

ORDER OF THE AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 7, 2006
PROVISIONAL MEASURES
MATTER OF RAMÍREZ-HINOSTROZA ET AL.*

HAVING SEEN:

1. The Order by the American Court of Human Rights (hereinafter “the Court” or “the Tribunal”) of September 21, 2005 on provisional measures, whereby it decided:

1. To ratify in all its terms the Order by the President of the American Court of Human Rights of July 22, 2005 and, therefore, to call upon the State to maintain the measures it may have adopted and to adopt, forthwith, such measures as may be necessary to comply with the provisions in the aforementioned Order and in the [...] Order, regarding protection of the life and personal integrity of Mr. Luis Alberto Ramírez-Hinostroza, of his wife Susana Silvia Rivera-Prado, of his three daughters: Yolanda Susana Ramírez-Rivera, Karen Rose Ramírez-Rivera and Lucero Consuelo Ramírez-Rivera, and of his lawyer Carlos Rivera-Paz, taking into account for such purpose the gravity of the situation and the specific risk circumstances attending.

2. To call upon the State to continue investigating the events which have lead to the adoption of the instant provisional measures and, if it be the case, to identify those responsible for them and impose on the culprits punishment as due, in accordance with the provisions in the eight Having Seen clause of the [...] Order.

3. To call upon the State to take all the pertinent steps so that the protection measures required in the [...] Order be planned and implemented with the beneficiaries thereof, or their representatives, participating in the process, in such manner as to provide the aforementioned measures in a prompt and effective way and as to keep them informed, broadly speaking, on the progress in the implementation thereof.

4. To call upon the State to report to the American Court of Human Rights, within fifteen days as from service upon it of this Order, on the measures which it has taken in compliance hereof, in accordance with the provisions contained in the seventh to eleventh Having Seen clauses of the [...] Order.

5. Request the beneficiaries of the instant measures or their representatives and the Inter-American Commission of Human Rights to submit to the American Court of Human Rights, within five and seven days, respectively, as from notification of the report by the State, the observations they may deem pertinent to the report the State has been called upon to effect in the foregoing operative paragraph, in accordance with the provisions in the tenth and eleventh Having Seen clauses of the [...] Order.

* Judge Diego García-Sayán informed the Court that, for reasons beyond his control, he would be unable to be present at the deliberations and sign this Order.

6. To call upon the State to continue reporting to the American Court of Human Rights, every two months, on its compliance with the measures hereby adopted, and upon the beneficiaries of these same measures, or upon their representatives, to submit their observations to the reports the State is to effect every two months, within four weeks, as from the receipt thereof, and upon the Inter-American Commission of Human Rights to submit its observations to the aforementioned reports by the State, within six weeks, as from the receipt thereof.

[...]

2. The brief of October 21, 2005 and its Appendixes filed on October 31, 2005, whereby the State, after an extension, granted by the President of the Court (hereinafter "the President"), of the time-limit that had been set, submitted the report on its compliance with the provisional measures, in furtherance of the request in the fourth operative paragraph of the foregoing Order. The State pointed out, *inter alia*, that:

a) The representative of the *Ministerio Público* (Office of the Public Prosecutors) commenced investigation proceedings and ordered several procedures concerning the attack effected on August 30, 2004 against Mr. Ramírez-Hinostroza. However, it was not possible to identify those allegedly responsible, for which reason a more extensive investigation was ordered, including additional procedures, some of which have already been carried out;

b) On September 15, 2005 Mr. Ramírez-Hinostroza would have sustained a new attack on his person in the vicinity of his home, which is located in the La Molina District. One of the members of the Judicial Police detailed to his security fired back, and put an end to the shooting;

c) On October 4, 2005 the representative of the *Ministerio Público* (Office of the Public Prosecutors) before the *Consejo Nacional de Derechos* (National Council for Rights) forwarded Report No. 1 of September 4, 2005, by the *Fiscal Provincial Titular de la Cuarta Fiscalía Provincial Penal de Lima* (Prosecutor for the Province in Charge of Lima Provincial Criminal Prosecuting Office Number Four) on the point reached by investigation No. 669-05, wherein she stated that "the result[s] of police investigation are being assessed" and that the *División de Homicidios de la Policía Nacional del Perú* (Peru National Police Homicides Division) issued *Atestado Policial* (Police Report) N° 169, wherein it was concluded that "[...] it has as yet been impossible to identify the authors of the Attempted Homicide with firearms against Luis Alberto Ramírez-Hinostroza and the policeman providing security to him [,] José Luis Salinas Rojas." Furthermore, the aforementioned Prosecutor reported several steps had been taken, such as affidavits, inspections and reports by expert witnesses, obtention of documents, among other procedures undertaken by the prosecuting office. The aforementioned Prosecutor is assessing the information forwarded her by the *División de Homicidios* (Homicides Division) regarding the investigation. The aforementioned representative of the *Ministerio Público* (Office of the Public Prosecutors) did not inform on whether there be any investigation in progress regarding the September 15, 2005 attack. Such information shall be relayed to the Court upon receipt thereof;

d) On October 13, 2005 the *Ministerio de Justicia* (Ministry of Justice) requested the *Ministerio del Interior* (Ministry of the Interior) and the *Secretaría Permanente de la Comisión Nacional de Derechos Humanos*

(Permanent Secretariat of the National Commission for Human Rights) of the latter Ministry to step up the security afforded Mr. Luis Alberto Ramírez-Hinostroza, providing him with adequate means of transportation. The foregoing request was made after considering how serious the situation had become on account of the latest attack effected against him and in compliance with the provisions by the Court; and

e) Pursuant to the directions given on September 21, 2005 by the Chief of the *División de la Policía Judicial (DIRINCRI)* (Judicial Police Division), Mr. Ramírez-Hinostroza and his family are given personal protection service by 2 commissioned officers and 6 non-commissioned officers of the *Policía Nacional* (National Police) divided in two groups with a 24-hour daily coverage, bearing firearms and a bullet-proof vest is worn whenever the protected party goes out. It is furthermore reported that more personnel, vehicles, communications equipment, and a special helmet to be worn by the protected party have been requested, but no response thereto has been forthcoming. The proper authorities are taking steps to obtain protection measures in favor of the lawyer Carlos Rivera-Paz.

3. The brief of November 7, 2005, wherein Mr. Carlos Rivera-Paz, a beneficiary and the representative of the other beneficiaries of the instant measures, pointed out that the Executive Secretary of the *Consejo Nacional de Derechos Humanos* (National Council for Human Rights) of the *Ministerio de Justicia* (Ministry of Justice) informed him that Mr. Luis Alberto Ramírez-Hinostroza had desisted from the protection established in the provisional measures ordered by the Court. On such matter, Mr. Rivera-Paz commented that the aforementioned situation was "an unexpected event [, ...] that but expresses the very delicate personal and family situation [Mr. Ramírez-Hinostroza] is going through as a consequence of the four attacks against his life" and that the provisional measures cannot be suspended because one of the beneficiaries merely says so.

4. The brief of November 9, 2005 and its Appendixes, some of them forwarded on that same day and some others forwarded on November 15, 2005, wherein the State informed that Mr. Ramírez-Hinostroza had communicated "his decision to waive the security protection the State had been providing" and prayed the Court to "give the Peruvian State directions as to what are the proper actions to be taken in the face of such situation." The aforementioned Appendixes are among others:

a) a copy of a note of November 3, 2005, addressed by Mr. Ramírez-Hinostroza to the Minister of the Interior, wherein he stated that "because it was consistent with [his own] rights and urgent matters he had to see to outside the capital city and not having the need to continue with the personal and family protection *Policía Nacional del Perú* (National Police of Peru) staff had been providing him under provisions by the Court [...] and availing himself of rights granted in the *Constitución Política del Perú* (Political Constitution of Perú) and of his own free will he irrevocably DESIST[S] from the security and protection services that had been granted the undersigned and [his] family as from [November] 3, [20]05 AT 18:00 HOURS"; and

b) three official notes addressed by the *Secretaría Ejecutiva del Consejo Nacional de Derechos Humanos* (Office of the Executive Secretary of the National Council for Human Rights) to the *Secretaría Permanente de la Comisión Nacional de Derechos Humanos* (Permanent Secretariat of the

National Commission for Human Rights) of the *Ministerio del Interior* (Ministry of the Interior), to Mr. Carlos Rivera-Paz and to Mr. Luis Alberto Ramírez-Hinostroza. In said official notes the aforementioned *Secretaría Ejecutiva* (Office of the Executive Secretary) expressed that “the [p]rovisional [m]easures ordered by the Court [...] in favor of Luis Alberto Ramírez-Hinostroza, his next of kin and [the] lawyer Carlos Rivera-Paz, cannot be suspended nor held to have expired by the sole expression of the will of he who is one of the beneficiaries of the aforesaid protection measures[, as well as that] the security and protection measures must be maintained.”

5. The brief of November 9, 2005, whereby the Inter-American Commission of Human Rights (hereinafter “the Commission”) put forward its observations to the report by the State dated October 21, 2005 and its Appendixes (*supra* Having Seen clause Number 2). It was therein pointed out that:

a) as regards the measures necessary to protect the life and the personal integrity of the beneficiaries, the fact that, since September, 2004, Mr. Ramírez-Hinostroza would have been subjected to two attacks against his life in June and in September, 2005 is of paramount importance;

b) the language employed by the State in its report may be held to be ambiguous, for it avoids to “identify what kind of steps are those taken, which are the authorities undertaking the procedures, before whom they are proceeding, [and] how are the restrictions imposed under Law No. 27378 establishing benefits for effective collaboration in the field of organized crime”;

c) with regard to Mr. Carlos Rivera-Paz, it prayed the Court to expressly request the State to comply with the measures. On the matter, it pointed out that the State has not complied with such duty, because Mr. Rivera-Paz does not qualify as an “effective collaborator in the terms of the Law”;

d) it considered it meet that the protection measures ordered in favor of Mr. Luis Alberto Ramírez-Hinostroza, his family and his lawyer be maintained and that their effectiveness be assessed; and

e) it prayed the Court to call upon the State to pursue an earnest and effective investigation regarding the attack which took place on September 15, 2005 to the detriment of Mr. Ramírez-Hinostroza and to further the investigations related to the events which took place on August 30, 2004 and June 1, 2005.

6. The note of November 11, 2005, whereby the Secretariat of the Court (hereinafter “the Secretariat”), following instructions by the President, informed the representatives that the Court would assess the situation with which Mr. Ramírez-Hinostroza had to cope and would decide on the possibility of lifting the provisional measures, bearing in mind the extreme gravity and the urgency that led the Tribunal to adopt the aforesaid measures. Likewise, it informed that the President deemed it essential for the Inter-American Commission and the representatives of the beneficiaries to send the Court, no later than November 19, 2005, their opinion on the possibility of lifting the measures totally. They were required to make reference to each of the beneficiaries thereof and to inform whether they had communicated

directly with Mr. Ramírez-Hinostroza after he would have expressed his will to desist from the protection measures adopted in his favor.

7. The brief of November 18, 2005, whereby Mr. Carlos Rivera-Paz, a beneficiary and the representative of the other beneficiaries of the measures, set forth his observations to the report by the State of October 21, 2005 and its Appendixes (supra Having Seen clause Number 2). Concisely put, he pointed out the following:

a) after several months had gone by from the time the attacks against Mr. Ramírez-Hinostroza had taken place and in spite of the fact that the necessary clues were given it, the police has not managed to develop the acts of investigation necessary to establish the facts;

b) the Minister of Justice asked the Minister of the Interior to step up the security provided Mr. Ramírez-Hinostroza, for the two latest attacks happened due to the fact that the aforesaid party does not have the use of a vehicle for his conveyance from one place to another;

c) regarding Report No. 062 drawn up by the *División de Policía Judicial* (Judicial Police Division) of the *Dirección de Investigación Criminal y apoyo a la Justicia* (Office of the Director for Criminal Investigation and Support of the Judiciary), wherein it is pointed out that the protection provided Mr. Luis Alberto Ramírez and his family is exceptional in nature because the aforesaid party does not qualify for protection under the statute pursuant to which the benefits for effective collaboration in the field of organized crime are established (Law No. 27378), it must be remarked that the provisional measures derive from an international obligation and are different in nature from the ones included in the provisions of such Law;

d) apparently the Chief of the *Dirección de Investigación Criminal y apoyo a la Justicia* (Office of the Director for Criminal Investigation and Support of the Judiciary) of the *Policía Nacional* (National Police) of Peru has not taken cognizance that the Inter-American Court ordered provisional measures in favor of Mr. Ramírez;

e) the protection measures afforded Mr. Ramírez-Hinostroza consist in four policemen 24 hours a day, with firearms and bullet-proof vests. However, the attacks in July and in September, 2005 took place while the aforesaid party was out on the street, going from one place to another, accompanied by but one policeman; such facts tacitly contradict the representations made by the *División de Policía Judicial* (Judicial Police Division) of the *Dirección de Investigación Criminal y apoyo a la Justicia* (Office of the Director for Criminal Investigation and Support of the Judiciary);

f) the protection measures adopted in favor of Mr. Carlos Rivera consist in his being watched over by two policemen since August 22, 2005;

g) the *División de Homicidios* (Homicides Division) was the unit in charge of investigating the attacks which had happened before September 15, 2005 to the detriment of Mr. Ramírez-Hinostroza, "for which reason it would be reasonable to assume it to be charged with effecting the inquest regarding the latest events and with complementing the initial report regarding the previous attacks;

h) On November 14, 2005 when the oral proceedings resumed before the *Segunda Sala Penal de Huancayo* (Second Criminal Chamber at Huancayo), Mr. Luis Alberto Ramírez-Hinostroza appeared with a new lawyer who is not a member of the *Instituto de Defensa Legal* (Institute for Legal Defense), for which reason such Institute has been *de facto* replaced in the defense in the criminal actions proceeding against General Luis Pérez Documet; and

i) request the Inter-American Court that the provisional measures in favor of Mr. Ramírez-Hinostroza and his family be maintained, in view of the latent risk at which his life and physical integrity are "more so right now, when the legal proceedings against Pérez Documet, to whom responsibility for the attacks to the detriment of Mr. Ramírez-Hinostroza is attributed, are being carried on."

8. The notes of November 22, 2005, by means of which the Secretariat, following instructions by the President, granted the Commission a delay up to November 28, 2005 to file its observations on the possible lifting of the provisional measures, noted that the State had not produced the original of the letter wherein Mr. Ramírez-Hinostroza desisted, and requested as well that Mr. Carlos Rivera-Paz and the other representatives, no later than November 24, 2005, clearly indicate the following:

a) whether they considered that the provisional measures regarding Mr. Carlos Rivera-Paz could be lifted;

b) whether they continued to represent Mr. Ramírez-Hinostroza, his wife and daughters before the Court in the matter of these measures; and

c) whether they had held meetings or maintained communications with Mr. Ramírez-Hinostroza after he would have signed the document wherein it is stated that he expresses to the Minister holding the Portfolio of the Interior that he irrevocably desists from the security and protection services.

9. The brief of November 24, 2005, whereby Mr. Carlos Rivera-Paz, in response to the requests by the President in the note of November 22, 2005 (*supra* Having Seen clause Number 8), pointed out the following:

a) the provisional measures in his benefit must continue for some time, since "by the nature of [his] work" the situation of risk has not disappeared. The provisional measures in favor of Mr. Ramírez-Hinostroza must continue;

b) the *Instituto de Defensa Legal* (Institute for Legal Defense) no longer represents Mr. Luis Alberto Ramírez-Hinostroza and his family before the Court, as a consequence of the *de facto* replacement (*supra* Having Seen clause Number 7.h); and

c) to date, he has not met with Mr. Ramírez-Hinostroza. He has only had a brief telephone conversation on November 18, 2005 in the course of which the aforesaid party informed him about a telephone call he had received from an officer of the Inter-American Commission.

10. The brief of December 16, 2005, whereby the Commission, after a delay granted it by the President up to November 28, 2005 and after a note from the Secretariat reminding the expiration of such delay, filed its observations about the desistment from the security measures on the part of the beneficiary and pointed out that:

a) it contacted the representatives, State officials responsible for supervising compliance with the provisional measures and the beneficiaries of the aforesaid measures. The beneficiaries provided information that, in view of its nature, had to be put down in writing in order to be transmitted to the Court. Such information was not forwarded;

b) on October 17, 2005, in the course of a hearing on the implementation of the recommendations by the *Comisión de la Verdad y Reconciliación en el Perú (CVR)* (Commission for Truth and Reconciliation in Peru) held at the Inter-American Commission, other organizations reported that, as human rights violations which occurred during the internal armed conflict were being taken to court for trial, serious threats to witnesses were taking place, and they produced a list of 47 cases of threats and other acts of harassment wherein, among others, that of Mr. Luis Alberto Ramírez-Hinostroza stands out;

c) in the telephone conversation with Mr. Ramírez-Hinostroza on October 17, 2005, the latter expressed that he was "grateful that he had been afforded the protection measures that save his life and that of his family and that he was interested to continue under the protection thereof." Mr. Ramírez-Hinostroza pointed out that "he was dissatisfied [with] the way the State had been providing him with the security measures, specifically because he had not been given a vehicle for his conveyance, nor financial resources for his subsistence and that of his family." Regarding this, he expressly pointed out "[I] am a witness and the State does not take me in charge";

d) information was received that on Sunday November 20, 2005 Mr. Ramírez would have tried to take his own life; and

e) the persons from the State, as well as those from civil society, who were interviewed, and the Commission too, coincide in that the provisional measures in favor of Luis Alberto Ramírez-Hinostroza and others have to be maintained. It furthermore prayed the Court to grant the Commission a reasonable time to complete the necessary information in order to offer the Tribunal a duly documented opinion.

11. The notes of December 20, 2005 and January 12, 2006, by means of which the Secretariat, following instructions by the President, informed the Commission that it could forward to the Tribunal the aforementioned additional information (*supra* Having Seen clause Number 10 f), as soon as it had it.

12. The brief of February 1, 2006, whereby the State filed the first one of the reports it has to produce every two months on its compliance with the measures, in response to the provisions by the Court in the sixth operative paragraph contained in

the Order of September 21, 2005 and to two requests effected by the President , by means of his notes dated January 16 and 26, 2006. The State pointed out that:

a) As far as the September 15, 2005 attack is concerned, "the prosecuting investigation was commenced" and the "pertinent procedures" are in progress;

b) Regarding the desistment of the protection measures effected by Mr. Ramírez-Hinostroza, it was decided to continue providing the aforementioned protection, in charge of the police service, to the domicile of the aforesaid party, until knowledge of his place of abode be acquired;

c) on November 4, 2005, Mr. Ramírez-Hinostroza communicated his desistment to the security staff and did not allow them to accompany him, pointing out that "he was going to prosecute them for harassment." On that same day, the aforesaid party indicated he would travel to the interior of the country and that "he should not be followed." In spite of the fact that Mr. Ramírez-Hinostroza would not come back to his domicile, "police staff continued to be detailed there to provide security service in favor of his family. It came to be known by police authorities that the beneficiary would have traveled to the city of Huancayo, for which reason word was sent to the *Departamento de Seguridad del Estado* (State Security Department) of the VII-DIRTELPOL-HUANCAYO of the possible sojourn of the [aforementioned] party thereat[,...] for the purpose of providing him there with the security measures due him in a discreet manner — given the attitude assumed by the beneficiary and his waiver of the protection afforded him." In the abovementioned report, it was suggested that "*it be resolved to permanently discharge the current personal protection service in view of the express waiver thereof*" by Mr. Ramírez-Hinostroza "and that [he] does not allow those responsible for it to perform the task with which they have been charged";

d) as of the date on which Mr. Luis Alberto Ramírez-Hinostroza subscribed the desistment document, eight policemen in all, duly armed, were being deployed for his benefit and that of his family, and the whole was split into two groups detailed to 24-hour shifts. A bullet-proof vest was given Mr. Luis Alberto Ramírez-Hinostroza, so that he could go out. Such personnel fended off the alleged attacks of June 1 and of September 15, 2005. It was furthermore decided to have it "*taken into consideration when fixing the Hojas de Ruta de Patrullaje Motorizado y a Pie (Itineraries for the Patrols on Foot and in Motor Vehicles) to effect successive rounds, including the areas lying close to the domicile of the aforementioned protected party.*" Regarding the provision of a vehicle, none is currently available;

e) concerning the attempted suicide by Mr. Ramírez-Hinostroza, on November 20 2005 the wife of the aforesaid party requested support from a mobile unit and he was taken to the *Hospital Jorge Botto Bernales* ("Jorge Botto Bernales" Hospital) in the Santa Anita district, where he received care and was diagnosed "Organic Phosphorated Poisoning – Attempted Suicide." Later on, the aforesaid party was taken to another hospital "where he was admitted for observation and where he remained, waiting for the vacancy of a bed to happen somewhere, so that he could be finally sent there." Such

events were reported to the authorities for the purpose of effecting the appropriate police investigations; and

f) "[u]p to the moment neither any clues nor any evidence have been found to back the assumption that Retired Peruvian Army Generals: Luis PÉREZ-DOCUMET (66), David JAIME SOBREVILLA (66) and Manuel DELGADO-ROJAS may have participated; there only exists the account and/or accusation by Luis Alberto RAMÍREZ-HINOSTOZA (31)." On November 7, 2005 the *Prosecutoría Provincial de Lima* (Provincial Prosecuting Office of Lima) decided to extend the investigation that "is being carried on in coordination with the aforesaid Prosecuting Bureau." Likewise, the State is waiting for the assessment and final ruling by the Court on whether it is meet to maintain in effect the provisional measures in favor of Mr. Luis Alberto Ramírez-Hinostroza, his family and Mr. Carlos Rivera-Paz — who was considered to qualify as a beneficiary of the provisional measures in his capacity as the lawyer of the party mentioned in the first place, it being worth mentioning and specifying in due course that as of this date Mr. Carlos Rivera-Paz no longer represents or acts as counsel for Mr. Luis Alberto Ramírez-Hinostroza.

CONSIDERING:

1. That the State of Peru has been a State party to the American Convention on Human Rights since July 28, 1978, and accepted the obligatory jurisdiction of the Court on January 21, 1981.
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 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.
3. That, regarding this subject, Article 25 of the Rules of Procedure establishes that:
 1. At 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.
[...]
4. That Article 1(1) of the Convention enshrines the duty that States Parties have 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.
5. That, under International Human Rights Law, provisional measures do not only have a preventive nature in the sense they preserve a legal situation, but they also have a fundamental tuitive nature because the protect human rights, inasmuch as they seek to avoid irreparable damage to persons. Provided the basic requirements of extreme gravity and urgency and of avoiding irreparable damage to

persons are met, provisional measures become a true jurisdictional guarantee of a preventive nature.¹

6. That it is essential for provisional measures to be maintained fully current and to produce their effects up to the time the Tribunal may order them lifted and notify the State of its decision in such sense.

7. That provisional measures are of an exceptional nature, are ordered on the basis of needs for protection and, once ordered, must be maintained as long as the Court deems the basic requirements of extreme gravity and urgency, and of avoiding irreparable damage to the rights of the persons they protect, continue to be met.

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8. That by means of the brief of November 9, 2005 the State conveyed a copy of a note of November 3, 2005, addressed by Mr. Ramírez-Hinostrroza to the Minister of the Interior, wherein Mr. Ramírez-Hinostrroza stated that "because it was consistent with [his own] rights and urgent matters he had to see to outside the capital city and not having the need to continue with the personal and family protection *Policía Nacional del Perú* (National Police of Peru) staff had been affording him under provisions by the Court [...] he irrevocably DESIST[S] from the security and protection services that had been granted the undersigned and [his] family [...]"(*supra* Having Seen clause Number 4).

9. That after the aforesaid note had been forwarded, when filing their observations on the possibility the measures might be lifted, both the Commission and Mr. Carlos Rivera-Paz, a beneficiary of the aforesaid measures and initially the representative of the other beneficiaries, have stated that the life and personal integrity of Mr. Luis Alberto Ramírez-Hinostrroza are at serious risk, and that from the information they have it appears that the situation of risk has not ceased. Furthermore, the Commission has reported that a telephone conversation was held with Mr. Ramírez-Hinostrroza and that on November 17, 2005 he expressed that he was "grateful that he had been afforded the protection measures[...] that he was interested to continue under the protection thereof" and that "he was dissatisfied [with] the way the State had been providing him with the security measures, specifically because he had not been given a vehicle for his conveyance, nor financial resources for his subsistence and that of his family" (*supra* Having Seen clause Number 10.d).

10. That the State has expressed in three official notes (*supra* Having Seen clause Number 4 b), that "the [p]rovisional [m]easures ordered by the Court [...] in favor of Luis Alberto Ramírez-Hinostrroza, his next of kin and [the] lawyer Carlos Rivera-Paz, cannot be suspended not held to have expired by the sole expression of the will of he who is one of the beneficiaries of the aforesaid protection measures[, as well as that] the security and protection measures must be maintained."

¹ Cf, *Matter of Monagas Judicial Confinement Center ("La Pica")*. Urgent Measures. Order of the President of the Inter-American Court of Human Rights of January 13, 2006, Fifth Considering clause; *Matter of Children Deprived of Liberty in the "Complexo do Tatuapé" of FEBEM* . Provisional Measures. Order of the Inter-American Court of Human Rights of November 17, 2005, Sixth Considering clause; and *Matter of Urso Branco Prison*. Provisional Measures. Order of the Inter-American Court of Human Rights of September 21, 2005, Fourth Considering clause.

11. That after having examined the facts and the circumstances in which the alleged desistment by Mr. Ramírez-Hinostroza of the measures took place, what he expressed over the telephone to the Commission in the sense that he desired to continue being protected under the provisional measures, the information the State provided at a later time about the return of the aforesaid party to Lima and about the measures that have been and are being implemented in his favor and in that of his family, as well as the fact that the proceedings wherein Mr. Ramírez-Hinostroza is a witness are still pending, the Court considers that the aforesaid measures in favor of Mr. Ramírez-Hinostroza, of his wife Susana Silvia Rivera-Prado, and of his three daughters: Yolanda Susana Ramírez-Rivera, Karen Rose Ramírez-Rivera, and Lucero Consuelo Ramírez-Rivera must be maintained.

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12. That according to what both Mr. Rivera-Paz and the State have pointed out, the latter is providing protection measures in favor of the former which, as the beneficiary himself has informed, consist in two policemen watching over him (*supra* Having Seen clause Number 7.f).

13. That the Commission prayed the Court, in its brief of November 9, 2005, to call upon the State to comply with the measures in favor of Mr. Rivera-Paz (*supra* Having Seen clause Number 5). On such matter, the aforementioned beneficiary, in his communication of November 24, 2005, pointed out that, although the *Instituto de Defensa Legal* (Institute for Legal Defense) (IDEELE) — and therefore Mr. Rivera-Paz — was no longer representing Mr. Ramírez-Hinostroza, due to the fact that “he has been replaced as legal counsel in the criminal actions instituted for the offense of kidnapping” and pending before the Court of Justice of Huancayo, proceeding against General Pérez Documet, the provisional measures in his benefit must continue for some time, since “by the nature of [his] work” the situation of risk has not disappeared” (*supra* Having Seen clause Number 9).

14. That the Tribunal deems that the provisional measures ordered in favor of Mr. Carlos Rivera-Paz must be maintained for a fixed time period of three months, bearing in mind that the grounds for the prayer for the provisional measures filed by the Commission on July 22, 2005, with respect to the risk at which Mr. Rivera-Paz was, were based on his “decisive participation” as counsel for Mr. Ramírez-Hinostroza in the aforementioned criminal proceedings pending before the Court of Justice of Huancayo, as well as on “the fact of both of them being in daily and permanent contact.” Likewise, the Tribunal has taken into account that Mr. Rivera-Paz is no longer representing Mr. Ramírez-Hinostroza, neither in the aforementioned criminal proceedings nor concerning these provisional measures, and that the beneficiary himself expressed that the measures should be maintained for “some time.” From time to time, the Tribunal will assess the aforementioned provisional measures ordered in favor of Mr. Carlos Rivera-Paz, taking their particular characteristics into account and will adopt a decision thereon.

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15. That concerning the duty of the State to adopt, forthwith, all the measures necessary to protect the rights to life and to personal integrity of Mr. Luis Alberto

Ramírez-Hinostrroza and his wife and daughters, it is concluded from the information given by the Commission and by Perú, that, before he traveled to the interior of the State, Mr. Ramírez-Hinostrroza was protected by police guardsmen and was provided a bullet-proof vest (*supra* Having Seen clause Number 7.e). On February 1, 2006, the State filed the first one of the reports it has to produce every two months on its compliance with the provisional measures ordered by the Court, wherein, *inter alia*, it is reported that Mr. Ramírez-Hinostrroza has returned to Lima, that he is afforded some protection measures and there is an investigation under way into the alleged attack the aforesaid party underwent on September 15, 2005 (*supra* Having Seen clause Number 12). However, on account of the fact that the observations to such report by the Commission and by Mr. Rivera-Paz are still pending, the Court does not have before it all the elements necessary to effect a thorough assessment of the protection measures the State would be providing.

16. That, according to the information given, Mr. Ramírez-Hinostrroza considers it necessary, to implement adequate protection, for a vehicle to be provided him, something which has not been forthcoming. With respect to such matter, on October 13, 2005 the *Ministerio de Justicia* (Ministry of Justice) requested the *Ministerio del Interior* (Ministry of the Interior) and the *Secretaría Permanente de la Comisión Nacional de Derechos Humanos* (Permanent Secretariat of the National Commission for Human Rights) thereof that they step up the security afforded Mr. Luis Alberto Ramírez-Hinostrroza, providing him with adequate means of transportation, a bullet-proof vest and other measures "considering how serious the situation had become on account of the latest attack effected against him and in compliance with the provisions by the Court" (*supra* Having Seen clause Number 2.e).

17. That the Tribunal deems it essential for the State to implement and adopt, forthwith, in such manner as to be effective, all the measures necessary to protect the rights to life and to personal integrity of Mr. Ramírez-Hinostrroza and his family, taking into consideration that even during the period when such measures and other injunctions were in force, Mr. Ramírez-Hinostrroza would have sustained attacks against his life while he was out on the street. For such purpose, the State must take all pertinent steps so that the protection measures provided in the instant Order be planned with the beneficiaries thereof, their representatives and the Commission participating, in such manner as to effectively protect their life and integrity.

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18. That in its brief praying for provisional measures the Commission pointed out that, for the purpose of rendering Article 25(6) of the Rules of Procedure of the Court applicable, three lawyers from the *Instituto de Defensa Legal* (Institute for Legal Defense) (IDEELE), among which Mr. Rivera-Paz, would represent Mr. Ramírez-Hinostrroza before the Court. However, Mr. Rivera-Paz has informed the Court that the aforementioned lawyers from the aforesaid Institute no longer represent Mr. Luis Alberto Ramírez-Hinostrroza and his family before the Court as a result of a "de facto replacement" of legal counsel in a domestic criminal action wherein the IDEELE was representing the aforesaid party (*supra* Having Seen clause Number 9.b).

19. That bearing in mind the particular characteristics of the situation of risk with which Mr. Ramírez-Hinostrroza and his family are coping, and that they are doing without the representatives they initially had before the Court, this Tribunal deems it necessary for the adequate implementation of the measures that the Inter-American

Commission keep in direct touch with them, in such a way as to allow it to provide the Court all the information related to the compliance with the provisional measures, as long as the aforementioned beneficiaries do not appoint another representative or do not communicate directly with the Tribunal on a regular basis. In the event that the Commission would come to learn that the aforementioned beneficiaries would have appointed a new representative, it must let the Tribunal know.

NOW, THEREFORE:

THE AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the authority conferred upon it by Article 63(2) of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

DECIDES:

1. To call upon the State to maintain the measures it may have adopted, or to adopt, forthwith, the measures that may be necessary to protect the life and personal integrity of Mr. Luis Alberto Ramírez-Hinostroza, of his wife Susana Silvia Rivera-Prado, of his three daughters: Yolanda Susana Ramírez-Rivera, Karen Rose Ramírez-Rivera and Lucero Consuelo Ramírez-Rivera, ordered by means of its Order of September 21, 2005, for which it is to take into account the gravity of the situation and the particular circumstances of risk.
2. To call upon the State to maintain for three months, as from the date the instant Order be notified, the measures necessary to protect the life and physical integrity of Mr. Carlos Rivera-Paz, ordered by means of its Order of September 21, 2005. Upon the expiration of such term, the Tribunal will from time to time assess the need to keep the aforementioned measures in force, depending on the situation with which Mr. Carlos Rivera-Paz may have to cope, and will adopt a decision thereon.
3. Reaffirms to the State that it must have the beneficiaries of the instant measures, their representatives and the Commission participate in planning and implementing of the protection measures and that it must keep them informed on the progress in its compliance therewith, in the terms of Considering clauses Number 15, 16 and 17 of the instant Order.
4. Reaffirms to the State that it must investigate the events which have lead to the instant provisional measures with the purpose to identify those responsible and punish them as due.
5. To call upon the State to continue reporting to the American Court of Human Rights, every two months, on its compliance with the measures adopted, and to call upon the beneficiaries of the instant measures or upon their representatives for them to file their observations to the reports the State has to produce every two months, within a four-week time limit, as from the date they receive them, and upon the Inter-American Commission of Human Rights for it to file its observations to such reports by the State within a six-week time limit, as from the date it receives them.

6. To request the Secretariat to serve the instant Order upon the Inter-American Commission of Human Rights, upon Mr. Carlos Rivera-Paz, beneficiary of the instant measures, and upon the State.

Sergio García-Ramírez
President

Alirio Abreu-Burelli

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary