

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 22, 2011**

**PROVISIONAL MEASURES
REGARDING HONDURAS**

MATTER OF JOSÉ LUÍS GALDÁMEZ ÁLVAREZ *ET AL.*

HAVING SEEN:

1. The brief of the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") of December 6, 2010 and its annexes, whereby it submitted to the Inter-American Court of Human Rights (hereinafter, the "Inter-American Court," the "Court," or the "Tribunal") a request for provisional measures, pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter, the "American Convention" or the "Convention") and 27 of the Court's Rules of Procedure (hereinafter, the "Rules of Procedure"), asking for the Republic of Honduras (hereinafter, the "State" or "Honduras") to be ordered to protect the life, personal integrity, and freedom of expression of José Luís Galdámez Álvarez, a journalist and Director of the *Radio Globo* program "After the truth" ("*Tras la verdad*") and beneficiary of precautionary measures 196/09 (Honduras), as well as for his partner, Wendy Orellana Molina, his children - Pedro Luís, José Luís, Marlon Josué, and Ramón Israel, all of whom use the last name Galdámez - and his two minor children. The Commission requested that the identities of the latter two children be kept confidential.

2. The facts on which, according to the Commission, the request for provisional measures is based:

- a) After the coup d'état of June 28, 2009, the Commission published a report on January 20, 2010, in which it highlighted that the work of journalists in Honduras, including that of Mr. Galdámez Álvarez, was being affected by threats and other forms of intimidation. The report also referred to the "ineffectiveness of juridical recourses for the protection of human rights;"
- b) On June 28, 2009, in the context of the coup d'état, the Commission ordered precautionary measures 196/09 in order to "safeguard the life and personal integrity of the Minister of Foreign Affairs of [...] Honduras, Ms. Patricia Rodas." The lives and personal integrity of numerous people who were or still are in a

situation of serious and urgent danger as a consequence of the coup d'état were protected through the broadening of the those precautionary measures;

- c) On July 21, 2009, the Commission received information regarding threats and harassment suffered by various persons, including Mr. Luís Galdámez Álvarez. In that regard, Mr. Galdámez's representatives indicated that he is a journalist and director of the Radio Globo program "After the truth" ("*Tras la verdad*"), and that he had expressed support for President Zelaya and was against the coup d'état in Honduras. They also indicated that Mr. Galdámez was subjected to intimidation, surveillance at his home, and threats with firearms to get him to withdraw his political views. Based on these facts, the Commission decided to broaden precautionary measures 196/09 on July 24, 2009, to the benefit of a number of people and requested the adoption of the measures necessary to ensure the life and personal integrity of José Luís Galdámez Álvarez;
- d) After an *in loco* visit to Honduras carried out from May 15 to 28, 2010, the Commission indicated in its preliminary comments that "the State's efforts to implement the precautionary measures have been scarce, delayed, inadequate, and in some cases, null;"
- e) On September 9, 2010, the Secretariat of Foreign Affairs submitted information indicating that Mr. Galdámez and his representatives had reached a consensus on the measures of protection. Nevertheless, on September 17, the Commission received information that alleged the lack of effective fulfillment of the precautionary measures ordered;
- f) On October 21, 2010, the representatives submitted information regarding the alleged persistence of acts of harassment, persecution, and threats against Mr. Galdámez Álvarez and his family; the lack of implementation of precautionary and other measures to prevent the repetition of the events that led to the ordering of precautionary measures; and the need to request provisional measures to the benefit of the journalist, his partner, and his children. In particular, the Commission was informed of the following facts:
 - i. In July 2009, Mr. Galdámez visited former president Zelaya Rosales during his stay in Nicaragua and did a series of reports for Radio Globo. Mr. Galdámez returned to Honduras during the second week of August 2009 and as of the 19th of that month started to receive text messages on his cellular phone containing death threats;¹
 - ii. At the beginning of September 2009, around noon, two unknown persons driving a green car parked near Mr. Galdámez's house, approached José Luís and Marlon Galdámez with a gun, threatened them, and told them to tell their father that he better shut up. The two young men ran from the place and then watched the men as they fled

¹ According to the representatives of the proposed beneficiaries, the threats received contained messages such as the following: "We are going to kill you dog, you are going to end up with yellow feet in a ditch, we are going to cut off your tongue so you don't talk such shit, now it's your turn you piece of garbage, you're going to see what's good for you, we are watching you, we know where you live, where your children go to school and at any moment you will receive a surprise that will leave you cold and stinking. We're going to cut you to pieces you dog [*sic*]."

in their car. These facts were reported to the Human Rights Public Prosecutor's Office in Tegucigalpa;

iii. On September 21, 2009, Mr. Galdámez Álvarez entered the Brazilian Embassy in order to cover the arrival of former president Zelaya and "got trapped in the Embassy[. H]e decided to broadcast [from there] for Radios Globo [*sic*] and other media." During that period, Mr. Galdámez received phone calls from blocked numbers that repeated the warning, "shut up or die;"

iv. As of December 21, 2009, when Mr. Galdámez was able to leave the Brazilian Embassy, two vehicles began to follow him, one green with an extended cab and the other white with an extended cab. The latter also surveilled his house;

v. During 2010, Mr. Galdámez received numerous text messages, insults, and threats from identifiable cellular phone numbers. The day after the death of journalist David Meza, which occurred on March 11, 2010, Mr. Galdámez received a message saying, "You are next;"

vi. On September 14, 2010, Mr. Galdámez was returning home with his son Ramón Israel at 11:30 p.m. after finishing his news program on Canal Globo when three people approached him and fired repeatedly. Mr. Galdámez was armed and was able to repel the attack. The attackers fled in a green Honda Accord with tinted glass and no license plates. Mr. Galdámez twice communicated with the police spokesman to describe what happened and request his presence. Nevertheless, it took about two hours after the incident for two police officers to show up. The police officers left the scene without collecting evidence or carrying out any investigation whatsoever and indicated that "his case was not a priority." On September 16, 2010, two police officers went to Mr. Galdámez's house to check the area and only found one 40 mm bullet. To date, Mr. Galdámez is not aware of the results of those investigations; and

vii. On 12 October 2010, Mr. Galdámez covered events related to the presence of a businessman and president of the National Industrial Association (ANDI in its Spanish acronym) at the Presidential House. After Mr. Galdámez asked a few questions, the interviewee tried to attack him. According to statements the representatives made to the Commission, these events placed Mr. Galdámez in a highly vulnerable position given the accusations that existed against that person of having ties with the coup d'état and the current President; and

- g) On November 2, 2010, the Secretariat of Foreign Affairs announced that on September 24, 2010, a meeting was held in which the following measures of protection in favor of the possible beneficiaries were agreed upon: i) patrolling at established times around his house and work, including protection for his children and partner; ii) the creation of a budgetary fund to hire private and permanent personal security; and iii) periodic meetings that can be requested by Mr. Galdámez in writing and immediately in the event of an emergency.

3. The arguments of the Commission on which its request for provisional measures is based, namely:

- a) "The situation of extreme gravity and urgency required by Article 63(2) of the American Convention for the Court to order provisional measures has been verified in this case based on the series of threats, attacks, and accusations against Mr. Galdámez and his family members and the consistency of acts of persecution, intimidation, and harassment against him;"
- b) The acts of harassment that Mr. Galdámez and his family members have been subjected to - presumably in retaliation for his work as a journalist and his critical views of the current government - are extremely grave. During the period when the precautionary measures granted by the Commission have been in force, and in spite of those measures, the proposed beneficiary and his family have continued to be subjected to harassment and threats that were carried out in September of 2010 when some of the proposed beneficiaries were attacked with a firearm. The harassment and threats have increased in recent months. Furthermore, a situation of extreme gravity has been established given: i) the context of intimidation, threats, and persecution of journalists who have criticized the government since the coup d'état in Honduras; ii) several of the acts of harassment and threats described by the representatives show that their perpetrators have knowledge of the locations of Mr. Galdámez's home and work and follow and monitor his and his children's activities; iii) the attack on Mr. Galdámez and his son with a firearm reflects a grave threat to "his life, personal integrity, and freedom of expression, not only because of the attack in itself, [...] but also because of the intimidating messages that he has repeatedly received;" and iv) there is a lack of information regarding the investigations into the events that gave rise to the precautionary measures;
- c) The nature of the rights threatened - that is, the right to life and personal integrity of all of the proposed beneficiaries and the right to freedom of expression of journalist Galdámez, along with his ability to continue his work in journalism - constitute the irreparability of consequences that this request for provisional measures seeks to avoid;
- d) The facts presented suggest that the risk of damage to the detriment of the proposed beneficiaries is imminent. The State has not adopted the measures necessary to protect the life and personal integrity of Mr. Galdámez and his family, nor to protect Mr. Galdámez' freedom of expression. The State has been aware of the events that led to the broadening of the precautionary measures in favor of Mr. Galdámez since at least July of 2009. The threats and harassment have been reported to the State, and at least one incident has been reported to the Public Prosecutor's Office (*supra* Having Seen 2.f.ii). Nevertheless, there is no information on any cases undertaken to clear up the events reported. This may result in the repetition and intensification of the threats. The continuation of the threats allows for the assumption that the precautionary measures ordered by the Commission have not had any effect even though the State reported that an agreed-upon system of protection for the beneficiary had been set up. Apparently, the factors of risk which gave rise to the precautionary measures have not been neutralized, presumably resulting in an aggravation of the proposed beneficiaries' situation of risk.

4. The Commission's request that the Court order the State to do the following, based on Article 63(2) of the American Convention and Article 27 of the Rules of Procedure of the Court:

- a) Implement provisional measures to the benefit of Mr. Galdámez, his partner, and his children in order to protect their lives, personal integrity, and freedom of expression;
- b) "[a]dopt, without delay, all the measures necessary to guarantee the right to life and personal integrity of Mr. Galdámez and his family, as well as the freedom of expression of the journalist";
- c) "[a]dopt all the measures necessary to provide Mr. Galdámez and his family with protection around the perimeter of their residence";
- d) "[c]onduct an investigation into the alleged facts that gave rise to the request for provisional measures as a mechanism to prevent new threats from being made and to remove the factors of risk faced by the proposed beneficiaries";
- e) "[r]each an agreement with the proposed beneficiaries and their representatives regarding the most appropriate mechanisms for the implementation of the measures of protection so as to ensure their effectiveness and suitability"; and
- f) "[r]eport on the measures adopted pursuant to the foregoing paragraphs."

5. The Secretariat's note of December 9, 2010, whereby, following the instructions of the President of the Court and in accordance with Article 27(5) of the Rules of Procedure, the Secretariat asked the State to submit any comments it considered pertinent regarding this request for provisional measures by December 15, 2010, at the latest. In particular, it asked the State to provide a detailed statement regarding the measures mentioned in paragraph 21 of the request (*supra* Having Seen 1).

6. The brief of December 15, 2010, and its appendices in which the State indicated that:

- a) On August 20, 2010, in the facilities of the Crisis Room of the National Police of the city of Tegucigalpa, a meeting was held with Mr. José Luís Galdámez Álvarez and his representatives in which an agreement was reached regarding the precautionary measures of protection. The parties agreed upon car or motorcycle patrols at the beneficiaries' work and place of residence, as well as telephone communication with a direct line to the Police. Records of that meeting show that Mr. Galdámez "was to contact the police to give them his home and/or work address and schedule." However, he never gave the police "the address of his house [...] or his schedule," and thus the precautionary measure was not implemented "at that time;"
- b) On 24 September 2010, a meeting was held by the Human Rights Unit in Tegucigalpa with the purpose of monitoring and broadening the precautionary measure protecting José Luís Galdámez Álvarez's life and personal integrity. However, because the proposed beneficiary went to this meeting with a different representative, the State "[does] not know who [his] real representatives are."

This “obstructs police work, since it is not clear who the police must communicate with in order to carry out the monitoring necessary to fulfill the precautionary measure granted.” For that reason, it asserted that the possible beneficiary had to clarify this situation;

- c) Nevertheless, at the meeting the State agreed to increase the patrols to three times a day for Mr. Galdámez’s children and partner. These patrols “are being carried out” and “in order to have an effective result, a logbook was created to register the visits or any news at Radio Globo” and at the family home. However, the State indicated that, “unfortunately, the police officers in charge of executing [the patrols] have experienced difficulties, as the [possible] beneficiary and his immediate family did [not] want to sign the logbook prepared for that purpose, saying that they would not sign it until they received complete personal security, [that is], the assignment of permanent police escort.” The State argued that these “statements [...] are inconsistent, since the [possible] beneficiary rejected the permanent police escorts” offered by the National Police and requested the establishment of a budgetary fund for the hiring of private and permanent security.” Furthermore, it indicated that Mr. Galdámez demanded that the funds be provided by the Secretariat of State in the Security Office; however, he never submitted his request to this entity;
- d) Mr. Galdámez has shown “reluctance to collaborate with the police officers in charge of carrying out the patrols, as they have received [...] poor treatment” on his part; and
- e) “the Human Rights Unit [...] initiated [*ex officio*] investigations [into the attack suffered by the possible beneficiary] on September 16, [2010], responding almost immediately, [and] even putting itself at the disposal of the [possible] beneficiary and offering him all the necessary collaboration, both for the investigation and for his personal protection [...].” These investigations have been carried out “as a priority [...], to the point that they have almost concluded, arriving at positive results, such as the identification of the possible suspects and the location of the vehicle that the suspects used when committing the criminal act [...].”

7. The request for provisional measures was submitted by the Inter-American Commission while the Court was not in session. In accordance with Article 27(6) of the Rules of Procedure, under those circumstances the President can order the State to take the urgent measures necessary to ensure the efficacy of the provisional measures that the Court may later order during its next period of sessions. Based on this authority, through the Order of December 22, 2010 (hereinafter “the President’s Order”), the President decided to:

- 1. Require the State to adopt, without delay, effective measures necessary to guarantee the life and personal integrity of Mr. José Luís Galdámez Álvarez, his partner, Wendy Orellana Molina, and his children, Pedro Luís, José Luís, Marlon Josué, Ramón Israel, and two other minor children, all of whom have the last name Galdámez.
- 2. Request the State to present, by December 10, 2011, at the latest, a report regarding the measures adopted in fulfillment of the [...] Order, and to request the representatives of the beneficiaries and the Inter-American Commission on Human Rights to present their observations on the report within two and four weeks, respectively, as of the date notice of the State report was served.

3. Require the State to continue reporting to the Inter-American Court of Human Rights regarding the provisional measures adopted in conformity with th[at] decision every two months, starting on January 10, 2011.

4. Request the representatives of the beneficiaries of the present measures and the Inter-American Commission on Human Rights to present their observations within four and six weeks, respectively, as of the dates on which notice of the reports of the State indicated in the previous operative paragraph is served.

[...]

8. The brief of January 10, 2011, and its appendices, in which the State indicated that:

- a) It had called an urgent meeting to be held on December 29, 2010, in which several members of the Human Rights Unit of the Secretariat of Security and a Human Rights Prosecutor were to attend along with the beneficiary and his representatives, "with the purpose of monitoring the precautionary measures ordered by the Inter-American Commission[...]." "Unfortunately, the beneficiary and his representatives did not attend the meeting even though they were duly summoned by the Special Public Prosecutor of Human Rights." Regarding this, the State sent the Court an "official registry of failure to appear;"
- b) "It reiterates its commitment to continuing with the measures of protection ordered for the beneficiary and his family, but his and his representatives' failure to appear obstructs the work carried out by the National Police in the fulfillment of the mandate of the IACHR." Likewise, it indicated that the beneficiary "gives the impression that he has no interest whatsoever in receiving the Police protection requested by [the] Tribunal";
- c) The investigation of the attack suffered by the beneficiary on September 14, 2010, has been a "priority," and one of the objectives of the meeting of December 29, 2010, was to "coordinate the execution of several investigation proceedings with the beneficiary, who as a victim is the principal source of the investigation." It also presented a document indicating the "investigations carried out;"
- d) "It reiterates what was stated in the note sent to the Court on 15 December 2010, and manifests that it is still fulfilling the precautionary measures implemented for the beneficiary and his family;" and
- e) It will again call a meeting with the beneficiary and his representatives "in order to coordinate the provisional measures that will be applied to safeguard the lives and physical integrity of he and those in his immediate family."

9. The brief of February 7, 2011, and the appendix received on February 8, 2011, in which the representatives of the beneficiaries presented their observations to the State report of January 10, 2011 (*supra* Having Seen 8). The representatives indicated the following:

- a) "Mr. Galdámez was never called for the [...] meeting [... of December 29. 2010;] neither were his representatives, [...] since they were on vacation" on that date, so they did not receive any notification;

- b) "The State's comments regarding the alleged obstruction of the police work for failing to appear at a meeting of which [Mr. Galdámez] was not informed demonstrates bad faith and contributes nothing toward effectively protecting the beneficiary and his family;"
 - c) On January 19, 2011, another meeting was held to "again reach an agreement on the measures of protection to the benefit of Mr. José Luís Galdámez and his family." Mr. Galdámez, his representatives, and State officials with the Human Rights Unit of the Secretariat of Security, the National Police of Honduras, and the National Office of Criminal Investigation participated in the meeting. During the meeting, Mr. Galdámez "emphasized the failure to execute the security measures that had been agreed upon in the meeting held on September 24, 2010, [and] reiterated the need for funds to pay for private security." State authorities "proposed the appointment of a police official at his house [...] for the protection of [...] Wendy Waleska Orellana and Mr. Galdámez's children from 6:00 to 22:00, seven days a week, as well as the implementation of the patrols previously agreed upon and the setting up of a direct telephone line to the Chief of Police of District 1-3 and District 1-2." Mr. Galdámez and his representatives accepted these proposals pending a response from the Secretary of Security regarding the hiring of private security;
 - d) At present "a police officer is stationed in front of [the] house [...] of [Mr. Galdámez]" and a "patrol car appears in the morning whose purpose is to escort the beneficiary from his house to work; however, there is a lack of compliance regarding the nighttime patrol, as it has been carried out only sporadically." The effective implementation of this patrol during "the evening hours is vital to protecting Mr. Galdámez' life and personal integrity, as it is a time when the risk faced by the beneficiary increases; [indeed,] the attack suffered by the beneficiary on September 14 took place late at night"; and
 - e) "The progress in the investigation into the facts that gave rise to the measures [...] is perhaps the factor that most clearly allows for an effective evaluation of the risk to which the beneficiaries of the precautionary measures are subjected." Though the State described some of the steps taken to investigate the "attack suffered by Mr. Galdámez on September 14, 2010, they do not indicate the existence of any progress toward establishing the identities of those responsible; thus, the risk of the beneficiaries suffering other incidents impacting their lives and personal integrity is permanent and serious." The report submitted by the State "does not evaluate the particularities of the events, nor of the circumstances and the context of risk in which Mr. Galdámez and his family find themselves."
10. The brief of February 9, 2011 and its appendices in which the State indicated that:
- a) On January 19, 2011, a meeting was held at which the following people were present: Mr. José Luís Galdámez, two of his representatives, and eight State officials from the Human Rights Unit of the Secretariat of Security, the National Police of Honduras, and the Office of the Special Public Prosecutor of Human Rights;
 - b) In that meeting Mr. Galdámez stated that "The security measures agreed upon in [the] meeting [held on September 24, 2010] are not being implemented, and consequently[,] the Inter-American Court [...] issued an Order on [...]December

22, 2010[,] [telling the State to] adopt all necessary and effective measures to guarantee [my] life and personal integrity as a beneficiary, along with that of [my] family”;

- c) Mr. Galdámez and his representatives “agreed to repeat the request for funding to hiring personal security,” and while “that petition was being resolved,” they requested that the provisional measures be implemented as follows: “The appointment of a police official with a fixed shift from 06:00 to 22:00, seven days a week at his home and the carrying out of the patrols agreed upon previously, [...] which would be daily between 6:00 am and 8:00 am; 12:00 to 2:30; and 7 p.m. to 9:00 p.m.; [and the establishment] of a direct telephone line connected to the Chief of Police District 1-3 [...], with the number [...] and the Chief of Police District 1-2 [...] with the number [...], so that the beneficiary and his immediate family may receive assistance in case of emergency or whenever [the beneficiaries deem] it necessary;
- d) The National Police stated that “it accepted the beneficiary’s requests and committed itself to granting that protection in the manner indicated.” In order to “leave a record” showing that they would effectively and immediately fulfill everything that was agreed upon, two members of the National Police went to “the beneficiary’s house with the purpose of improving the protective mechanism agreed upon” and committed themselves to “delivering a photostatic copy of the roles containing the names of those who are going to carry out the police service [...] agreed upon”;
- e) “Monthly [...] meetings shall be held, as agreed upon initially, in order to have an effective result regarding the implementation of provisional measures. To that effect, [an agent from the Human Rights Unit of the Secretariat of Security and an agent from the National Office of Criminal Investigation] will be in charge of monitoring and following this case”; and
- f) An agent from the National Office of Criminal Investigation was committed to “prioritizing the investigation of the facts that gave rise to the provisional measures.”

11. The communication of February 18, 2011, with which the Inter-American Commission submitted its comments on the State’s report of January 10, 2011 (*supra* Having Seen 8), and to the State’s brief of February 9, 2011 (*supra* Having Seen 11). The Inter-American Commission indicated that:

- a) “It takes note of the coordination and consensus that exists between the representatives [...] and the State toward the effective implementation of the measures of protection requested by the Commission starting on July 24, 2009.”
- b) “The State’s report does not detail the results allegedly obtained through the measures carried out in the investigations launched, nor how those measures have moved the investigations forward.”
- c) “The submission of information on all of the measures that continue to be adopted to prevent the recurrence of new threats against the life and integrity of the beneficiaries [...] remains pending.”

CONSIDERING THAT:

1. The Republic of Honduras ratified the American Convention on Human Rights on September 8, 1977, and it accepted the binding jurisdiction of the Court on September 9, 1981, in keeping with Article 62 of the Convention.
2. Article 63(2) of the American Convention establishes that, "In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission." This provision is also included in Article 27 of the Court's Rules of Procedure.
3. According to Article 63(2) of the Convention, provisional measures ordered by this Tribunal are binding upon the State pursuant to a basic principle of international law, supported by international case law, under which States are required to comply with international treaty obligations in good faith (*pacta sunt servanda*).²
4. On July 4, 2009, the Extraordinary Assembly of the Organization of American States (hereinafter, "the OAS") approved resolution AG/RES. 2 (XXXVII-E/09), in which it decided to suspend the right of the Republic of Honduras to participate in the OAS. The Extraordinary General Assembly emphasized the importance of full respect for human rights in that resolution and decided:

To reaffirm that the Republic of Honduras must continue to fulfill its obligations as a member of the Organization, in particular with regard to human rights; and to urge the Inter-American Commission on Human Rights to continue to take all necessary measures to protect and defend human rights and fundamental freedoms in Honduras;³

5. According to the provisions of Article 9(e) of the OAS Charter, as well as the provisions of the Preamble and articles 8 and 21 of the Inter-American Democratic Charter, international obligations in relation to human rights derived from the American Convention remain in place by virtue of the principle of *pacta sunt servanda*, as well as the principles that inspire the mechanism of collective guarantees established in the OAS Charter and the Convention; therefore, such obligations are not suspended, not even when there has been an alteration of the institutional order in a State Party, nor in the case of events such as those that took place in Honduras.
6. According to International Human Rights Law, provisional measures are not only precautionary, in the sense that they preserve a legal situation, but also fundamentally protective, as they protect human rights insofar as they avoid irreparable damage to persons. The order to adopt measures is applicable provided the basic requirements of extreme gravity and urgency and the prevention of irreparable damage to persons are

² 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 6. *Matter of Mery Naranjo et al.* Provisional Measures regarding Colombia. Order of the Inter-American Court of Human Rights of November 25, 2010, Considering 4, and *Matter of Alvarado Reyes et al.* Provisional Measures regarding Mexico. Order of the Inter-American Court of Human Rights of November 26, 2010, Considering 4.

³ OAS, Extraordinary General Assembly, Resolution AG/ RES 2 (XXXVII-E/09) of July 4, 2009, operative paragraphs 1 and 2. Available at <http://www.oas.org/CONSEJO/SP/AG/37SGA.asp#docs>.

met. In this way, provisional measures become a real jurisdictional guarantee of a preventive nature.⁴

7. Based on its jurisdiction, in approaching provisional measures, the Court must consider only the arguments that relate strictly to extreme gravity, urgency, and the need to avoid irreparable damage to persons. All other facts and arguments can only be analyzed and ruled on during the consideration of the merits of a contentious case.⁵

8. The three conditions contained in Article 63(2) of the Convention must coexist and must be present in all the situations in which the Tribunal is asked to order provisional measures.⁶

9. This request for provisional measures is not related to a case before the Court. Rather, it originated with a request for precautionary measures filed before the Inter-American Commission. The Court does not have information on whether the events under the consideration of the Court are part of a contentious proceeding in the Inter-American System or whether a petition has been submitted to the Inter-American Commission regarding the merits of this request.⁷

a) Request for provisional measures

10. The Inter-American Commission indicated that on July 24, 2009, it decided to amplify the precautionary measures granted to the former Minister of Foreign Affairs of Honduras, and it consequently requested the adoption of the measures necessary to guarantee the life, personal integrity, and freedom of expression of Mr. Luís Galdámez Álvarez, given the acts of harassment he and his immediate family have been subjected to. All this allegedly took place in retaliation for his work as a journalist and his critical stance toward the current government.

11. The State presented information to the Court regarding the measures it has allegedly adopted in response to the request for precautionary measures issued by the Inter-American Commission (*supra* Having Seen 6 and 8).

⁴ Cf. *Case of "La Nación" Newspaper*. Provisional Measures regarding Costa Rica. Order of the Inter-American Court of Human Rights, of September 7, 2001; Considering 4. *Matter of Mery Naranjo et al.*, *supra* footnote 2, Considering 5, and *Matter of Alvarado Reyes et al.* *supra* footnote 2, Considering 5.

⁵ Cf. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the President of the Inter-American Court of Human Rights of August 29, 1998, considering clause six; *Matter of Mery Naranjo et al.*, *supra* footnote 2, Considering 69, and *Matter of Alvarado Reyes et al.* *supra* footnote 2, Considering 58.

⁶ Cf. *Case of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of July 6, 2009, Considering 14; *Matter of Mery Naranjo et al.*, *supra* footnote 2, Considering 2, and *Matter of Alvarado Reyes et al.* *supra* footnote 2, Considering 43.

⁷ On prior occasions, this Court has interpreted the phrase "case not yet submitted to the Court" of Article 63(2) of the American Convention to mean that there is at least a possibility that the matter that gave rise to the provisional measures will be submitted to the Court under its contentious jurisdiction. For that minimum possibility to exist, the procedure stipulated in articles 44 and 46 to 48 of the American Convention must have been initiated. Cf. *Matter of García Uribe et al.* Request for Provisional Measures regarding Mexico. Order of the Inter-American Court for Human Rights of February 2, 2006, Considering 3 and 4; *Matter of Centro Penitenciario de Aragua "Cárcel de Tocorón."* Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of November 24, 2010, Considering 5, and *Matter of Alvarado Reyes et al.* *supra* footnote 2, Considering 30.

12. The Commission's request for provisional measures is based on three main points: i) the alleged existence of a context of intimidation, threats, and persecution against journalists following the coup d'état in Honduras; ii) alleged threats to the life and integrity of Mr. Galdámez Álvarez, his partner, and his children; and iii) lack of information regarding the investigations carried out by the authorities in order to bring the events to light.

13. Regarding this, the Court finds that the analysis of the facts and of the arguments of the Commission regarding points i and iii – as indicated in the prior paragraph – belong in the analysis of a potential contentious case. The Court has already noted that a ruling on the merits is to be issued as part of a contentious proceeding before the Court and not during proceedings on provisional measures.⁸ Additionally, the Court considers that those allegations do not satisfy the requirements for the adoption of provisional measures, in accordance with Article 63(2) of the Convention.

14. Consequently, the Court will not take those allegations into account, as it may not consider elements directly linked with the merits of the case, as mentioned previously.

b) The existence of alleged threats to and attacks on the right to life and personal integrity

15. The Inter-American Commission has also based its request for provisional measures on the alleged existence of threats, harassment, and attacks against the life and personal integrity of Mr. Galdámez Álvarez, his partner, and his children, who, since July 2009, have supposedly received threats, including death threats, on several occasions and have been subjected to attacks and persecution (*supra* Having Seen 2.f).

16. The Court observes that according to the information offered by the Commission, which has not been contested by the State, in August 2009 Mr. Galdámez Álvarez started to receive text messages on his cellular phone with death threats, allegedly as a consequence of his visit to the former president of Honduras during his stay in Nicaragua and because of the news reports he did for Radio Globo during that visit. Likewise, at the beginning of September of 2009, two unknown persons approached two of Mr. Galdámez Álvarez's sons with a gun, telling them to tell their father to "shut up." During the period when Mr. Galdámez Álvarez was in the Brazilian Embassy reporting on the arrival of the former president of Honduras, beginning on 21 September 2009, he apparently received phone calls from blocked numbers which repeated the warning that he should "shut up or die." Since Mr. Galdámez left the Brazilian Embassy on December 21, 2009, two vehicles began following him, one of which also surveilled his house.

17. According to the information submitted by the Inter-American Commission, during 2010, Mr. Galdámez received numerous text messages, insults, and threats from known telephone numbers. The Inter-American Commission did not provide the exact dates on which those messages were received. Nevertheless, the State has not contested this information. The Commission indicated that the day after the death of the journalist David Meza on 11 March 2010, Mr. Galdámez Álvarez received a message that said that he was "next." On September 14, 2010, after finishing his news show on Canal Globo,

⁸ Cf. *Case of James et al.*, *supra* footnote 5, Considering 6; *Matter of Gladys Lanza Ochoa*, Order of the Inter-American Court of Human Rights of September 2, 2010, Considering 7, and *Matter of the Colombian Commission of Jurists*. Provisional Measures regarding Colombia. Order of the Inter-American Court of Human Rights of November 25, 2010, Considering 10.

Mr. Galdámez returned to his house at 11:30 p.m., accompanied by one of his sons. Three people approached and shot at them several times. Apparently, Mr. Galdámez was armed and able to “repel the attack.”

18. The State reported that on August 20 and September 24, 2010, it held meetings with Mr. José Luís Galdámez Álvarez with the purpose of reaching an agreement on the precautionary measures and their implementation. It indicated that the beneficiary attended these meetings with attorneys from a number of human rights organizations, a situation which the State found to be “confusing,” as it does not know who the real representatives of the beneficiary are. It stated that this ambiguity makes police work more difficult, as it is not clear whom the police has to contact to carry out monitoring activities (*supra* Having Seen 6 a) and b)). Nonetheless, the State indicated that an agreement was reached with Mr. Galdámez Álvarez regarding the car or motorcycle patrol at his work and home, as well as the telephone communication with a police contact, with records showing that the beneficiary had to contact that phone number in order to provide the police with his home and/or work address and schedule. According to the State, the beneficiary did not provide this information. The State also highlighted that “the Secretariat of Security, aware of the Commission’s mandate [...] and of the commitment undertaken with the beneficiary, as well as of the imminent risk that exists regarding the lives and personal integrity of him and his family” agreed to amplify the daily patrols to include his children and partner. Likewise, it indicated that in order to achieve effective results, it prepared a logbook for recording the visits or news. According to the State, the beneficiaries have not agreed to sign the logbook until they have been granted personal and permanent security. The State finds this position to be contradictory, since the beneficiary rejected personal and permanent police officers as his guards, which is one of the ways that the National Police grants this kind of protection (*supra* Having Seen 6. c). Likewise, the State reported that it had summoned the beneficiary and his representatives for a meeting on December 29, 2010, but they did not attend (*supra* Having Seen 8).

19. For their part, the representatives indicated that neither Mr. Galdámez nor his representatives were notified of the meeting to be held on December 29, 2010, by the State, and that therefore they are not obstructing the implementation of the security measures to their benefit. However, they indicated that on 19 January 2011, a meeting was held in order to once again reach an agreement on the protective measures to the benefit of Mr. Galdámez and his family. The representatives stated that several of these measures are being executed, such as the police surveillance at Mr. Galdámez’s home and the patrols in the morning. Nevertheless, the representatives indicated that the night patrols are only being carried out sporadically (*supra* Having Seen 9). The State also mentioned the meeting on January 19, 2011 (*supra* Having Seen 10).

20. From the information provided by the parties, this Tribunal observes that between July 24, 2009 - the date on which the Commission adopted the precautionary measures to the benefit of Mr. José Luís Galdámez Álvarez - and August 20, 2010 - the date on which Honduras indicated that one of the meetings to reach an agreement regarding the precautionary measures was held with the beneficiary - the State did not undertake any action to protect Mr. Galdámez Álvarez and his immediate family. The Court highlights that since the adoption of the protective measures granted by the Commission, Mr. Galdámez and some members of his family have suffered threats, intimidation, and an attack with firearms.

21. Nevertheless, the Court notes that after notice of the Order of the President of December 23, 2010, was served (*supra* Having Seen 7), Mr. Galdámez and his

representatives met with various State officials on January 19, 2011. A number of State officials participated in that meeting, during which an "official document of commitment to protective provisional measures" was entered onto the record. Both the representatives and the State provided this document to the Court as evidence (*supra* Having Seen 9 and 11). The State also informed the Court of the contents of that official document through in a brief dated February 9, 2011 (*supra* Having Seen clause 11). The Court notes that during that meeting, the State made a commitment to Mr. Galdámez and his representatives to adopt a number of protective measures to his benefit and to the benefit of his wife and children. In this sense, the representatives indicated that the State has already started to implement some of these measures.

22. Based on all this, the Court finds that the information submitted by the Commission, the representatives, and the State shows, *prima facie*, that the persons indicated in the request for provisional measures submitted by the Commission (*supra* Having Seen 1) are in a situation of extreme gravity and urgency, as their lives and personal integrity are being threatened and are at grave risk. Consequently, the Court finds continued protection of this person through provisional measures to be necessary based on articles 62(3) of the American Convention and 27 of the Rules of Procedure of the Court.

23. The State must therefore continue to take appropriate actions such that the provisional measures ordered are planned and applied with the participation of the beneficiaries or their representatives, so as to ensure that those measures are granted in a diligent and effective manner. In implementing the pertinent measures, the State must bear in mind the beneficiaries' special need for protection in light of the specific circumstances of this matter. Also, in order to determine the specific protective measures to be implemented, it should evaluate the specific risk each beneficiary is facing. The participation of the State and the beneficiaries or their representatives is essential for adequately coordinating the implementation of the provisional measures in this matter.

24. By the deadline stipulated in the Operative Paragraphs of this Order, the State must submit concrete and detailed information to the Court on the provisional measures implemented to the benefit of each of its beneficiaries so that the Tribunal can evaluate them. Likewise, the State shall submit all the documentation that it considers pertinent.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by virtue of the authority granted in Article 63(2) of the American Convention and Articles 27 and 31 of its Rules of Procedure,

DECIDES TO:

1. Ratify in full the Order of the President of the Inter-American Court of Human Rights of December 22, 2010, thereby requiring the State of Honduras to maintain the measures already implemented and immediately adopt any complementary measures necessary to protect the lives, liberty, and personal integrity of Mr. José Luís Galdámez Álvarez and of his partner - Wendy Orellana Molina - and his children, Pedro Luís, José Luís, Marlon Josué, Ramón Israel, and two other minors, all with the surname Galdámez, pursuant to Considering clauses 21 and 23 of this Order.

2. Require the State to carry out all pertinent actions to plan and implement the protective measures ratified in this Order with the participation of the beneficiaries or their representatives such that the measures are granted in a diligent and effective manner, bearing in mind the beneficiaries' special needs for protection, and to require, in general, that the State keep them informed on the progress of their execution.

3. Require the State to continue reporting to the Inter-American Court of Human Rights once every two months on the provisional measures adopted in compliance with this Order, counting from the date on which the State is notified of it.

4. Ask the representatives of the beneficiaries of these measures and the Inter-American Commission on Human Rights to submit their comments within four and six weeks, respectively, counting from the dates on which they are notified of the State reports mentioned in Operative Paragraph 3.

5. Ask the Secretariat to notify the Republic of Honduras, the Inter-American Commission on Human Rights, and the beneficiary's representatives of this Order.

Diego García-Sayán
President

Leonardo A. Franco

Manuel E. Ventura Robles

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
Secretario