

**Order of the  
Inter-American Court of Human Rights \*  
of November 24, 2009  
Provisional Measures regarding Venezuela  
Matter of  
Monagas Judicial Confinement Center (“La Pica”);  
Yare I and Yare II Capital Region Penitentiary Center (Yare Prison);  
Penitentiary Center of the Central Occidental Region  
(Uribana Prison) and  
Capital El Rodeo I and Rodeo II Judicial Confinement Center**

**Having Seen:**

1. The Orders of the Inter-American Court of Human Rights (hereinafter, the “Inter-American Court”, “the Court” or “the Tribunal”) of January 13 and February 9, 2006 and of July 3, 2007, in the matter of the Monagas Judicial Confinement Center (“La Pica”). In the latter, the Tribunal decided, *inter alia*:

1. [t]o reiterate that the State must maintain the measures the State has informed it is adopting, as well as to adopt forthwith the supplementary measures necessary to efficiently and definitively avoid violence within the Monagas Confinement Center (“La Pica”), so that no inmate or person in the Confinement Center is killed or treated inhumanely[;]

2. [T]o reiterate that the State must, without prejudice to the measures for immediate implementation ordered in the preceding operative paragraph, adopt those measures necessary to: a) substantially reduce overcrowding in the Monagas Confinement Center [...], b) confiscate any weapons found in the possession of inmates, c) separate the accused inmates from the convicted inmates, d) conform the existing detention conditions in the Monagas Confinement Center (“La Pica”) to the applicable international standards and e) provide any necessary health care to the inmates so that their right to humane treatment is guaranteed. In this manner, the State shall, together with the participation of the representatives of the beneficiaries of these provisional measures, conduct a periodic inspection of detention conditions and of the physical and emotional state of the detainees [;]  
[...]

2. The Orders of the Inter-American Court of March 30, 2006 and November 30, 2007, in the matter of the Yare I and Yare II Capital Region Penitentiary Center (Yare Prison). In the latter, the Tribunal decided, *inter alia*:

1. To repeat that the State must maintain the measures that it has already adopted, as well as immediately adopt complementary measures as may be necessary to effectively and

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\* Due to reasons of *force majeure*, the President of the Court, Judge Cecilia Medina Quiroga, and Judge Leonardo A. Franco, did not participate in the deliberation and delivery of this Order. The Vice-President, Judge Diego García-Sayán, assumed the Presidency, according to article 5(1) of the Rules of Procedure of the Court.

definitively prevent the loss of lives and injuries to the physical, psychological, and moral integrity of all persons detained within the Yare I and Yare II Capital Region Penitentiary Centre (the Yare Prison), of all persons who in the future may be held as inmates within the prison, as well as those who are employed therein and of those who enter the prison as visitors, pursuant to the Order of the Court issued on March 30, 2006 in [the] matter[.]  
[...]

3. The Order of the Inter-American Court of February 2, 2007, in the matter of Penitentiary Center of the Central Occidental Region (Uribana Prison), by which it was decided, *inter alia*:

1. [T]o require that the State adopt forthwith and definitively all such provisional measures as are necessary and effective to prevent the loss of lives and the harm to the physical, mental and moral integrity of all persons deprived of liberty in the Uribana Prison, of all persons who might be kept in prison in such penitentiary center in the future, of the people working there, and of the visitors [, and]

2. [T]o require that the State adopt, in addition to the measures to be adopted forthwith as ordered in the above operative paragraph, all such measures as are appropriate to bring the above-stated situation into line with the applicable international rules regarding the treatment of persons deprived of liberty, in particular: (a) to confiscate the weapons kept by the inmates; (b) to reduce overcrowding and improve detention conditions; (c) to provide adequate trained staff to assure appropriate and effective control, custody and surveillance of the prison; (d) separate male inmates from female inmates; (e) to separate untried prisoners from convicted prisoners, and (f) to implement a system of continuous oversight of detention conditions.  
[...]

4. The Order of the Inter-American Court of February 8, 2008, in the matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center (hereinafter, "The Rodeo"), by which the Court decided, *inter alia*:

1. To order the State to adopt the provisional measures necessary to protect the life and personal integrity of all the people confined in [El Rodeo], especially, in order to prevent injuries and violent deaths.  
[...]

5. The briefs by which the State of Venezuela (hereinafter, "the State" or "Venezuela") presented information regarding the implementation of provisional measures in the four related matters:

a) "La Pica"- briefs of August 8 and October 4, 2007; March 4, June 4, July 28, September 9, October 26 and December 17, 2008;

b) "Yare Prison"- briefs of January 7, March 4, June 4, July 28, September 9 and October 30, 2008 and of January 6 and June 23, 2009;

c) "Uribana Prison"- briefs of June 28 and August 27, 2007; May 14, June 4, July 9, 22 and 27, October 28 and December 17, 2008 and of June 5, 2009 and,

d) "El Rodeo"- briefs of April 18, June 19, August 18, October 14 and 30, 2008 and of January 6, June 4 and 22 and July 16, 2009.

6. The briefs of the respective representatives of the beneficiaries (hereinafter, the "representatives") by which they filed their observations in relation to the implementation of the provisional measures in the four cases above mentioned:

a) "La Pica"- briefs of September 10 and November 9, 2007; March 19, April 16,

July 11 and October 16, 2008;

b) Prison Yare- briefs of February 1, March 19, April 16, July 4 and 11, September 22, October 31 and December 22, 2008 and of September 2, 2009;

c) Uribana Prison- briefs of June 14, August 23, and September 27, 2007; March 19, April 16, July 10, October 1 and December 22, 2008 and of July 13, 2009 and,

d) El Rodeo- briefs of March 19, April 16, May 23, August 2 and 11, October 10 and December 22, 2008; and July 29 and October 23, 2009.

7. The briefs of the Inter-American Commission on Human Rights (hereinafter, the "Inter-American Commission" or the "Commission"), by which it presented observations to the information forwarded by the State in relation to the implementation of provisional measures in the four cases above mentioned:

a) "La Pica"- briefs of September 20 and November 30, 2007; May 8, July 25 and October 20, 2008; and of February 17, 2009;

b) Yare Prison – briefs of March 7, May 8, July 25 and December 2, 2008, and of February 4 and August 25 and 26, 2009;

c) Uribana Prison – briefs of June 21, August 17 and October 31, 2007; July 28 and November 18, 2008, and of February 17 and July 31, 2009; and

d) El Rodeo- briefs of February 20, June 6, August 21 and October 1, 2008 and of January 8, and August 25, 2009.

8. The note of the Secretariat of the Court of December 10, 2008 by which, following the instructions of the full Court, the State was requested to present, no later than January 30, 2009, a single report in reference with the measures adopted to protect the life and personal integrity of all the people confined in said four penitentiary centers. In particular, the State should have informed about the measures adopted so that the people of said centers are not injured or violently killed. Furthermore, it was indicated that, upon the receipt of said report, as well as of the respective observations of the Inter-American Commission and the representatives in each matter, the Tribunal should consider, as in previous cases and matters, the relevance of convening a public hearing to assess the compliance with the provisional measures in these four penitentiary centers.

9. The brief of January 30, 2009, by which the State presented the single report on the measures adopted to protect the life and integrity of all the people confined in such penitentiary centers.

10. The briefs of March 9 and 31, 2009 by which the representatives and the Inter-American Commission, respectively, presented their observations to the single report of the State (*supra* Having Seen clause 9).

11. The private hearing held at the Court's seat in San José, Costa Rica on September 30, 2009, to analyze the situation of the four matters.<sup>1</sup> During said public hearing, the

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<sup>1</sup> To this hearing, there appeared, on behalf of the Inter-American Commission, Commissioner Florentín Meléndez, and Specialists of the Executive Secretary Lilly Ching Soto, Karla Quintana Osuna and Silvia Serrano

Tribunal obtained information from the State and received the observations of the Inter-American Commission and the representatives on the implementation of the provisional measures in force in these matters. Within the framework of said hearing, the representatives delivered to the Court's Secretariat a list of the signatures from the beneficiaries of the provisional measures, by which they requested this Tribunal to maintain such measures. During the hearing, the representatives requested the expansion of the provisional measures in favor of Mr. Humberto Prado and Carlos Nieto Palma.

12. The brief of October 8, 2009 by which the representatives of the beneficiaries presented "[their] arguments regarding the maintenance and the expansion" of the provisional measures ordered by the Tribunal in the four matters. In said brief, the representatives requested:

1. [t]o keep the [p]rovisional [m]easures ordered by [the] Court [...] in favor of the people confined in the prisons of La Pica, Yare, Uribana and El Rodeo and to adopt, without detriment to the foregoing, any other measure necessary in order to bring the conditions inside the prisons into line with the international standards applied to this matter. The foregoing measures should be immediately adopted by the State so as to effectively avoid that [...] no inmate or person in the confinement centers is killed or treated inhumanely [;]
  2. [t]o repeat that the State must comply with the provisional measures ordered by the [...] Court, especially:
    - a) to substantially reduce overcrowding [;]
    - b) to confiscate the weapons kept by the inmates [;]
    - c) to separate untried prisoners from convicted prisoners [;]
    - d) to adjust the confinement conditions to the international standards applied to this matter [;]
  - 3) to provide the necessary medical care to inmates [, and]
  - f) to conduct a continuous oversight of the confinement conditions, and the physical and emotional condition of inmates [;]
3. [t]o expand the [...] provisional measures to include Mr. Carlos Alberto Nieto Palma, Director of the organization called *Una Ventana a la Libertad* [A Window to Freedom] and members of the *Observatorio Venezolano de Prisiones*, Marianela Sánchez, María Inés García, Emil Niño, Wilmer Linero, Miriam Bolívar and Humberto Prado, the latter Director of [*Observatorio Venezolano de Prisiones*];
  4. [T]o require the State to have a meeting with representatives of the beneficiaries and to allow them [t]o participate in the planning and implementation of the protective measures to be adopted for the sake of compliance therewith [;]
  5. [T]o require the State not to criminalize the human rights defenders in prisons;
  6. [t]o require the State to duly inform on the actions taken for the properly compliance with the measures;
  7. [t]o require the State [...] to expedite the procedural delay that affects people deprived of liberty in the instant cases[, and]
  8. [t]o require the State to guarantee the inmates' next-of-kin respect for human rights when they visit said penitentiary centers, so as not to subject them to humiliation and degrading treatments.

13. The note of the Court's Secretariat of October 13, 2009, by which, following the

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Guzmán; on behalf of the representatives, Mrs. Marianella Villegas Salazar and Mr. Humberto Prado, Wilmer Linero, Francisco Quintana, Carlos Ayala Corao, Carlos Nieto, Carlos Miguel Reaño and Emil Niño, and on behalf of the State, Attorney of the Office of the State's Agent, Luisangela Andarcia, and National Director of Penitentiary Services Consuelo Cerrada, and Agent Germán Saltrón Negretti; Director of the Procedural Representation Office of the Attorney General's Office Alejandro Castillo; Officer of the Representation Office of the Attorney General's Office Roberto Acosta and Manager of the Project on Humanization of Confinement Centers, Mr. Reynaldo Hidalgo.

instructions of the President of the Court, the State and the Inter-American Commission were requested to present, no later than October 23, 2009, the observations they deem relevant to the arguments and appendices forwarded by the representatives regarding the maintenance and expansion of the provisional measures in the instant four matters (*supra* Having Seen clause 12).

14. The briefs of October 19 and 30, 2009 by which the Inter-American Commission and the State submitted, respectively, their observations to the arguments presented by the representatives regarding the maintenance and expansion of the provisional measures ordered by the Tribunal in these four matters of reference (*supra* Having Seen clause 12).

**Considering:**

1. That Venezuela has been a State Party to the American Convention on Human Rights (hereinafter, the "American Convention") since August 9, 1977, and that it accepted the binding jurisdiction of the Court on June 24, 1981.

2. That Article 25(1) of the Rules of Procedure of the Court provides that "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".

3. That this Tribunal recalls that the American Convention provides for the adoption of provisional measures when the case involves "extreme" gravity, that is, an intense or high level of gravity. The urgency implies that the risk or threat must be imminent, which also presupposes that the response to remedy it must be immediate. Finally, as to the damage, there must exist a reasonable probability that the damage is caused and it must not involve legally protected interest capable of being repaired.

4. That, upon ordering the protective measures, the Tribunal does not need, in principle, evidence of the facts that, *prima facie*, appear to meet the requirements of Article 63. However, for the protective measures to be maintained, the Court has to assess the persistence of the situation of extreme gravity and urgency to avoid irreparable damage that gave rise to the measures,<sup>2</sup> on the basis of information of evidentiary value.<sup>3</sup>

5. That it is essential that the provisional measures are maintained in full force and affect until the Court orders their discontinuance and serves notice thereof upon the State.<sup>4</sup> It is in this manner that, in deciding whether to maintain the provisional measures in force, the Tribunal must analyze whether the situation of extreme gravity and urgency that led to their adoption persists, or whether new circumstances, also extremely grave and urgent,

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<sup>2</sup> Cf. *Matter of Pueblo Indígena Kankuamo*. Provisional Measures Regarding Colombia Order of the Inter-American Court of Human Rights of April 3, 2009, considering clause seven. *Case of A.J. et al. Provisional Measures regarding Haiti*. Order of the Inter-American Court of Human Rights of September 21, 2009; Considering Clause eighteen; and *Matter of Pérez Torres et al (Cotton Field)*. Provisional Measures regarding Mexico. Order of the Inter-American Court of Human Rights of July 6, 2009, Considering Clause twenty.

<sup>3</sup> Cf. *Matter of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of July 6, 2009; considering clause fifteen; *Matter of A.J. et al, supra* note 2; considering clause eighteen; and *Matter of Perez Torres et al (Cotton Field)*, *supra* note 2, considering clause twenty.

<sup>4</sup> Cf. *Matter of Liliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of March 1, 2005; Considering Clause ten; *Case of Gutierrez Soler*. Provisional Measures Regarding Colombia. Order of the Inter-American Court of Human Rights of July 9, 2009, Considering Clause six. *Case of Bámaca Velásquez*. Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of January 27, 2009, Considering Clause forty-six.

warrant keeping them in force. All other issues may be brought to the Court's attention solely through the procedure for contentious cases.<sup>5</sup>

6. That according to the International Human Rights Law, the provisional measures are not only precautionary in the sense that they preserve a legal situation, but they are also mainly protective since they protect human rights, insofar as they avoid irreparable damage to people. In this sense, provisional measures become a real jurisdictional guarantee of a preventive nature.<sup>6</sup>

7. That the State has the obligation to adopt protective measures to safeguard the persons under its jurisdiction, and such obligation is even more evident regarding persons lodged in a government confinement center, in which case the State is the guarantor of the rights of the persons under its custody.<sup>7</sup>

8. That, in accordance with the Orders of the Court issued between 2006 and 2008 (*supra* Having Seen clauses 1 to 4), in the matters of "La Pica", Yare, Uribana and El Rodeo (hereinafter, the "four penitentiary centers" or the "four matters"), the State had and still has the obligation, *inter alia*, to adopt the provisional measures that may be necessary to protect the life and personal integrity of all the persons confined in the penitentiary centers referred to above, especially to avoid injuries and violent deaths.

9. That the Court values the effectiveness of the hearing held in order to learn about the current status of the provisional measures ordered in the four matters of reference.

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10. That even though the Tribunal received and has separately processed each one of the four matters (*supra* having seen clauses 1 to 4), it considers it is convenient to analyze the information presented by the parties in that regard, as a whole, as analyzed at the public hearing (*supra* Having Seen clause 11) due to reasons of procedural economy (*infra* Considering clauses 43 and 44).

#### *A) On the maintenance of the provisional measures*

11. That the State has provided, *inter alia*, the following information regarding the implementation of the provisional measures ordered by the Court:

a) the "violence rate" in prisons has fallen as a result of the different types of measures adopted by the State. According to the State, this is shown in the following figures: in the year 2008, 151 people were injured and 85 people died in the four

<sup>5</sup> Cf. Matter of James et al. Provisional Measures regarding Trinidad and Tobago. Order of the Inter-American Court of Human Rights of August 20, 1998, considering clause six; Case of the *Gómez-Paquiyaury Brothers*. Provisional Measures regarding Peru. Order of the Inter-American Court of Human Rights of January 22, 2009; considering clause four; and Matter of the persons imprisoned in the "Dr. Sebastião Martins Silveira" Penitentiary in Araraquara, São Paulo. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of November 25, 2008, Considering Clause fifteen.

<sup>6</sup> Cf. *Case of Herrera Ulloa*. Provisional Measures regarding Costa Rica. Order of the Inter-American Court of Human Rights of September 7, 2001; considering clause four and Case A.J. et al, *supra* note 2, considering clause five and Matter of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of the Inter-American Court of Human Rights of April 30, 2009, Considering Clause five.

<sup>7</sup> Cf. *Matter of the Penitentiary Center of the Central Occidental Region (Uribana Prison)* Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 2, 2007; considering clause seven; Matter of Monagas Judicial Confinement Center ("*La Pica*"). Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of July 3, 2007, Considering Clause ten.

penitentiary centers, which represent 2.94 per cent and 1.66 per cent of the total population in these prisons, respectively; and in the year 2009, 158 people were injured and 55 died, representing a 2.59 per cent and 0.90 per cent of said population, respectively. Therefore, for the State, "in a small but significant way [...] the violence rates [...] sho[w] a decrease in the penitentiary centers of reference".

b) "the authorities have carried out [non invading] searches [by means of electronic equipments,] in which fire arms, prison-made weapons, explosive devices, ammunition of different caliber, drugs and psychotropic substances, among other objects that are prohibited, have been seized". However, the State acknowledged that due to "[the] lack of effective control" regarding the assistance guards, that is , the civil personnel in charge of the internal security of the penitentiary centers, "it has been really [...] impossible to trace the acts of trafficking of arms inside [the] prison[s]";

c) "agreements were entered into between the General Direction of Custody and Rehabilitation of the Inmate and high-ranking authorities of the Bolivarian National Guard, that is to say, the military authorities in charge of the external security of the penitentiary centers, to strengthen the surveillance in all the prisons and avoid mutinies [...] difficult to control and guarantee, in turn, the respect of human rights";

d) Balanced meals are served "in all the [p]enitentiary [c]enters by the [F]ood [S]ervice of the Army, in order to ensure a good distribution at the national level". In addition, "fifteen (15) menus are presented, which are chosen by each [p]enitentiary [c]enter, according to demands";

e) Activities have been carried out in order to prevent the propagation of illnesses as well as cleaning and fumigation campaigns and there are "health conditions in the premises [and] total availability of the basic services";

f) as to the problem of overcrowding, evident progress has been made in the infrastructure of the four penitentiary centers, in relation, basically, to the construction of perimeter walls, gatehouses, illumination towers, water pipeline, bathrooms and dorms, and the creation of a computer system for the prison management (SIGEP) Furthermore, the construction of 15 confinement centers "to solve the overcrowding problems" is expected". "[T]he transfer of inmates to [new] centers is made so long as [such other centers] have officers, prison specialists, psychologists, criminologists, social workers, lawyers and medical services to assist most of the population, given the fact, otherwise, the inmate population to be transferred, [...] would be unattended and unoccupied".

g) The corresponding government attorney's offices have initiated 132 investigations as a response to the violent events that occurred in prisons, "emphasizing that of all [o]f them, only one corresponds to abuse on the part of a [security] officer".

h) "the training program for assistant guards has incorporated between the year 2004 and [...] 2008, 792 guards [...] to the [prison] system"; however, there are capacity issues since such job is not very appealing to the respective graduates".

i) the authorities have carried out educational missions focused on the approval of sixth grade of basic education, the completion of high school, the continuance of higher education, the insertion of inmates into the prison production system and the

execution of activities regarding education, training and employment, indicating that one of the factors that restricts their participation is "the will of the inmates";

j) "some cases of [...] inmates have been evaluated, in order to have access to different alternative methods of compliance with sentences". In addition, on April 21, 2008 the Constitutional Chamber of the Supreme Court of Justice (TSJ) admitted the motion to annul articles 374, 375, 406, 407, 456, 457, 458, 460 and 470 of the Criminal Code and articles 31 and 32 of the Narcotic Drugs and Psychotropic Substances Act, and decreed the suspension of the effects of the rules that prohibited the granting of "[p]rocedural [b]enefits and [a]lternative [m]ethods of [c]ompliance with [s]entences". Furthermore, by means of Resolution No. 789 of August 7, 2008, it was ordered the "creation of ten (10) new prosecutor's offices at the national level". Along the same line of reasoning, the State informed that by means of Decree No. 6.398 of September 9, 2008, it was created the National Commission on Pardons;

k) The Superior Prison Council was set up as an institution "in charge of the design and formulation of structural policies to completely deal with the Prison System". Finally, the State presented information regarding the implementation of the program "Community for Human Rights- subprogram of 'Penitentiary Community' (*Haciendo Comunidad para los Derechos Humanos, subprograma Comunidad Penitenciaria*), the "Penitentiary Humanization Project" (Proyecto de Humanización Penitenciaria) and the new "Model of Penitentiary Management" (Modelo de Gestión Penitenciaria) and

l) It will be possible to schedule the visits of the representatives to the four penitentiary centers once the computer system for prison management (SIGEP) is implemented (*supra* Having seen clause 11.f).

12. That the representatives indicated, *inter alia*, the following information regarding the implementation of the provisional measures:

a) "the State continuously, systematically and notably infringes on the right to life and humane treatment of the prison population". Since the provisional measures have been adopted in each one of the Venezuelan prisons [referred], prison violence has led to 502 deaths and 1041 injured people (55 deaths and 84 injured people in La Pica; 135 deaths and 190 injured people in Yare; 158 deaths and 405 injured people in Uribana and 154 deaths and 362 injured people in El Rodeo). In addition, "so far in 2009, 55 people died and 158 were injured in these penitentiary centers". Hence, "more inmates die in Venezuela than in the rest of the hemisphere, and each two years and a half, the equivalent to the entire population of a penitentiary center in the country, dies";

b) The main grounds for famine strikes and "self-kidnapping of relatives" are, *inter alia*, the requests for dismissal or change of authorities, the lack of respect of procedural periods of time regarding the inmates who have not been convicted for any crime and who are under arrest pending trial in prison, the undue delays for the granting of alternative methods of compliance with sentences for convicted inmates, the physical ill-treatment on the part of officers of the National Guard, the demand for "infrastructure conditions according to the prison population[,] and [the lack of] respect towards their relatives";

- c) "they continue conducting search procedures in order to disarm the inmate population, where officers of the National Guard continue having an abusive behavior. According to the representatives, "the main cause of the extreme violence existing in the Venezuelan prisons, is the entry of firearms [...] [coming from what they called] prison mafia, composed of officers of the National Guard as well as of the Ministry of the Interior and Justice, who have the capacity to trade and traffic [...] weapons [with] the inmates that are inside the prisons";
- d) "[e]ven though the number of security guards has increased in proportion to the guards that existed at the time of issuance of the [orders] for provisional measures [...], [the number] is still not enough". Moreover, they repeated that "since the issuance of the orders of this Court up to the present, the number of security guards informed by the State has never coincided with the guards [the representatives] may observe" during the visits to the prisons";
- e) the inmates usually eat the food provided by their relatives, therefore only those inmates without a family support eat the food of the prison center. Hence, the inmates express "their disagreement with the little amount and bad quality of the food";
- f) there is "lack of doctors and supplies necessary to provide adequate health care to the prison population. The population of the four confinement centers amount to 4.000 inmates, and there are only approximately six doctors in all the centers and lack of supplies".
- g) Even though they "recogniz[e] the efforts made by the State in order to deal with the serious problems of infrastructure, "there is a continuing overcrowding, coupled with deteriorated infrastructures", despite the "efforts of the State to build 15 penitentiary centers". "There is no bathroom" in the confinement centers, "the use of water is usually restricted and the population takes a bath in a common space, which is not private, affecting the dignity of inmates". Along the same line of reasoning, "there is no effective process of recollection of garbage", which determines the "accumula[tion] of excrement, creating a permanent unhealthy environment,
- h) The inmates are not separated based on their level of dangerousness, age, status of the proceedings, whether the inmate has been sentenced, or if it is his first offense or whether the inmate is a recidivist, "a limited classification is made when the inmate arrives at the prevention area and the officers [ask] him where he would like to go and [the inmates chooses the place in which he believes] he could be more safe";
- i) "there is no information on disciplinary or administrative procedures against the authorities and officers responsible for the penitentiary centers, or on [c]riminal charges brought against the alleged responsible for the violent acts committed inside the prisons, let alone [...] on a sole [...] final conviction in these cases"; therefore, they concluded that there exists "a generalized impunity that fosters and protects the violent acts".
- j) the educational and labor missions implemented by the State must be "massive" "since the percentage of participants is low in relation to the existing prison population". In this regard, they indicated that the percentage of participants

has decreased "because the population is afraid of going to the areas where such activities are carried out, since their lives are in danger";

k) For the last 15 years, "Venezuela has had the National University Institute of Prison Studies [Instituto Universitario Nacional de Estudios Penitenciarios] [from which] more than 900 people have graduated in the field of security, management, treatment and management; and not even 5 per cent of such Venezuelan personnel is working in prisons";

l) "[t]he prison population is requiring the respect for the procedural time limits, the granting of procedural benefits; the granting of [a]lternative [m]ethods of [c]ompliance with [s]entences[,] and the services of psychosocial evaluations";

m) As to the government attorney's offices with jurisdiction in matters of Prisons, "they emphasiz[ed] that, despite the efforts made for their creation, the rehabilitation of the former inmate and the respect of his human rights is not being guaranteed". Furthermore, they noted with appreciation the creation of the National Commission on Pardons, as well as the implementation of the program "Community for Human Rights" [Haciendo Comunidad para los Derechos Humanos];

n) Up to date, the access of the representatives to the prison premises have been conditional "upon the prior 'express authorization' granted by the Department for Custody and Rehabilitation of the Inmate", and

o) "we are facing a situation of extreme gravity and urgency and, unless the measures are maintained in force, irreparable damage will be caused on the people deprived of liberty in Venezuela". Hence, they indicated that the adoption of provisional measures "has, in some way, influenced in order for the Venezuelan State to provide [...] special or additional care in comparison to the one that it was being provided to prisons".

13. That, in this regard, the Commission noted, *inter alia*, that:

a) "from the information forwarded, it does not spring that the State has taken any specific or immediate action in order to avoid, in an effective and final way, violence in [the penitentiary centers], so that no inmate or any other person at [said centers] is killed or his personal integrity impaired". The Commission noted that "during the enforcement of the measures, several inmates have died as the result of violent incidents, others have been seriously injured; there have been famine strikes, fleeing [and] reports on ill-treatment on the part of the custody guards, especially during the searches and other serious incidents". "[T]his situation of violence shown in the official statistics [furnished by the State] is the main indicator of the need to maintain these provisional measures in force". According to the Commission, the good will of the State and the measures taken to bring about changes have been "insufficient to overcome the high level of violence in the prisons", since the "official statistics [...] prove that the measures are not adequate [nor] effective to overcome the situation of extreme gravity [and] urgency and to avoid irreparable damage to inmates and any other people". Furthermore, the Commission indicated that the State "has not managed to recover the internal control of these prisons";

b) There is lack of information on the part of the State in relation to more structural problems that allow the restructuring of the prison population after the

searches are conducted, especially the lack of effective controls on the part of the corresponding officers;

c) "while the number of inmates in the prisons increases, the number of guards decreases, which does not contribute to the solution of the situation of risk". In this sense, the Commission noted with concern the discrepancy in the information furnished on the number of guards;

d) "the State has not provided information on the progress made in relation to food". Moreover, pursuant to the Commission, it is "necessary for the Court to request the State to present a detailed report on the capacity of each one of the cells of the units that are currently equipped to be used and a list of the inmates with indication of their current physical location, not just by unit, but by cell, in order to establish the level of overcrowding in [each] facility and from that, determine the immediate actions that may have a positive impact on its reduction". Even though the Commission valued the efforts made by the State in the construction of the new confinement centers, it emphasized that the state "does not mention the approximate term of completion of the [infrastructure works] and that it does not present information on the improvement of the situation of the detainees while these works are being performed". Moreover, it highlighted "that the State has not taken responsibility in none of its reports for the allegations of the representatives as to the non-existence of bathrooms [...] or the allegations on the restrictions of the use [of] light and water, and the lack of supplies in the nurse's station of th[e] prison[s]". According to the Commission, "[o]vercrowding in such high figures and the lack of basic infrastructure as bathrooms and access to drinking water are directly related to violence, since inmates must fight for a vital space, which favors the creation of relations of power and domination and gang-inmates";

e) Even though "there is evidence of the efforts made by the State in relation to [medical, sport and cultural sessions] and fumigation activities", the Commission pointed out that said measures "must be regular and must include the total number of inmates in order to achieve the social re-insertation they intend to";

f) the State has not presented "information on the progress made in the investigations into the violent facts";

g) As to the educational programs, "the percentage of inmates [...] that participate [in said programs] is very reduced and the State has not presented information as to who [has] access to [such] programs, the programs' capacity, methods to promote their existence, among others";

h) "[e]ven if it is true that the application of alternative forms [of punishments] may be relevant, it is minimum the number that these measures were granted and it does not have a substantial impact on the overpopulation of the [penitentiary centers]";

i) the creation of the Superior Prison Council, the 26 national public prosecutor's offices with jurisdiction over prison matters, the new prosecutor's offices at the national level, with jurisdiction over prison matters, the National Commission on Pardons and the implementation of the program "Community for Human Rights" [Haciendo Comunidad para los Derechos Humanos] are positive initiatives of the

State. However, the Commission "request[ed] the Court to order the State to present precise information in that regard";

j) "it is important to agree on mechanisms to facilitate the visits of the representatives and civil society organizations to detention centers, so as to favor the social control regarding the confinement conditions of the people imprisoned in Venezuela", and

k) "the three elements of the Convention that determine [the maintenance of] the provisional measures are latent" and in the specific cases, the adoption of the measures is particularly "useful [...] to overcome conditions or situations of violence which, otherwise, could not be solved by the methods provided by the State and to create security conditions for life".

14. That the main purpose of the adoption of the provisional measures in these four matters is the effective protection of the life and personal integrity of the beneficiaries (*supra* Having Seen clauses 1 to 4). In this regard, it spring from the information furnished by the parties that, after a year and a half and three years and a half since the adoption of the provisional measures in the four penitentiary centers, there still exist violent acts ending in hundreds of deads and injured people (*supra* Considering clauses 11.a and 12.a). Moreover, the prison conditions imposed are contrary to the protection of integrity and dignity of the beneficiaries of said measures.

15. That the situation of extreme gravity and urgency has not been denied by the State. Likewise, the State has not requested the rescission or modification of the provisional measures ordered in the four matters of reference. On the contrary, the State presented official figures and information that confirm the existence of high levels of violence, which have caused several deaths and the infringement on the personal integrity of the inmates in the penitentiary cases under question (*supra* Considering clause 11a).

16. That the Commission and, particularly, the representatives have presented sufficient evidence and arguments leading this Tribunal to reasonable believe that there is still a situation of extreme gravity and urgency that justifies the maintenance of these provisional measures, in order to avoid irreparable damage to the life and integrity of the beneficiaries.

17. That, taking into account that the State undertook, at the public hearing, to overcome the current prison situation within a reasonable term of "five years" and, in view of the efforts made, so far, by Venezuela in this regard, this Tribunal considers it is convenient to maintain the provisional measures in favor of the beneficiaries of the four penitentiary centers in force, so as not to report, any longer, violent facts leading to deaths or injuries of the people under arrest that, as such, are subject to the State's control, who also has to play a special role of guarantor in relation to them.

18. That even though this Tribunal is aware of the fact that the problem of confinement centers in general, and of Venezuela in particular, requires medium and long term actions in order to adapt its conditions to international standards, the States are obliged to implement prompt actions to guarantee the physical, psychological and moral integrity of inmates, as well as their right to life and to enjoy the minimum conditions of a dignified life<sup>8</sup>.

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<sup>8</sup> Cf. *Matter of Monagas Judicial Confinement Center ("La Pica")*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of February 9, 2006, Considering clause nineteen.

19. That, in this sense, the State must promptly adopt the measures that are necessary to avoid, in a definitive and effective way, violence in the four penitentiary centers of reference, so that no other inmate be killed or his personal integrity affected. The State must adopt measures addressed to prevent any future rebellions, strikes, the so-called "self-kidnapping" or other acts that could affect the order within said confinement centers<sup>9</sup>.

20. That, based on the foregoing, the Tribunal considers it is essential that the State provides precise information on the measures to be adopted to fully and promptly comply with the obligation to protect the life and personal integrity of all the beneficiaries in the four penitentiary centers of reference. The State must present a report making specific reference to those violent facts of the four penitentiary centers where the beneficiaries are killed or injured, if applicable, as well as in reference to the measures adopted to avoid the repetition of such facts.

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21. That the Court values the efforts made by the State as to the implementation of the measures and the activities tending to improve the situation of the beneficiaries of the provisional measures, particularly in relation to health, education, culture, employment, food, fumigation, infrastructure, training of guards, alternative methods of compliance with sentences and the creation of new national public prosecutor's offices with jurisdiction over prison matters, among others. The Tribunal urges Venezuela to continue with the development of these and other activities addressed to improve the prison situation of the country. Without detriment to the foregoing, the Tribunal repeats that, within the framework of these provisional measures, the State's obligation must be centered on the implementation and information of those measures that are directly linked to the protection of life and integrity of the beneficiaries.

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22. That, finally and considering the relevance of this aspect as to the monitoring of the provisional measures in the instant four matters, the State must solve, as soon as possible and in consultation with the representatives, the processes that are pending to obtain the authorization required for their entrance to the penitentiary centers.

*B) On the request for expansion of the provisional measures in favor of the representatives of the beneficiaries*

23. That, within the framework of the public hearing held in relation to the four matters of reference, the representatives requested the expansion of the provisional measures in favor of Mr. Humberto Prado, Director of the *Observatorio Venezolano de Prisiones*, as well as in favor of Mr. Carlos Alberto Nieto Palma, Director of the organization called *Una Ventana a la Libertad*. They are both representatives appointed to the instant matters.

24. That, regarding Mr. Humberto Prado, Director of *Observatorio Venezolano de Prisiones*, in addition to the existing information within the framework of the case file on the

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<sup>9</sup> Cf. Matter of Monagas Judicial Confinement Center ("La Pica"), supra note 8, considering clause seventeen.

request for provisional measures presented by the Inter-American Commission on May 16, 2007, the representatives referred to three new facts that would justify the expansion of the provisional measures, namely: 1) the investigation into the directors of *Observatorio Venezolano de Prisiones* conducted by the secretary of the Minister Ramón Rodríguez Chacín "trying to prosecute them for treason and for having instigated civil rebellion". Specifically, "in this year, a criminal investigation was initiated [...] against [Mr. Humberto Prado] for his alleged responsibility for the crimes before mentioned, based on alleged evidence that link him to those facts"; 2) "[recent] information in [the] press (La Razón newspaper, of September 6, 2009) in which it was asserted that a preliminary inquiry has been conducted [...] against [Mr. Humberto Prado] for his alleged responsibility for the conflicting situation inside the Venezuelan prisons" and 3) the accusation on the part of the State's agent at the public hearing, when he [referred to] "the coincidence that, according to him, seems to exist between the strikes conducted at the Venezuelan prisons each time the [Observatorio Venezolano de Prisiones] lodges the corresponding complaints before the bodies of the [Inter-American] system".

25. That, with regard to Mr. Carlos Nieto, the representatives referred to a specific event that occurred on August 19, 2009, at approximately 11.00 A.M. According to the representatives, on said occasion, Mr. Carlos Nieto:

was visited at his residence by three alleged officers connected to the Metropolitan Police, who were in uniform and were holding their helmets. Mr. Nieto opened the door and asked them in, assuming that it has to do with some process related to the protective measures ordered in his favor - like the signing of the records that several officers regularly send to his home[.] However, once the alleged officers were inside his residence, they informed him that he must go with them, due to orders issued to that end. Despite he requested an explanation of the reason or whether there was a judicial order to go with them, the alleged officers disregarded such request. Even when [Mr. Nieto] insisted that he should communicate with his lawyers to learn about the rights that protected him in such irregular act, the alleged officers asked him whether, due to his profession as lawyer, he could not defend himself, to which he responded that in that particular case, he was the victim and therefore, he preferred being represented by other lawyers. Mr. Nieto, in light of this situation and since he was alone in his residence, asked the officers for a few minutes to go to his bedroom, with the excuse to go to the bathroom; it was then that he had access to the computer and sent a message to the social network called "[T]witter", informing on the presence of such alleged officers in his residence. When he returned to the living-room, the alleged officers inquired him about the public brief that was published with the petitions of the people detained in 'Tocoron' Confinement Center. Next, they said to him 'Why don't you shut up and stay out of problems?' You should stop saying such things of the Minister', in relation to the complaints made for the irregularities in the penitentiary centers of the country, to which Mr. Nieto answered 'I have anything against nobody and that th[at] [was] my job as human rights defender, for which I did not have to shut up[.]'. The visit of the alleged police officers lasted approximately 30 minutes and it was interrupted by the so many phone calls that Mr. Nieto received after sending information via the network 'twitter'. When the alleged officers noted the telephone calls, they retired and the visit concluded, once they told him to 'be careful'.

26. That, apart from the new facts presented by the representatives regarding Mr. Humberto Prado and Carlos Nieto, within the framework of the public hearing held at the seat of the Inter-American Court on September 30, 2009, the State referred to "two situations" that, in the first year, had proved the coincidence between the presentations of Venezuela before the bodies of the Inter-American system and the beginning of the strikes at the penitentiary centers of the country. The State pointed out that: i) in March, 2009, when Venezuela presented the situation of prisons before the Inter-American Commission, "strikes were conducted in thirteen prisons, famine strikes" and ii) the day of the public hearing before the Court, "and [for] the last two days, a famine strike was organized in Uribana [prison]", concluding that the representatives "did not even try to [hide such coincidences]". According to the representatives, the statement made by the State constitutes evidence of the "stigmatization" or "criminalization" against human rights defenders, which, finally, supports the request for "expansion of the provisional measures

so that the[ir] work is duly respected, protected, guaranteed, promoted and cherished by the Venezuelan State".

27. That, after the public hearing, in a brief of October 8, 2009 (*supra* Having Seen clause 12), the representatives requested the "[e]xpansion of the [...] provisional measures [in favor of] the members of *Observatorio Venezolano de Prisiones*, Marianela Sánchez, María Inés García, Emil Niño, Wilmer Linero [and] Miriam Bolívar". However, the representatives did not present specific facts of the alleged situation of extreme gravity and urgency in order to avoid irreparable damage to these people.

28. That, as to the request for expansion of the provisional measures, the Commission repeat[ed] its observations made on July 6, 2009 regarding the situation of Mr. Humberto Prado", concluding that "it had no additional observations to make". The Commission did not refer to the situation of Mr. Carlos Nieto or the situation of the other members of *Observatorio Venezolano de Prisiones*.

29. That, regarding the request for expansion of provisional measures in favor of Mr. Humberto Prado, the State recalled that on June 8, 2007 "the 36° Investigating Trial Court of Caracas Metropolitan Area ordered [protective measures] [at the national level] in his favor and police officers of the State of Miranda and the Municipality of Libertador were commissioned". Nevertheless, "once such measures were no longer [in force], [said] Investigating Trial Court [...] indicated that in order to request the expansion of such measures, it was necessary to comply with the requirements established by the Protection of Victims, Witnesses and other Parties to the Proceedings Act [*Ley de Protección de Víctimas, Testigos y demás Sujetos Procesales*], including the interview of the petitioner with the Public Prosecutor". According to the State, the "39° Plenipotentiary Public Prosecutor's Office, in order to request the postponement of the Protective Measures, used all the means of brief possible with Mr. Humberto Prado Sifontes, and it was impossible to make him appear before such Office to file a complaint for having been subjected to threats, risk or danger to his physical integrity, liberty, property or substantial violation of his rights; therefore, [according to the State], Mr. [Humberto Prado] has not used the powers granted under [said] Protection Act [...], preventing in this way the Public Prosecutor's Office from protecting him and guaranteeing his fundamental rights". In this sense, the State concluded that the representatives "cannot pretend to have access to the [Inter-American system] when they have not exhausted the domestic instances, in this case, the [p]rotective [m]easures granted by a Venezuelan court". The State did not refer to the situation of Mr. Carlos Nieto or the situation of the other members of *Observatorio Venezolano de Prisiones*.

30. That, as previously indicated (*supra* Considering clause 3), for the purposes of the adoption or expansion of provisional measures, the American Convention requires the gravity to be "extreme", that is, the level of seriousness must be intense or high; the risk or threat must be imminent and there must be a reasonable probability that an irreparable damage would cause a detriment to the individual. To such effects, it is necessary to establish the facts that *prima facie* would seem to meet the requirements established in article 63 of the Convention. Furthermore, in order to determine whether a situation of extreme gravity and urgency in order to avoid irreparable damage to people exist, the Court may assess the set of political, historical or cultural factors or circumstances, or of other nature, that affect the beneficiary or possible beneficiary and place him in a situation of vulnerability in a certain moment, with the possibility of suffering irreparable damage to his rights. This situation may increase or decrease in time on a great number of variables, but only extreme and urgent situations shall call for protection by means of provisional

measures<sup>10</sup>. In any event, contrary to what the State mentioned, the American Convention does not provide that provisional measures will be ordered only in those cases where the petitioner exhausted all the domestic remedies available to avoid irreparable damage caused by extremely grave and urgent situations. On the contrary, the mechanism of provisional measures only requires the compliance with the requirements of a situation of gravity, urgency and in order to avoid irreparable damage set forth in article 63 of the Convention (*supra* Considering clause 4).

31. That, by ordering provisional measures, the Tribunal may also assess the existence of a set of factors or circumstances that reveal serious attacks against a certain group to which the possible beneficiary belongs, which may place him in a situation of extreme gravity and urgency of suffering an irreparable damage. However, the mere belonging to said group would not be, in any case, sufficient to order provisional measures. It is necessary to prove the extreme gravity and urgency by means, for example, of a series of serious attacks against the group to which the potential beneficiary belongs, which would allow, in turn, to reasonably infer that he also could be attacked, even when he has not be directly threatened.<sup>11</sup>

32. That the representatives have not presented facts to prove *prima facie* that Mrs. Marianela Sánchez, María Inés García and Miriam Bolivar and Mr. Humberto Prado, Carlos Alberto Nieto Palma, Emil Niño and Wilmer Linero belong to a group that has been subjected to serious threats. Therefore, in view of the fact that, as a group, it has not been proven that a situation of extreme gravity and urgency exists, the Tribunal needs to analyze whether there are particular reasons to order the expansion of these provisional measures, based on the information presented by the parties regarding each one of these persons.

#### *B. 1) Humberto Prado*

33. That regarding Mr. Humberto Prado, due to a request of provisional measures presented by the Commission in the month of May 2007, this Tribunal has been monitoring the situation in relation to alleged threats and intimidating acts committed against him by state officers, as well as in relation to alleged intimidating acts against his life and the life of his family. In said proceeding, the Tribunal has learned that on June 8, 2007, the State ordered the adoption of "protective measures" and appointed the police of the State of Miranda and of the Municipality of Libertador to protect the life and integrity of Mr. Prado Sifontes and his family, at both his domicile and his work (*supra* Considering clause 29). In relation to said protective measures", the Court notes that Mr. Humberto Prado Sifontes and his family and the State authorities have to still carry out the appropriate liaisons focused on the possible expansion thereof at the domestic jurisdiction, always in accordance with the requirements established by the Venezuelan law.

34. That, without detriment to the foregoing, the situation put forward by the representatives in the instant matter is of a different nature. Unlike the situation of the request of provisional measures presented in the year 2007 by the Commission, the representatives requested the Tribunal to order the expansion of the provisional measures already ordered regarding the serious prison situation previously described, in order to

<sup>10</sup> Cf. Case of Carpio Nicolle, *supra* note 3, considering twenty-six; Matter of Liliana Ortega et al. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of July 9, 2009, Considering Clause twenty-two; and Case of the 19 Tradesmen. Provisional Measures Regarding Colombia. Order of the Inter-American Court of Human Rights of July 8, 2009, Considering Clause seventy-one.

<sup>11</sup> Cf. Case of Carpio Nicolle, *supra* note 3, considering clause seventeen and Matter of Liliana Ortega et al, *supra* note 10, considering clause twenty-three.

protect the life and integrity of Mr. Humberto Prado, by virtue of his capacity as representative of the beneficiaries. To that purpose, it has been mentioned that Mr. Prado is, allegedly, under investigation, so as to try him for the crime of treason and for having instigated civil rebellion, for his activities as representative of the beneficiaries of these provisional measures. The State has not contested said averment of the representatives (*supra* Considering clause 24).

35. That the treatment afforded by the State to Mr. Humberto Prado, in his capacity as director of a non-governmental organization that represents the beneficiaries of these measures, must be appreciated within the context of extreme violence that, as has been confirmed in this Order, exists in several prisons of Venezuela (*supra* Considering clauses 14, 15 and 16). According to information recently furnished (*supra* Having Seen clause 6.d), the Tribunal knows for a fact that Mr. Prado is and has been an intermediary in several highly volatile situations of confrontation between the State and the beneficiary of provisional measures. For example, recently, in El Rodeo confinement center, the beneficiaries apparently kidnapped a civil servant and requested the presence of Mr. Prado, among other people, to negotiate the situation and handle the queries of the inmates. Facts like these prove that Mr. Prado has been involved in dangerous situations as active representative of the beneficiaries.

36. That said context of violence and volatility places Mr. Humberto Prado in a situation *prima facie* of serious danger for his life and integrity that, according to what was recently informed, require urgent protective measures. Therefore, the Tribunal considers that these provisional measures must be expanded in order to protect the life and integrity of Mr. Humberto Prado.

#### *B.2) Carlos Nieto Palma*

37. That, as to the request for expansion of these measures in favor of Mr. Carlos Nieto, the Tribunal recalls that the measures granted in his favor, dated July 9, 2004, were rescinded by means of Order of the Inter-American Court of Human Rights of January 26, 2009, in view of the fact that no information was submitted proving that the situation of extreme gravity and urgency and the need to avoid irreparable damage that existed back when the provisional measures were ordered in his favor still persisted<sup>12</sup>.

38. That, without detriment to the foregoing, the Court notes that the instant request for expansion of measures is based on facts different to the ones indicated, back then, in the order of provisional measures in favor of Mr. Nieto five years ago. According to the representatives, on August 19, 2009, Mr. Carlos Nieto was visited at his residence by three alleged officers connected to the Metropolitan Police, who were in uniform and were holding their helmets and who, allegedly, threatened or intimidated him in order to stop making public statements about the situation of the people detained in 'Tocoron' Confinement Center.

39. That, contrary to what was previously mentioned in relation to Mr. Prado, the alleged threats or intimidating acts against Mr. Nieto are not related to these provisional measures, since the 'Tocorón' Confinement Center is not one of the four penitentiary centers related to this matter. As a consequence, the Court considers it is inadmissible to accept the request for expansion of provisional measures in favor of Mr. Nieto. However, the Tribunal recalls

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<sup>12</sup> Cf. *Matter of Carlos Nieto et al.* Provisional Measures regarding Venezuela. Order of the Inter-American Court of January 26, 2009, Considering clause twenty.

that the State has the obligation to respect the rights of all persons subject to its jurisdiction, according to article 1.1 of the American Convention (*infra* Considering clause 42).

*B.3) Other representatives*

40. That, as to the other members of the *Observatorio Venezolano de Prisiones*, Mrs. Marianela Sánchez, María Inés García and Miriam Bolívar and Mr. Emil Niño and Wilmer Linero, the request for expansion of the measures seems to be based, only, on the fact that said persons are members of an organization that defend the rights of people deprived of liberty in Venezuela.

41. That, in this respect, the Court notes that the representatives have not presented any evidence to prove the existence of a situation *prima facie* of extreme gravity and urgency regarding Mrs. Marianela Sánchez, María Inés García and Miriam Bolívar and Mr. Emil Niño and Wilmer Linero. Furthermore, the Tribunal does not find sufficient relevant factors that would allow to reasonably infer that said situation exists. Therefore, the Court considers it is inadmissible to accept the request for expansion of the provisional measures in favor of Mrs. Marianela Sánchez, María Inés García and Miriam Bolívar and Mr. Emil Niño and Wilmer Linero.

42. That, without prejudice to the foregoing, it is pertinent to recall the duty of the State to protect and to respect the function served by the non-governmental organizations and other groups or individuals that defend human rights and fundamental freedoms of those deprived of liberty, because these entities constitute a positive and complementary contribution to the efforts made by the State in its role as guarantor of rights of those under its custody<sup>13</sup>.

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43. That, based on the principle of procedural economy, it deems pertinent not only to analyze the information presented in relation to each matter, as a whole (*supra* Considering clause 10) but also to procedurally join the corresponding processing of the matters and the expansion of the measures in favor of Mr. Humberto Prado after the issuance of this Order. In this sense, the Court takes into account that in each one of the four matters, the Tribunal ordered, *inter alia*, the State to adopt measures to protect the life and integrity of all the people inside the four penitentiary centers, especially to avoid injuries and violent deaths (*supra* Having Seen clauses 1 to 14). Therefore, the irreparable damage that the Court intends to avoid with the adoption of these provisional measures is the same in the four matters. Moreover, the Tribunal notes that the beneficiaries of the measures in the four matters are groups of individuals in similar situations due to their condition of inmates, workers or visitors in four Venezuelan penitentiary centers (*supra* Having Seen clause 1 to 4), whose confinement and protection conditions are governed by a unique system. In addition, the Court notes that the four requests for provisional measures were made by the Inter-American Commission regarding the same State, and even though there are differences as to the legal representation of the different beneficiaries, it is also true that

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<sup>13</sup> Cf. Matter of Monagas Judicial Confinement Center ("La Pica"), *supra* note 8, considering clause fourteen; Matter of Lysias Fleury. Provisional Measures regarding Haiti. Order of the Inter-American Court of Human Rights of December 2, 2003; Considering Clause ten and Matter of Giraldo Cardona. Provisional Measures Regarding Colombia. Order of the Inter-American Court of Human Rights of November 29, 2006; Considering clause nineteen.

there are representatives common to all the beneficiaries. Besides, the Tribunal takes note that the parties have not objected to the joinder of the four matters and considers that the procedure and the presentation of information regarding the four matters, as a whole, at the public hearing held on September 30, 2009, have been very useful. Lastly, the Court considers that the purpose of the expansion of provisional measures in favor of Mr. Humberto Prado is to protect his life and integrity by virtue of his role of representative of the beneficiaries of the measures in three of the four matters of reference.

44. That, for such purposes, in accordance with the operative paragraphs of this Order, the State must present, as in previous cases (*supra* Having Seen clause 9), a single report in which it shall refer to the situation of the four prisons and the protective measures adopted in favor of Mr. Humberto Prado, a whole. Furthermore, the Commission as well as the representatives must present a single report, in which they shall forward the observations thereto.

**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 order the State to maintain and adopt the measures necessary to continue protecting the life and personal integrity of the beneficiaries of the following four penitentiary centers: Monagas Judicial Confinement Center ("La Pica"); Yare I and Yare II Capital Region Penitentiary Center (Yare Prison); Penitentiary Center of the Central Occidental Region (Uribana Prison) and El Rodeo I and El rodeo II Capital Judicial Confinement Center.

2. To require the State to adopt the necessary measures to protect the life and personal integrity of Mr. Humberto Prado.

3. To require the State to forward, as of February 15, 2010, reports every two months in specific reference to the measures adopted to protect the life and integrity of the beneficiaries. The Inter-American Commission and the representatives of the beneficiaries must present their observations to said reports within the term of six and four weeks, respectively, as from the receipt thereof.

4. To order the State to solve, within the term of two months as of notice of this Order and in consultation with the representatives of the beneficiaries, the pending processes to obtain the authorization that they require for their entrance to the penitentiary centers.

5. To reject the request for expansion made by the representatives of the beneficiaries in relation to Mrs. Marianela Sánchez, María Inés García and Miriam Bolívar and Mr. Carlos Alberto Nieto Palma, Emil Niño and Wilmer Linero, based on the reasons mentioned in Considering clauses 39 and 41 of this Order.

6. To require the Secretariat to notify this Order to the State, the Inter-American Commission and the beneficiaries' representatives.

Diego García-Sayán  
President in exercise

Sergio García Ramírez

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán

President in exercise

Pablo Saavedra Alessandri  
Secretary