

**Order of the
Inter-American Court of Human Rights¹
of July 6, 2009
Provisional Measures regarding Mexico
Matter of Pérez Torres *et al.* (“Campo Algodonero”)**

HAVING SEEN:

1. The Order of the President of the Inter-American Court of Human Rights (hereinafter “the President”) of April 24, 2009, whereby she decided:

1. To require the State to adopt forthwith all measures necessary to protect the life and personal integrity of Rosa Isela Pérez Torres and her immediate family.

2. To require the State to perform all steps necessary to plan and implement the protective measures ordered, allowing the participation of the beneficiaries of these measures or their representatives, so that the referred measures are provided promptly and effectively, and, in general, to keep them informed on the progress on their implementation.

[...]

5. To order for the instant matter to be brought to the attention of the full Court in the XXXIX Period of Extraordinary Sessions [held] from April 27 to 30, 2009, in Santiago, Republic of Chile.

6. To require that, until the full Court has knowledge of the instant matter, this Order [be] kept confidential by the parties and [is not] published by any means.

2. The private meeting held between the President, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”), the representatives of the alleged victims in the case of *González et al. (“Campo Algodonero”) vs. Mexico* (hereinafter “the State” or “Mexico”), held on April 28, 2009 in Santiago, Chile.

3. The public hearing held in Santiago, Chile on April 28 and 29, 2009 before the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) in relation to the case of *González et al. (“Campo Algodonero”) vs. Mexico*.

4. The communications of May 7 and 12, 2009, whereby the State reported on the implementation of urgent measures ordered by the President in favor of Ms. Pérez Torres and her next of kin.

¹ On December 19, 2007, Judge Sergio García Ramírez, of Mexican nationality, excused himself from hearing the case of *González et al. (“Campo Algodonero”) vs. Mexico*, in conformity with Articles 19 of the Statute and 20 of the Court’s Rules of Procedure, which was accepted by the Court. Therefore, Judge García Ramírez did not participate in the deliberation and signing of the instant Order.

5. The communication of May 8, 2009, whereby Ms. Pérez Torres appointed Andrea Medina Rosas, Andrea de la Barrera Montpellier and Imelda Marrufo as her representatives in the instant matter (hereinafter “the representatives”).

6. The communication of May 12, 2009, whereby the representatives referred to the urgent measures ordered by the President (*supra* Having Seen 1).

7. The note of the Secretariat of the Court (hereinafter “the Secretariat”) of May 18, 2009, whereby, pursuant to the President’s instructions, it informed the parties that the urgent measures would be processed under the name Matter of *Pérez Torres et al.* (“*Campo Algodonero*”).

CONSIDERING:

1. That Mexico is a State Party to the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”) since March 24, 1981, and that it accepted the contentious jurisdiction of the Court on December 16, 1998.

2. That Article 63(2) of the American Convention establishes that “[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons,” the Court may “adopt such provisional measures as it deems pertinent in matters it has under consideration.”

3. That, under the terms of Article 26 of the Court’s Rules of Procedure (hereinafter “the Rules of Procedure”),

1. At any stage of the proceeding involving cases of extreme gravity and urgency and when necessary to avoid irreparable damages to persons, the Court may, at the request of a party or on its own motion, order whatever provisional measures it deems appropriate, pursuant to Article 63(2) of the Convention.

[...]

4. That Article 1(1) of the Convention establishes the general obligations of the States Parties to respect the rights and freedoms recognized therein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, not only in relation to the State but also in relation to acts by private third parties.²

5. That the Court indicated that provisional measures may be precautionary or protective.³ The protective character of provisional measures is linked to the

² Cf. *Case of Velásquez Rodríguez*. Provisional Measures regarding Honduras. Order of the Court of January 15, 1988, considering clause three; *Matter of Carlos Nieto Palma et al.* Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of January 26, 2009, considering clause 22, and *Matter of Fernández Ortega*. Provisional Measures regarding Mexico. Order of the Court of April 30, 2009, considering clause four.

³ Cf. *Case of Herrera Ulloa*. Provisional Measures regarding Costa Rica. Order of the Court of September 7, 2001, considering clause four; *Case of López Álvarez et al.* Provisional Measures regarding Honduras. Order of the Court of January 26, 2009, considering clause three, and *Matter of Fernández Ortega et al.*, *supra* note 2, considering clause five.

framework of international contentious cases. In that sense, measures are aimed at preserving the rights which are potentially at risk until the controversy is resolved. Their objective is to ensure the integrity and effectiveness of the merit decision, so as to prevent infringement of the rights under litigation, situation which could render innocuous or distort the effective application of the final decision. The provisional measures allow for the State in question to comply with the final decision, and to proceed with the reparations ordered when applicable.⁴ Regarding the precautionary character of the provisional measures, the Court has indicated that provisional measures become a true preventive jurisdictional guarantee as they protect human rights insofar as they seek to prevent irreparable damage to persons.⁵

6. That the stipulation set forth in Article 63(2) of the Convention grants a compulsory character to the State's adoption of the provisional measures ordered by this Court, given that the basic principle of law on the responsibility of the State, supported by international jurisprudence, indicates the States must comply with their conventional obligations in good faith (*pacta sunt servanda*).⁶

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7. That the representatives submitted information on the "elements which [...] place [Ms. Pérez Torres] in constant risk for her life and integrity, as well as that of her family, because of the job she has held during the past ten years and the type of information that she has, which has been published in relation to disappearances and homicides of women in Ciudad Juárez, including the case of Campo [A]lgodonero." The representatives' brief is divided into four sections, namely: 1) "information that has been published locally regarding violence against women in Ciudad Juárez," 2) "basic elements on the current public safety situation," 3) "the main damages to the life and personal integrity of the individuals involved in the complaint and request for justice regarding the disappearances and homicides of women," and 4) "the need for urgent and provisional measures to protect her life and personal integrity, as well as that of their family."

8. That regarding the first point, the representatives indicated that the information published in Ciudad Juárez on violence against women "was basically the official version of the Government of Chihuahua." According to the representatives, in 1999 Ms. Pérez Torres was hired by the "El Norte" newspaper of Ciudad Juárez, which had decided to change its editorial approach to the cases of disappearance and

⁴ Cf. *Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center*. Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, considering clause seven. *Matter of "El Nacional" and "Así es la Noticia" Newspapers*. Provisional measures regarding Venezuela. Order of the Court of November 25, 2008, considering clause twenty-three, and *Matter of Luis Uzcátegui*. Provisional Measures regarding Venezuela. Order of the Court of January 27, 2009, considering clause nineteen.

⁵ Cf. *Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center*, *supra* note 4, considering clause eight; *Case of Bámaca Velásquez*. Provisional measures regarding Guatemala. Order of the Court of January 27, 2009, considering clause 45, and *Matter of Fernández Ortega et al.*, *supra* note 2, considering clause five.

⁶ Cf. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of June 14, 1998, considering clause six; *Matter of Pueblo Indígena Kankuamo*. Provisional Measures regarding Colombia. Order of the Court of April 3, 2009, considering clause five, and *Matter of Fernández Ortega*, *supra* note 2, considering clause six.

homicides of women, and she was assigned coverage of this subject. It was indicated that until she was dismissed, in 2005, Ms. Pérez Torres' publications "entailed looking for the versions of the victims' families," and "[t]he trust earned from the mothers [...] allowed her to know in greater detail the actions of the authorities in the investigations." Likewise, the publication of this information resulted in that "the authorities [...] began making access to information and interviews more difficult" for Ms. Pérez Torres. Finally, they indicated that currently the State's official version "was formalized through the campaign 'let's clean up Juárez'," which aims to "clean the city's image which [was] considered[...] stained by the myth of femicide."

9. That with regards to the second point, the violent situation in Ciudad Juárez, the representatives described the violence and crime recorded in the city during the last ten years and, particularly, how it has changed during the last two years. According to the representatives, the presence of the Mexican Army in Ciudad Juárez "has meant an attack against civil society, committing all types of human rights violations [...], cases which have been documented by journalists." They concluded that "the risk factors for the life and integrity of journalist Pérez Torres potentially increase given that there is an environment more fitting for impunity and for exercising power over people who are already in vulnerable situations."

10. That with regards to the third point, the damages to the life and personal integrity of the people involved in the complaint and the request for justice regarding the disappearances and homicides of women in Ciudad Juárez, the representatives provided information on several people associated with the case of Campo Algodonero who have allegedly been murdered. Specifically, they indicated that, "[as] of 2008 the work conditions for journalists in Ciudad Juárez have become high risk for their life and integrity to such an extent that Journalists Without Border[s] urged Canada and the United States to be more sensitive to the asylum requests from journalists." They added that "the threats against journalists have reached the point where soldiers threaten reporters by putting them in their rifles' view." They also mentioned the case of a reporter who worked with Mr. Alejandro Quintero, Ms. Pérez Torres' husband, who was murdered on November 13, 2008, and three reporters who sought refuge in the United States and Canada. Finally, they indicated that two Mexican civil society organizations (*Article 19* and the National Center for Social Communication) have recorded Chihuahua as one of the states with higher risk for journalists.

11. That regarding the risks of damages to the life and irreparable damages to the personal integrity of Ms. Pérez Torres and her family, the representatives indicated that "the first threats began [a]fter an article was published in 2000." Specifically, they detailed the following facts:

- a) "A constant method was monitoring her, as well as manifestations that they followed her actions and environment. For example, one of the agents responsible for following up on the investigation on disappeared women waited for her in broad daylight, at approximately 3:00 p.m., outside of the newspaper's offices until she came out, and he started to focus and record her with a camera, without attempting to hide or avoid being seen by her. Afterwards, he got in a compact red car with no plates and left at full speed;"
- b) "After covering the facts of the homicides of eight women in Campo [A]lgodonero, the threats became more direct. She received messages

warning her of her integrity and life, always mixed with insults, and in other occasions they identified themselves as serial killers of women;"

c) "The threats intensified and she began to worry more when her mother received several phone calls from unknown individuals who asked personal information about her daughter [...]. They never agreed to identify themselves, and only said that they were calling from a magazine or a company which after investigating were confirmed not to exist."

d) "During this time the car chases began. For example, one day after leaving the newspaper [...] a truck began following her, after a while it blocked her way home, and then left some minutes later;"

e) "The threats at work began after that. [O]n February 17, 2003 the remains of three other victims were found [...] in [...] 'Cristo Negro hill' [...]. After trying to go up a hillock to see better, one of the agents chased her and violently forced her to leave, although she was in an area outside of that enclosed by the police;"

f) "When she stopped working at Norte Newspaper, [...] "[she h]ad several job offers, but all were rejected with the argument that she was responsible for staining the city's image;"

g) "The magnitude of the governmental campaign [...] has produced rejection and a permanent risk for people who have denounced and documented this violence" and Ms. Pérez Torres "has been identified as one of the main individuals who documented and established records of the facts of violence against women committed by the authorities."

h) "This risk [is] present for all members of her immediate family, including her mother" and "has led to the decision that her oldest daughter, 13 years old, stop attending high school, as they do not have the minimum safety guarantees." Specifically, "[w]hile [Ms.] Pérez Torres still worked for the El Norte newspaper, people who were not from that educational institution would situate themselves outside and try to get her daughter to approach them," and

i) "Her husband's situation, Alejandro Quintero, is extremely worrisome, since he is also a journalist," and "his safety has also been affected." Specifically, at his newspaper "he was left out from the group of people who obtained a car for safer and more efficient transport, which were given mainly to those who have written and disseminated the premises of the campaign to clean the image of Ciudad Juárez with regards to femicide" and "two months ago [...] he quit his job, given that neither the media [...] nor the local authorities provided the minimum safety guarantees for his work."

12. That in view of the foregoing the representatives concluded that "the risk situation is not sustainable for the whole Quintero Pérez family" and "that the main way to ensure their safety is for them to leave Ciudad Juárez and stay away from public security bodies." They added two specific context situations which increase the climate of risk against their life and integrity: "the militarization of Ciudad Juárez

which specifically affects journalists” and the “testimony [of Ms. Pérez Torres] before [the] Court which places in the public eye again [...] her work and her knowledge of the subject.”

13. That in addition, the representatives indicated that because of the media campaign “which places the stigma of enemies of the city on those who demand justice, and threatens them in a subtle manner,” one of the main actions that can guarantee the safety of Ms. Pérez Torres and her family “is the creation of spaces that provide more information, beyond the official version and campaign for cleaning the image of Ciudad Juárez.” Specifically, the representatives suggested that “in the federal government’s official and paid spaces in the local media, insert sections or spreads of information related to this subject and on women’s rights, with content approved by journalist Pérez Torres” so as to counteract “the lack of information and hostility and constant threat against those who have and act on other types of information and opinion,” as well as “the dissemination of discriminatory phrases and media actions against women, which create stereotypes of subordination and violence against women.”

14. That on the other hand, due to the “fear of public security authorities from any level of government, because of how they have handled the investigations of disappearances and homicides of women as well as the investigations and intervention in the threats and murders of people associated to those cases,” the representatives considered that “one of the best ways to guarantee [Ms. Pérez Torres’] life, her integrity, and that of her family, is through the protection that the State can provide by creating a fund, which could be managed as a trust, that allows the money to be used to pay for personal security through security organizations which she trusts.” They added that “[t]his same fund can provide the money necessary for her to move with her family to places where she has better safety guarantees.”

15. That in the private meeting and public hearing held in Santiago, Chile (*supra* Having Seen 2 and 3), the State expressed that it has maximum interest in the protection of all of the people who may be in a risk situation and indicated its commitment to the protective measures in this case.

16. That the State reported that it summoned Ms. Pérez Torres, her family and representatives to a meeting with the institutions of the Mexican government involved, and presented the minutes of that meeting, held on May 8, 2009, which contain the following:

- a) that “[t]he petitioners will file a complaint as soon as possible, upon agreement by the beneficiary of the measures, because of the facts generated by the request for the [...] measures;”
- b) that “[t]he petitioners express that the beneficiary is not interested in having the public security bodies, either municipal, state or federal, provide the protective measures [and] prefers that it be an international organization;”
- c) that “the representatives [...] expressed that they began talks with [one] NGO” and “they pledge to immediately inform the Secretary of the Interior of the result of those talks;”

d) that with regards to the possibility that the State publish objective information (*supra* Considering 13), the State “takes cognizance of this [...] with the goal of analyzing an alternative solution to this request [and a]dditionally offers a risk evaluation on the beneficiary’ specific situation, to be performed by the Office of the Attorney for Justice of the State of Chihuahua, once the complaint is filed;”

e) that “[t]he State [...] and the representatives [...] in the event of a risk situation will meet to establish the measures for a potential move in the [Mexican] interior,” and

f) that “[t]he State [...] offers the representatives of the beneficiary a cell phone with credit, to guarantee the life and security of the beneficiaries of the measures.”

17. That the representatives indicated that in the aforementioned meeting “it was not possible to reach definite agreements on the implementation of [the] proposals [which they presented], because they did not match the measures that the State was prepared to offer,” which mainly consisted in “providing [...] public security officers [...], and a cell phone for emergency calls to regular security numbers.” Regarding the first point, the representatives reiterated that “due to the conditions of the case and the local situation, it is not possible to consider personal security belonging to the public safety bodies” and on the second point they indicated that these are “[o]ffers that are present but do not respond to the urgent needs, and may be implemented without delay to effectively guarantee that there will not be any irreparable damages to her life and integrity.”

18. That additionally, with regards to the specific proposals presented by the representatives during the meeting, they indicated that the State’s response “was the request [...] to file the complaint before the national system for the delivery of justice,” and that it was also agreed that the representatives “would look for private security options and a new meeting would be held.” Regarding the State’s proposal to obtain “an expert’s report on the risk of [Ms. Pérez Torres] in order to determine the risk, from its point of view, in an objective manner,” the representatives indicated that this assessment would be performed by the Victims Attention Unit of the Office of the Attorney for Justice of the State of Chihuahua, and that in this Unit “there are employees in different positions whom journalist Pérez Torres interviewed during her journalism work [...] and that they had been hostile to her work since that moment.”

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19. That Article 63(2) of the Convention demands that for the Court to be able to establish provisional measures three conditions must be met: i) “extreme gravity”; ii) “urgency,” and iii) the goal of “preventing irreparable damages to persons” (*supra* Considering **¡Error! No se encuentra el origen de la referencia.**). These three conditions are coexisting and must be present in all situations in which Court intervention is requested. Likewise, the three conditions described must persist for the Court to maintain the ordained protection. If one of them is no longer valid, the

Court will be responsible for assessing the adequacy of maintaining the ordained protection.

20. That by delivering the protective measures the Court or whoever presides it does not require, in principle, evidence of the facts, which *prima facie* seem to comply with the requirements of Article 63 of the Convention. On the contrary, the need to maintain the protective measures calls for an evaluation by the Court regarding the persistence of the situation of extreme gravity and urgency to avoid irreparable damage that gave rise to those measures,⁷ based on evidence.

21. That in April 2009 the Court was informed of alleged acts of threats and intimidations against Ms. Pérez Torres. Consequently, the President assessed *prima facie* (*supra* Considering 20) the existence of a situation with characteristics of extreme gravity and urgency that justified the adoption of urgent protective measures to avoid irreparable damage to her and to her family (*supra* Having Seen 1).

22. That the Court takes notice that in the instant matter the State has manifested its commitment to maintaining the protective measures (*supra* Considering 15).

23. That the Court, as it has done previously,⁸ takes into account the agreement between the parties and decides to ratify the order of the President in the Order of April 24, 2009 (*supra* Having Seen 1), in the sense that Mexico must maintain protective measures in favor of Ms. Rosa Isela Pérez Torres and her family.

24. That taking into consideration the will demonstrated by the State (*supra* Considering 15 and 16.d), the Court deems appropriate to request that, within the term established in the operative section of the instant Order, the State submit a report in which it: a) identifies and establishes differences in degree of the risk on Ms. Rosa Isela Pérez Torres and her family, identified by her; b) carefully assess each individual situation, the existence, characteristics, and origin or source of the risk, and c) timely define the specific, adequate, and sufficient measures and means of protection to prevent the risk, if existent, from materializing. To that purpose, the beneficiary and her family must fully collaborate with the State and facilitate the making of this report.

25. That in view of what the representatives expressed regarding the risk assessment which the State offered to perform (*supra* Considering 16.d), specifically that it would be performed by a Unit of the Office of the Attorney for Justice which had employees that "had been hostile" to Ms. Perez Torres' work (*supra* Considering 18), the Court considers that the State must include other institutions in the creation of the report requested in the previous paragraph, so that the report can be as objective as possible. Likewise, it reiterates to the representatives that the beneficiary and her family's collaboration in the making of this report will be

⁷ Cf. *Matter of Pueblo Indígena Kankuamo*, *supra* note 6, Considering seven, and *Case of Mack Chang et al.* Provisional Measures regarding Guatemala. Order of the Court of January 26, 2009, Considering 32.

⁸ Cf. *Case of the Gómez Paquiyauri Brothers*. Provisional Measures regarding Peru. Order of the Court of May 3, 2008, considering seventeen.

essential to determine its usefulness. Finally, the Court clarifies that the State must write this report independently from the filing of the complaint by the beneficiary.

26. That once the aforementioned report is received (*supra* Considering 24), the Commission and the representatives will be able to submit their observations, within the term established in the operative section of this Order.

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27. That finally, regarding the President's instructions that her Order of April 24, 2009 be kept confidential (*supra* Having Seen 1 (6)), the Court takes notice that in the private meeting held in Santiago, Chile (*supra* Having Seen 2), the representatives of the alleged victims in the case of *González et al. ("Campo Algodonero") vs. Mexico*, who originally filed before the Court the request for provisional measures in favor of Ms. Pérez Torres, removed her request for confidentiality. Additionally, the Court observes that the current representatives of the beneficiaries of the measures have not pronounced themselves on this. Consequently, the Court does not consider it necessary to analyze this point and clarifies that the instant Order will be public, in conformity with the Court's constant practice.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by virtue of the authority granted by Article 63(2) of the American Convention on Human Rights and Articles 26 and 30 of the Rules of Procedure,

DECIDES:

1. To ratify the Order of the President of the Inter-American Court of Human Rights of April 24, 2009.
2. To call upon the State to maintain the measures it may have adopted, and to adopt forthwith the measures necessary to protect the life and integrity of Rosa Isela Pérez Torres and her immediate next of kin.
3. To require the State to submit to the Court the report indicated in Considering paragraphs 24 and 25 of this Order, no later than August 28, 2009.
4. To request that the representatives of the beneficiaries and the Inter-American Commission submit their observations on the report mentioned in the

previous operative paragraph four weeks from the date of its receipt. The observations of both parties are independent from each other.

5. To call upon the State to continue allowing the beneficiaries to participate in the planning and implementation of the protective measures and, in general, to keep them informed on the progress of the measures.

6. To request the Secretariat to serve notice of this Order to the State, the Inter-American Commission, and the representatives of the beneficiaries.

Cecilia Medina Quiroga
President

Diego García-Sayán

Manuel Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary