of the death of his brother [and] has denounced the facts in the local press and has publicly pointed at the highest authorities of the State of Falcón [...] as those responsible for systematic execution of persons allegedly involved in criminal conduct;” 3) Mr. Uzcátegui “has organized a committee of next of kin of victims of alleged executions committed by the Police authorities and for protection of Human Rights” and 4) Luis Enrique Uzcátegui Jiménez has suffered systematic and constant acts of intimidation and threats against his life and physical safety.”

a. As regards the threats and acts of harassment, on Tuesday, November 12, 2002 a stranger was found in a suspicious attitude near Mr. Uzcátegui's home, and he identified himself as a police official; on November 13, unidentified individuals attempted to wrest Mr. Uzcátegui's niece from the arms of her mother, Paula Uzcátegui, took fifty thousand Bolívares from her, hit her, and threatened her saying "*if your brother keeps on making accusations the child will be the one to suffer*;" on Thursday, November 14, while he was driving a vehicle near his home, two individuals fired several shots at him from a motorcycle and then fled; the neighbors stated that the motorcycle belonged to the Armed Police Forces of the State of Falcón.

b. As regards lack of protection by the State, and "despite the fact that the measures were granted more than a month ago, the State has not responded officially to the request made by the Commission to report on compliance with those measures. However, the applicants have informed the Commission that the State is not willing to provide any protection, and has not even answered their calls for an agreement on protection of Mr. Uzcátegui."³

c. As regards investigation of the acts of intimidation suffered and threats received by Luis Enrique Uzcátegui, they "began after the death of his brother, when he began to denounce the facts through regional media." One of the applicant organizations filed a complaint regarding the first threats against Luis Uzcátegui, before the High Prosecutor's Office in the State of Falcón; however, there has been no progress in the investigations. Therefore, "Mr. Uzcátegui has decided not to file complaints about new threats, because in addition to being ineffective, that action places him at greater risk."

d. Given the outstanding risk to the life and personal safety of Mr. Uzcátegui, he has decided to seek refuge in the offices of the Regional Legislative Council of the State of Falcón, where he works.

CONSIDERING:

1. The State ratified the American Convention on August 9, 1977 and, pursuant to Article 62 of that Convention, recognized the contentious jurisdiction of the Court on June 24, 1981.

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

³ In this regard, the applicants stated to the Commission that :

COFAVIC communicated with the office of the Agent of the Venezuelan State before the Inter-American System, Jorge Dugarte, on November 12, stating the risk faced by Mr. Uzcátegui and their concern over the absolute lack of compliance with the precautionary measures issued by the honorable Commission [...] Neither COFAVIC nor CEJIL, nor Mr. Uzcátegui have received any information from the State that would suggest even the intention to provide protection to Mr. Uzcátegui.

Measures as it deems pertinent, and in cases not yet submitted to the Court, it may act at the request of the Commission.

3. Pursuant to Article 25(1) and 25(2) of the Rules of Procedure of the Court,

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

[w]ith respect to matters not yet submitted to it, the Court may act at the request of the Commission.

[...]

4. Article 1(1) of the Convention states the obligation of the States Parties to respect the rights and freedoms recognized in that treaty and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.

5. The background information submitted by the Commission in its request (*supra*, second and third Having Seen) demonstrates *prima facie* the existence of a situation of extreme gravity and urgency regarding the life and physical safety of Luis Enrique Uzcátegui Jiménez.

6. The purpose of urgent and provisional measures, in International Human Rights Law, in addition to their essentially preventive nature, is to effectively protect fundamental rights, insofar as they seek to avoid irreparable damage to persons. Granting urgent and provisional measures, given their own juridical nature and purpose, can under no circumstances prejudice on the merits of the case.

7. It is a responsibility of the State to adopt security measures to protect all persons under its jurisdiction, and this duty is even more evident in connection with persons involved in proceedings before the bodies responsible for protection under the American Convention.

8. The State also has the obligation to investigate the facts that gave rise to this request for Provisional Measures with the aim of identifying those responsible and punishing them as appropriate.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

exercising the authority granted by Article 63(2) of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

DECIDES:

1. To order the State to adopt, without delay, all necessary measures to protect the life and the right to humane treatment of Luis Enrique Uzcátegui Jiménez.

2. To order the State to allow the applicants to participate in planning and implementation of the protection measures and, in general, to inform them of progress regarding the measures ordered by the Inter-American Court of Human Rights.
3. To order the State to investigate the facts stated in the complaint that gave rise to the instant measures, with the aim of discovering and punishing those responsible.
4. To order the State to report to the Inter-American Court of Human Rights on the measures adopted to comply with the instant Order, no later than December 12, 2002.
5. To order the Inter-American Commission on Human Rights to submit its comments on the report by the State to the Inter-American Court of Human Rights, within a week of being notified thereof.
6. To order the State, subsequent to its first report (*supra* operative paragraph four), to continue reporting to the Inter-American Court of Human Rights, every two months, on the Provisional Measures adopted, and to order the Inter-American Commission on Human Rights to submit its observations to said reports within six weeks of receiving them.

Antônio A. Cançado Trindade
President

Alirio Abreu-Burelli

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary