

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF DECEMBER 2, 2003***

PROVISIONAL MEASURES

LUIS UZCÁTEGUI IN THE MATTER OF VENEZUELA

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") of November 27, 2002, on the provisional measures requested by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") in favor of Luis Enrique Uzcátegui Jiménez, in which it decided:

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

2. To order the State to allow the applicants to participate in the planning and implementation of the protection measures and, in general, to inform them of progress regarding the measures ordered by the Inter-American Court of Human Rights.

3. To order the State to investigate the facts stated in the complaint that gave rise to the instant measures, with the aim of discovering and punishing those responsible.

[...]

6. To order the State, subsequent to its first report [of December 12, 2002], to continue reporting to the Inter-American Court of Human Rights, every two months, on the provisional measures adopted, and to order the Inter-American Commission on Human Rights to submit its observations to said the reports within six weeks of receiving them.

2. The first report of the State of Venezuela (hereinafter "the State" or "Venezuela") of December 12, 2002, and its attachments, in which it referred to "compliance with the Order of November 27 [2002] delivered by [the] Court" in favor of Luis Enrique Uzcátegui Jiménez. In this respect, it advised that it had sent communications to the Ministry of the Interior and Justice, the Office of the Attorney General (*Ministerio Público*) and the Office of the Ombudsman, requesting them "to order all necessary measures to comply with the provisional measures." It also indicated that the "Attorney General [...] [had] advise[d] that he had assigned the 1st prosecutor of the Office of the Attorney General for the Judicial District of the state of Falcón" to comply with the measure contained in the third operative paragraph of the Order issued by the Court in the instant case (*supra* first having seen paragraph).

3. The brief of December 20, 2002, and its attachment, in which the Inter-American Commission presented its comments on the first report of the State. In this respect, it indicated that "it consider[ed] it essential that all necessary measures should be expedited for the full protection" of the beneficiary, because the State had not taken any official action to comply fully with the provisional measures. It also

* Judge Hernán Salgado Pesantes advised the Court that, owing to circumstances beyond his control, he would be unable to attend the deliberation and signature of this Order.

indicated that “far from improving, the situation of Luis Enrique Uzcátegui Jiménez ha[d] got worse[, so] that the State ha[d] incurred in flagrant contempt [...].”

4. Note CDH-S/1,168 of December 20, 2002, in which the Secretariat of the Court (hereinafter “the Secretariat”), on the instructions of the President of the Court (hereinafter “the President”), requested the State to present a report on the implementation of the provisional measures by January 10, 2003, at the latest.

5. The second report of the State of January 10, 2003, and its attachments, in which it referred to the implementation of the provisional measures in favor of Luis Enrique Uzcátegui Jiménez and indicated that on December 11, 2002, “the Attorney General [...] advised that he had assigned the Ist prosecutor of the Office of the Attorney General for the Judicial District of the State of Falcón [...] to comply with the measure contained in the third operative paragraph of the Order issued by [the] Court.”

6. The brief of January 21, 2003, and its attachment, in which the Commission presented its comments on the second report of the State. In this respect, it expressed “its profound concern because,” in the said document, Venezuela “limit[ed] itself to repeating the contents of its first report and [did] not provide any information that [would show] that the provisional measures ordered by the Court were being complied with effectively.” In this brief, the Commission requested the Court “to urgently summon the parties to a public hearing at its seat during its next session in order to evaluate the State’s compliance with the provisional measures.”

7. The Order of the President of January 24, 2003, in which, in consultation with all the judges of the Court, he decided:

1. To convene the State and the Inter-American Commission on Human Rights to a public hearing to be held at the seat of the Inter-American Court of Human Rights on February 25, 2003, from 9.00 a.m. to 1.00 p.m., so that the Court may hear the points of view on the facts and circumstances relating to the implementation of provisional measures in the *Liliana Ortega et al.*, *Luis Uzcátegui* and *Luisiana Ríos et al.* cases.

[...]

8. The communication of the Commission of January 27, 2003, in which it requested the Court to hear the testimony of Luis Uzcátegui, *inter alia*, if it decided to convene a public hearing.

9. Note CDH-S/060 of January 27, 2003, in which the Secretariat requested the Commission to submit the purpose of the testimony (*supra* eighth having seen paragraph), by January 29, 2003, at the latest, in order to present this information to the President.

10. The brief of January 30, 2003, in which the Commission advised that the purpose of the testimony of Luis Uzcátegui (*supra* ninth having seen paragraph) was “to demonstrate that the State had failed to comply with the measures ordered by the Court. Specifically, concerning the absence of an investigation, the lack of police protection, and the continued threats and harassment by State agents since the provisional measures were issued.”

11. The brief of January 30, 2003, in which the Commission indicated that “the residence of Luis Enrique Uzcátegui Jiménez was searched by the Police Armed

Forces (FAP) of the state of Falcón without a warrant, on January 23, 2003, and he was illegally detained in the FAP Headquarters in Santa Ana de Coro, where he remained until the morning of Monday, January 27, 2003.”

12. Note CDH-S/074 of January 31, 2003, in which the Secretariat, on the instructions of the President, forwarded to the State the offer of testimony proposed by the Commission (*supra* eighth and ninth having seen paragraphs), so that it could present its respective comments.

13. The brief of February 3, 2003, in which the State indicated that “it ha[d] no objection to [the witness proposed by the Commission being heard] at the public hearing.”

14. The Order of the President of February 6, 2003, in which, in consultation with all the judges of the Court, he decided:

1. To convene the representatives of the Inter-American Commission on Human Rights and the State of Venezuela to a public hearing to be held at the seat of the Inter-American Court, from 10.20 a.m. on February 17, 2003, to receive the statements of the witnesses summoned and so that the Court might hear the points of view on the facts and circumstances relating to implementation of the provisional measures in the Liliana Ortega *et al.*, Luis Uzcátegui and Luisiana Ríos *et al.* cases.

[...]

3. To convene Luis Uzcátegui to appear before the Inter-American Court of Human Rights at 10.30 a.m. on February 17, 2003, to make a testimonial statement on “the State’s failure to comply with the measures decided by the Court [and on] the absence of investigation, the lack of police protection, and the continued threats and harassment by State agents [that he has received] since the provisional measures were issued.”

[...]

6. To request the State of Venezuela to facilitate the departure from and re-entry into its territory [of Luis Uzcátegui, summoned] by the Inter-American Court of Human Rights to give testimony with regard to the provisional measures.

15. The communication of February 12, 2003, in which the Commission indicated that Mr. Uzcátegui Jiménez would not attend “the [...] public hearing to be held at the seat of the Court in Costa Rica on February 17, 2003, [...] because he [did] not have the necessary documentation” and requested the Court to “accept his sworn statements as his testimony.”

16. Notes CDH- S/190, CDH-S/191, CDH-S/192 and CDH-S/195 of February 15, 2003, in which the Secretariat indicated to the Commission and the State that “in view of the haste with which [...] [the] communication [of February 14, 2003] had been received in [the] Secretariat, the Inter-American Court will be informed about it” at the meeting prior to the public hearing convened on February 17, 2003, where the parties could present any comments they considered pertinent.

17. The public hearing held at the seat of the Inter-American Court on February 17, 2003, at which there appeared:

For the Inter-American Commission on Human Rights:

Eduardo Bertoni, delegate
Juan Carlos Gutiérrez, assistant

Carlos Ayala, assistant, and
Liliana Ortega, assistant

For the State of Venezuela:

Jorge Dugarte Contreras, Agent, and
Gisela Aranda, assistant

18. The oral arguments of the Commission, presented in the said public hearing, which are resumed as follows:

a) "Luis Uzcátegui, who resides in [...] the state of Falcón, is the brother of Néstor José Uzcátegui, who was assassinated on January 1, 2001, by alleged para-police groups. Since his brother's assassination, Luis Uzcátegui has tried systematically to have access to justice and to combat impunity and, to this end, he facilitated a meeting of the next of kin of several victims [...] in the state of Falcón. As a result of this, he began to be followed, harassed[,...] has been detained on several occasions and, very recently, has been beaten on several occasions [...], his houses have been searched on many occasions and, very recently, [...] a complaint was even filed against him by the Commander of the Police Armed Forces of the state of Falcón, for insult and slander [...]";

b) "Following the provisional measures, these acts of harassment and intimidation have increased, [and...] subsequent to the Order of the [...] Court, Luis Uzcátegui Jiménez has not been contacted [...] by the authorities of the Venezuela State, in order to comply with the Court's decisions [...]." "The Venezuelan State has flagrantly disregarded the provisional measures in favor of Mr. Uzcátegui, [...] [and furthermore], on his way to Post 42 of the National Guard of the Security Corps, [...] the Commander of the Post humiliated him and detained him for the whole day in the yard of the military installations [...]";

c) According to the information it has forwarded to the Court, the State had advised that "to safeguard Mr. Uzcátegui, it had assigned the police unit, which he had reported to be his persecutor and the author of the acts of harassment and intimidation[,...] and this "was [...] unacceptable and unjustifiable";

d) "[T]he Venezuelan State is justifying non-compliance with the measures, based on the police records concerning Luis Uzcátegui, who is also the brother of a victim of the para-police groups of the state of Falcón and who has filed a series of reports against the police. [T]he life of Luis Uzcátegui is in danger" and he is being subjected to a violation of the presumption of innocence and due process;

e) Owing to "the repeated acts of intimidation and attempts against him and in the face of the evident determination to disregard the provisional measures adopted in his favor [...], Mr. Uzcátegui has been forced to lead a nomadic life, to seek refuge for his family outside the territory of the state of Falcón and to seek a secure place for himself"; and

f) The Commission proposes, first that “the Venezuelan State should immediately grant [Luis Uzcátegui the] means to live in Valencia, in the state of Carabobo” while the measures of protection are being implemented in the state of Falcón, which is the State where he resides, “in view of the State’s total failure to comply [with the provisional measures] [...] and the risk to his life and personal safety”; second, that he should be granted “a position with similar characteristics to [his] employment as assistant to the Legislative Commission”; third, that the “psychological care required by Luis Uzcátegui” should be arranged, provided and guaranteed; and fourth, that those responsible should be investigated and punished, and that “the Office of the Attorney General [should appoint ...] a new national prosecutor in consultation with the petitioners.”

19. The oral arguments of the State presented in this public hearing, which are summarized as follows:

a) The Commander of the Police Armed Forces forwarded a file which contains “[a]bundant details of the irregular conduct” of Luis Uzcátegui. Owing to this, it is difficult for the State “to provide him with protection by members of the law enforcement agencies, as he has frequently been detained for [assault] and had to be taken to police stations”;

b) “[This] is a case which concerns Venezuelan justice.” “There is a problem in the state of Falcón which concerns the justice of the state of Falcón, and which should fall within its jurisdiction [in order to] clarify a series of facts and circumstances that, for example, cannot lead the police authorities of the state of Falcón to obey like robots provisional measures in favor of someone who [...] has had several confrontations with the police”;

c) The officials responsible for complying with the measure decided by the Court are faced with a request to protect “not exactly a person they do not know, but rather a person who, unfortunately, they know, owing to [the] facts [described]”;

d) “[I]n one way or another, the Police Armed Forces of the state of Falcón [...] will look after the matter, although indirectly, in order to avoid a problem for the State, should anything happen to [Luis Uzcátegui]”; and

e) It is not easy to understand the situation of having to “provide protection to a person who [the State] has had to imprison several times for assaulting his own family.” Neither the law, “nor the interpretation of the laws and of the institutions should ever [...] lead to an absurd situation; they should lead us to provide logical, reasonable and rational solutions, within the context of proceeding with justice and equity.”

20. The documents presented by the Commission during the public hearing held on February 17, 2003 (*supra* seventeenth having seen paragraph), which consisted in two copies of the letter of February 17, 2003, addressed to the Secretariat of the Court by Juan Carlos Gutiérrez, Regional Director of CEJIL, and the original brief and a copy of the statement made by Luis Enrique Uzcátegui Jiménez on February 13, 2003.

21. The sworn statement of Luis Uzcátegui (*supra* twentieth having seen paragraph), in which he indicated that:

a) On February 13, 2003, he made a sworn statement before the Court of the municipality of Carrizal in the state of Miranda, on the death of his brother, Néstor José Uzcátegui, on the acts of harassment to which he and his family were subjected because they tried to seek justice, and on the provisional measures decided by the Inter-American Court on November 27, 2002;

b) On January 1, 2001, a commission from the "LINCE" Group and "DIPE" (the State Police Department) of the Police Armed Forces of the state of Falcón searched his residence without a warrant of any kind. They then handcuffed him to his younger brother, Carlos Uzcátegui, who they struck on the head, and they shot his brother, Néstor José Uzcátegui, in the groin, the left leg and the heart. The police officials, who he could identify as the "LINCE Group" because of their uniforms and the vehicles they used, attempted to cover up the assassination, pretending that there had been a confrontation;

c) The harassment against him began the day of his brother's homicide, when some of the police officials abducted him, taking him to "a open site" and threatening to kill him if he reported the facts. The harassment continued by means of telephone calls or threatening visits by DIPE officials to his residence and place of work. On December 26, 2002, officials of DISIP (the Department of Intelligence and Prevention Services), identified as such, searched his sister's house;

d) Owing to the loss of his brother and the constant threats and persecution by DIPE officials, Luis Uzcátegui organized a committee of the next of kin of victims of para-police groups. On January 3, 2001, he reported the facts to the Office of the Ombudsman and on January 4, 2003, to the Office of the Attorney General for the state of Falcón, and to the Judicial Police. These reports were ratified in Caracas on July 8, 2002, without obtaining any response; and

e) In view of the absence of protection for himself and his family, which the witness had requested from the National Guard of Venezuela and the Inter-American Court of Human Rights had requested by provisional measures, he had to leave the state of Falcón, lost his employment and was separated from his family in order to protect it. This caused him insomnia, lack of appetite and gastritis, so that, before the Court, he requested that the threats against him should cease, that he and his family should be provided with permanent protection by an agency other than the Police Armed Forces of the state of Falcón, or the National Guard, or DISIP in the state of Falcón, that the facts should be investigated and that those responsible should be found and punished so that he could return to a normal life.

22. The documents presented by the State during the public hearing on February 17, 2003 (*supra* seventeenth having seen paragraph), that consisted in a "[d]ocument clarifying the reports of the citizen Luis Uzcátegui Jiménez and general information on cases of armed confrontation between the police, antisocial elements and others, from Police Captain General Oswaldo Rodríguez to the Ministry of Foreign

Affairs, Office of the State Agent for human rights" before the inter-American system.

23. The Order of the Court of February 20, 2003, in which it decided:

1. To declare that the State ha[d] not implemented effectively the provisional measures ordered by the Inter-American Court in its Order of November 27, 2002,.
2. To reiterate to the State the requirement that it adopt, forthwith, all necessary measures to protected the life and safety of Luis Enrique Uzcátegui Jiménez.
3. To reiterate to the State the requirement that it allow the petitioners to take part in the planning and implementation of the measures of protection and that, in general, it keep them informed about progress in the measures decided by the Inter-American Court of Human Rights.
4. To reiterate to the State the requirement that it investigate the facts reported that gave rise to these measures in order to discover those responsible and punish them.
5. To call upon the State to inform the Inter-American Court of Human Rights about the measures that it has adopted in compliance with this Order by February 28, 2003, at the latest.
6. To call upon the Inter-American Commission on Human Rights to present to the Inter-American Court of Human Rights any comments it deems pertinent, within one week of notification of the State's report.
7. To call upon the State, subsequent to its communication of February 28, 2003 (*supra* fifth operative paragraph), to continue informing the Inter-American Court of Human Rights, every two months, about the provisional measures adopted, and to call upon the Inter-American Commission on Human Rights to present its comments on these reports within six weeks of receiving them.

[...]

24. The third report of the State of February 28, 2003, and its attachments, with which it sent a copy of "the official letters addressed [...] [to the] Attorney General, the Ombudsman, the Minister of the Interior and Justice, and the Commander General of the Police Armed Forces of the state of Falcón, so that, in the framework of their legal jurisdiction they should proceed to comply with the Orders" issued by the Court.

25. The communication of the State of March 12, 2003, requesting an extension to present "a report on the measures taken by the Venezuelan State to comply fully with the Orders" issued by the Court concerning provisional measures.

26. The brief of March 13, 2003, and its attachments, in which the Commission presented its comments on the third report of the State (*supra* twenty-fourth having seen paragraph). In this respect, it indicated that, in this report, Venezuela referred to "formal measures taken by the State's Agent before the domestic authorities," but did not provide any information about the measures adopted to protect Luis Uzcátegui, which constituted "failure to comply with the express mandate of the Court." It also advised that the acts of intimidation against the beneficiary had continued, and he had been obliged to "leave the state of Falcón and temporarily reside in another State" and had been detained on January 25, 2003, owing to a complaint filed by the Commander General of the Police Forces of the state of Falcón, "for the offence of aggravated and continued slander."

27. The fourth report of the State of April 25, 2003, and its attachments, in which it presented a copy of the communication of the Attorney General regarding the

measures taken by the prosecutor assigned to investigate the case. The State also indicated that on February 28, 2003, "the 1st prosecutor of the Office of the Attorney General for the state of Falcón began an investigation of the official, César Adan Martínez, for allegedly having committed the offense of illegal detention, because it was [this] official who had decided to detain Luis Uzcátegui."

28. The brief of June 9, 2003, and its attachment, in which the Commission presented its comments on the fourth report of the State (*supra* twenty-seventh having seen paragraph), which are summarized as follows:

a) Regarding the investigation of the facts, "all the alleged actions to investigate the facts are dated prior not only to the hearing before [...] [the Court] on February 17, 2003, but also to the Order issued [...] on February 2[0], 2003." Likewise, "one year after the investigations had been initiated, they are still at the preliminary stage";

b) Regarding the measures of protection, "of the 10-page report presented by the State [...] only one paragraph refers to the measures taken by Venezuela" following the hearing and the Order mentioned above. The measures taken by the State correspond to previous reports that have already been submitted to the Court, which reveals the "lack of sincerity of the authorities responsible for complying with the State's international obligations in relation to human rights"; and

c) Regarding the participation of the petitioners in the planning and implementation of the measures "seven months after the Court's Order, Mr. Uzcátegui has not been allowed to participate in the implementation of the measures of protection ordered in his favor," because he has not been consulted concerning which authority he wishes to provide him with protection.

29. The communication of the Commission of August 12, 2003, in which it presented additional information forwarded by the petitioners about the provisional measures. The attachments to this communication were received by the Secretariat on August 20, 2003.

30. The fifth report of the State of August 15, 2003, and its attachments, in which it indicated that the Commander General of the Police Armed Forces of the state of Falcón had advised the Director General of Police Coordination of the Ministry of the Interior and Justice that the measure of protection for Luis Uzcátegui was initially assigned to the Armed Forces of the state of Falcón, but owing to the problem that this was "the investigation unit denounced by the applicant," "the task had been assigned to Post No. 42 of the National Guard."

31. The brief of October 3, 2003, and its attachments, in which the Commission presented its comments on the fifth report of the State (*supra* thirtieth having seen paragraph), among which, it indicated:

a) Regarding the investigation of the facts, "a reasonable amount of time has elapsed for the investigations of the Office of the Attorney General to be effective" and the evidence in the file shows the contrary. The State has not presented evidence about the alleged investigation that the Office of the Attorney General has been conducting, and its report does not mentioned

that anyone has been detained. Also, the official appointed "originally to conduct the investigations" was relieved "suddenly of his post as 1st prosecutor" of the Judicial District of the state of Falcón and transferred to the Judicial District of the state of Apure; and, to date, there is no information on who has assumed this investigation; and

b) Regarding the measures of protection and the participation of the petitioners in the planning and implementation of the provisional measures, "Post No. 42 of Regional Command No. 4 of the National Guard[...] went to look for [Luis Uzcátegui] at his home, and drew up a series of minutes recording the dates on which they went to his home." Except for "May 14, 2003, the National Guard did not find" the beneficiary of the measures. The correct procedure would have been to coordinate previously with the petitioners how protection should be provided, but no authority contacted them to plan and coordinate the way in which the measures should be implemented. On February 7, 2003, the Commander of the [Police] Armed Forces of the state of Falcón, Police Captain Oswaldo Rodríguez de León, filed a criminal complaint against Mr. Uzcátegui for "aggravated slander"; but the latter is unaware of his current procedural status, while the threats, intimidation and harassment that force the beneficiary to be permanently changing his place of residence continue.

32. The communication of the State of October 14, 2003, advising that the State's Agent, Jorge Duarte Contreras, "ha[d] decided to withdraw from this position definitively."

33. The communication of October 30, 2003, in which the State appointed Fermín Toro as Agent before the international human rights organizations.

CONSIDERING:

1. That the State ratified the American Convention on August 9, 1977, and, in accordance with Article 62 thereof, accepted the obligatory jurisdiction of the Court on June 24, 1981.

2. That Article 63(2) of the American Convention provides 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, in the terms of Article 25(1) and 25(2) of the Rules of Procedure of the Court:

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 whatever provisional measures it deems appropriate, pursuant to Article 63(2) of the Convention.

With respect to matters not yet submitted to it, the Court may act at the request of the Commission.

[...]

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

5. That, in general, under domestic legal systems (internal procedural law), the purpose of provisional measure is to protect the rights of the parties in dispute, ensuring that the judgment on merits is not prejudiced by their actions *pendente lite*.

6. That, under international human rights law, the purpose of urgent and provisional measures goes further, because, in addition to their essentially preventive nature, they protect fundamental rights, inasmuch as they seek to avoid irreparable damage to persons.

7. That, after examining the documents in the file on the present measures, the Court deems it necessary to reiterate to Venezuela that it is the State's responsibility to adopt safety measures to protect all persons subject to its jurisdiction and that this obligation is even plainer with regard to those who are involved in proceedings before the organs of protection of the American Convention.

8. That, when ordering the State of Venezuela to adopt provisional measures in favor of Luis Enrique Uzcátegui Jiménez, the Court also ordered it to report on the implementation of these measures (*supra* first and twenty-third having seen paragraphs).

9. That, from a detailed examination of the information in the file on provisional measures, the Court has verified that Venezuela has submitted five reports. However, the information provided does not reflect effective implementation of the measures requested by this Court with regard to protection of the life and safety of the beneficiary, participation of the petitioners in the coordination and planning of the means of protection, investigation of the facts that gave rise to the measures and submission to the Court of reports by the State every two months. Moreover, the time limit for presenting the pending report expired on October 15, 2003, and it has not been received.

10. That Article 68(1) of the Convention stipulates that "[t]he States Parties to the Convention undertake to comply with the judgment of the Court in any case to which they are parties."

11. That the obligation to comply with the provisions of the Court's judgments corresponds to a basic principle of the law of the international responsibility of the State, supported by international case law, according to which, a State must comply with its international treaty obligations in good faith (*pacta sunt servanda*) and, as this Court has already indicated and as established in Article 27 of the 1969 Vienna Convention on the Law of Treaties, a party may not invoke the provisions of its internal law as justification for its failure to perform a treaty.¹

12. That the obligation to report to the Court is not complied with by the mere formal presentation of a document to the Court, but is a dual obligation, which, for

¹ Cf. *Benavides Cevallos case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of September 9, 2003, third considering paragraph; *Baena Ricardo et al. case. Compliance with judgment*. Order of the Inter-American Court of Human Rights of June 6, 2003, fourth considering paragraph; and "*The Last Temptation of Christ*" case (*Olmedo Bustos et al.*). *Compliance with judgment*. Order of the Inter-American Court of Human Rights of November 28, 2002, third considering paragraph.

effective compliance, requires the formal submission of a document within the time limit and with specific, true, current and detailed information on the issues to which this obligation refers.

13. That the State must comply with all the elements decided by the Court in its Orders, and submit periodic reports on all the measures that it has adopted to protect the life and safety of Luis Uzcátegui, on the investigation of the facts that gave rise to them, and on the measures taken to allow the petitioners to take part in the implementation of those measures. The State's obligation to inform the Court of the manner in which it is complying with the Court's decision is fundamental for the assessment of the case.

14. That, in the terms of Article 65 of the American Convention,

[t]o each regular session of the General Assembly of the Organization of American States the Court shall submit, for the Assembly's consideration, a report on its work during the previous year. It shall specify, in particular, the cases in which a state has not complied with its judgments, making any pertinent recommendations.

15. That Article 30 of the Statute of the Court establishes that,

[t]he Court shall submit a report on its work of the previous year to each regular session of the OAS General Assembly. It shall indicate those cases in which a State has failed to comply with the Court's ruling. It may also submit to the OAS General Assembly proposals or recommendations on ways to improve the inter-American system of human rights, insofar as they concern the work of the Court.

16. That, since the State has not implemented effectively the measures ordered by the Court, has not investigated the facts that gave rise to them, has not allowed the petitioners to take part in the planning and coordination of the means of protection, and has not complied fully with the reporting obligation, should the current situation persist, the Court, in application of Article 65 (*supra* fourteenth considering paragraph) and Article 30 of its Statute (*supra* fifteenth considering paragraph), will include this Order in its Annual Report for 2003, so that it may be submitted to the consideration of the General Assembly of the Organization of American States.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the authority conferred by Articles 63(2), 65 and 68 of the American Convention on Human Rights, Article 30 of its Statute and Articles 25 and 29(2) of its Rules of Procedure,

DECIDES:

1. To reiterate that the State has not implemented effectively the different provisional measures ordered by the Inter-American Court of Human Rights in the instant case.

2. To declare that the State has failed to comply with the obligation imposed on it by Article 68(1) of the American Convention on Human Rights.
3. To declare that the State failed to comply with the obligation to inform the Inter-American Court of Human Rights on the implementation of the measures it had ordered.
4. Should the current situation persist, to inform the General Assembly of the Organization of American States, in application of Article 65 of the American Convention on Human Rights, and Article 30 of the Statute of the Inter-American Court of Human Rights, of the State's failure to comply with the decisions of this Court.
5. To reiterate to the State the requirement that it adopt, forthwith, all necessary measures to protect the life and safety of Luis Enrique Uzcátegui Jiménez.
6. To reiterate to the State the requirement that it allow the petitioners to participate in the planning and implementation of the measures of protection and that, in general, it should keep them informed on progress in the measures decided by the Inter-American Court of Human Rights.
7. To reiterate to the State the requirement that it investigate the facts denounced that gave rise to these measures in order to discover those responsible and punish them.
8. To call upon the State to inform the Inter-American Court of Human Rights about the measures it has adopted to comply with the Order by January 7, 2004, at the latest.
9. To call upon the Inter-American Commission on Human Rights to present to the Inter-American Court of Human Rights any comments it deems pertinent within 15 days of notification of the State's report.
10. To call upon the State, subsequent to the report referred to in the eighth operative paragraph, to continue informing the Inter-American Court of Human Rights, every two months, on the provisional measures adopted, and to call upon the Inter-American Commission on Human Rights to present its comments on these reports within six weeks of receiving them.
11. To notify this Order on compliance to the State and to the Inter-American Commission on Human Rights.

Antônio A. Cançado Trindade
President

Sergio García-Ramírez

Máximo Pacheco-Gómez

Oliver Jackman

Alirio Abreu-Burelli

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary