

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF MARCH 1, 2011**

**PROVISIONAL MEASURES**

**CASE OF THE MAPIRIPÁN MASSACRE v. COLOMBIA**

**HAVING SEEN:**

1. The Order on urgent measures issued by the then President of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") on February 4, 2005.
2. The Order issued by the Court on June 27, 2005, in which it decided, *inter alia*:
  1. To ratify the Order of the President on urgent measures of February 4, 2005.
  2. To require the State to take, forthwith any necessary measures to protect the life and personal integrity of the following persons and their next of kin:
    1. Carmen Johana Jaramillo Giraldo, 2. Esther Pinzón López, 3. Sara Paola Pinzón López, 4. María Teresa Pinzón López, 5. Yur Mary Herrera Contreras, 6. Zully Herrera Contreras, 7. Maryuri Caicedo Contreras, 8. Nadia Marina Valencia Sanmiguel, 9. Yinda Adriana Valencia Sanmiguel, 10. Johana Marina Valencia Sanmiguel, 11. Gustavo Caicedo Contreras, 12. Rusbel Asdrúbal Martínez Contreras, 13. Roland Andrés Valencia Sanmiguel, 14. Ronald Mayiber Valencia Sanmiguel, 15. Luis Guillermo Pérez, 16. Nory Giraldo de Jaramillo, 17. Marina San Miguel Duarte, 18. Viviana Barrera Cruz, 19. Luz Mery Pinzón López, and 20. Mariela Contreras Cruz.
  3. To require the State to investigate the facts that gave rise to the adoption of the provisional measures and, as appropriate, to identify those responsible and impose the corresponding sanctions.
  4. To require the State to allow the representatives of the beneficiaries to participate in the planning and implementation of the provisional measures, and, in general, to inform them of progress regarding the implementation of the measures. [...]
3. The judgment on merits, reparations and costs delivered by the Court on September 15, 2005.
4. The Order issued by the Court on May 3, 2008, in which it decided:
  1. To call upon the State of Colombia to maintain in force the provisional measures required in the Order of the Court of June 27, 2005 [...].
  2. To call upon the representatives, in keeping with the provisions of the twelfth considering paragraph [of the Order], to submit as soon as possible, any pending observations and, in particular, specific information on the situation of the beneficiaries of the provisional measures ordered. In these observations, the representatives must clearly explain whether a situation of extreme gravity and urgency persists that requires avoiding

irreparable damage to persons, so that that the Court may assess the need for the said measures of protection. If, within six months from notification of the [...] Order, the requested information has not been presented, the Court will evaluate whether the provisional measures should be lifted.

3. To request the State to submit, by June 9, 2008, at the latest, a report on the implementation of the provisional measures; in particular, detailed information on the risk situation of each beneficiary, the protection measures provided to each of them, and the current status and results of the investigations into the events that gave rise to the measures. Following this report, the State must continue to report to the Inter-American Court every two months on the provisional measures adopted. [...]

5. The Order issued by the then President of the Court on November 26, 2008, in which she convened the Inter-American Commission, the Republic of Colombia (hereinafter "the State" or "Colombia") and the representatives of the beneficiaries of the provisional measures to a private hearing on compliance with the judgment delivered in this case and on the implementation and effectiveness of the provisional measures, as well as on the need to keep them in force.

6. The arguments of the parties at the private hearing on these provisional measures held at the seat of the Court during its eighty-second regular session on January 19, 2009.<sup>1</sup>

7. The Order issued by the Court on September 2, 2010, in which it decided:

1. To maintain in force for six months the provisional measures of protection ordered by the Court in the Order of June 27, 2005 [...].

2. To require the Inter-American Commission on Human Rights and the representatives of the beneficiaries to present, by October 22, 2010, at the latest, information on the current risk of each one of the beneficiaries and on the measures required to overcome the situation of risk that the beneficiaries face. [...].

3. To require [...] the State to present, by November 15, 2010, at the latest, a risk assessment of the beneficiaries [...]. The said report should refer to the situation of risk that the representatives and the Commission have advised [...].

[...].

8. The briefs of October 8, 2010, in which Hernan Paez Zapata and Luz Mery Pinzon Lopez referred to alleged acts of harassment and threats against her.

9. The briefs of November 17, 2010, and January 24, 2011, in which the State presented information on the implementation of the provisional measures.

10. The brief of November 25, 2010, in which the representatives of the beneficiaries (hereinafter "the representatives") presented information on the implementation of the provisional measures, as well as on alleged facts that placed "at

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<sup>1</sup> The Court appointed a committee of Judges for the hearing composed of Judges Diego Garcia-Sayán, who presided; Manuel Ventura Robles and Margarette May Macaulay. The following persons participated in the hearing, as members of the respective delegations: for the Inter-American Commission: Elizabeth Abi-Mershed, Deputy Executive Secretary; Juan Pablo Albán Alencastro, advisor and Lilly Ching Soto, advisor; for the victims and beneficiaries: Eduardo Carreño Wilches and Rafael Barrios Mendivil, of the *Corporación Colectivo de Abogados "José Alvear Restrepo,"* and Michael Camillieri and Francisco Quintana, of the Center for Justice and International Law (CEJIL); for the State of Colombia: Ángela Margarita Rey, Director, Human Rights and International Humanitarian Law, Ministry of Foreign Affairs; Carlos Franco, Director of the Presidential Human Rights Program; Colonel Juan Carlos Gómez, Director, Human Rights, Ministry of National Defense; Juana Acosta López, Coordinator of the Inter-institutional Operational Group, Ministry of Foreign Affairs; Generoso Hutchinson, Prosecutor of the Human Rights Unit of the Prosecutor General's Office; Diana Bravo R., Advisor to the Human Rights Directorate, Ministry of Foreign Affairs, and General Jorge Rodríguez, Head of the Joint Institutional Defense Office of the Military Forces Command.

risk and threatened the life and personal integrity of the beneficiaries Sara Paola Pinzón Lopez and Viviana Barrera Cruz.”

11. The briefs of November 19, 2010, and January 26, 2011, in which the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) submitted its observations on the reports of the State and the briefs of the representatives.

#### **CONSIDERING THAT:**

1. Colombia ratified the American Convention on Human Rights (hereinafter “the American Convention” or “the Convention”) on July 31, 1973, and accepted the jurisdiction of the Court, in keeping with Article 62 of the Convention, on June 21, 1985.

2. Article 63(2) of the American Convention establishes that, “[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission”.

3. According to Article 27 of the Court’s Rules of Procedure<sup>2</sup> (hereinafter “the Rules of Procedure”):

[...]

7. The monitoring of provisional or urgent measures ordered shall be carried out by means of the submission of State’s reports and the filing of the corresponding observations to those reports by the beneficiaries of such measures or their representatives. The Commission shall present observations to the State’s report and to the observations of the beneficiaries of the measures or their representatives.

[...]

4. In order to determine the need to maintain these measures, the Court will analyze the information presented by the State and the representatives on the actual situation of risk of the beneficiaries, as well as their observations and those of the Commission in this regard. First, the Court will refer to the current situation of the beneficiaries as a group and, if possible, individually, because, in most cases, the Court has not received complete information in this regard. Then the Court will determine the need to maintain the measures in force.

#### **1. Current situation of the beneficiaries**

##### *1.1 Regarding 16 of the beneficiaries*

5. Regarding the situation of the Jaramillo family,<sup>3</sup> the Contreras family,<sup>4</sup> the Valencia San Miguel family,<sup>5</sup> and two members of the Pinzón López family,<sup>6</sup> the State,

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<sup>2</sup> Rules of Procedure approved by the Court during its eighty-fifth regular session held from November 16 to 28, 2009.

<sup>3</sup> Carmen Johana Jaramillo Giraldo and Nory Giraldo de Jaramillo.

<sup>4</sup> Yur Mary Herrera Contreras, Zully Herrera Contreras, Maryuri Caicedo Contreras, Gustavo Caicedo Contreras, Rusbel Asdrúbal Martínez Contreras and Mariela Contreras Cruz.

the Commission and the representatives have not presented recent specific detailed information on the existence of new acts of harassment or threats against them, apart from those that were on record when the last Order was issued on September 2, 2010.

6. In this regard, the State indicated that it had not received specific requests for protection from the beneficiaries or their representatives and that it is unaware of their location. The State repeated its request to lift the provisional measures.

### *1.2. Situation of Viviana Barrera*

7. The representatives stated that a bus owned by the beneficiary had been set on fire in bizarre circumstances and that she had continued to receive strange or threatening telephone calls.

8. The State indicated that, even though the representatives declared that they had reported this fact to the Prosecutor General's Office, they had not provided information about the complaint filed or additional information in this regard. Moreover, the State mentioned that, even though the representatives had announced that Viviana Barrera would be in Bogota by the end of October and that she would advise whether she would like to submit to another assessment of her risk and level of threat, it was unaware of her location or of her intention to undergo a further assessment.

9. The Commission emphasized that Viviana Barrera had stated that she continued to receive telephone calls that could fall within the context of the previous acts of intimidation and threats.

### *1.3. Situation of Sara Paola Pinzón López, Luz Mery Pinzón López and their next of kin*

10. The representatives advised that, in August 2010, strange events had occurred owing to the presence of unknown individuals in the home of Luz Mery and Sara Paola Pinzon in Villavicencio.

11. The State asserted that the petitioners had only referred to the specific situation of the beneficiaries Luz Mery Pinzon and Sara Paola Pinzon. The State also indicated that, since no information had been provided regarding the beneficiaries Esther Pinzon Lopez and Maria Teresa Pinzon Lopez, who are members of the same family group, the State assumed that no situations of risk had taken place that might affect their life and personal integrity.

12. Regarding alleged acts of harassment against Luz Mery Pinzon by a former official of the Ombudsman's Office, on September 29, 2010, she advised the Court that "the lawyer Hernan Zapata Paez ha[d] never harassed or threatened her, or forced her to receive advisory services, [and that,] on the contrary, [he had been] kind and respectful of [her] decision, because, at the end of the meeting [... she ] told him that [she] was not interested and [had] not received any more telephone calls from him. In

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<sup>5</sup> Nadia Marina Valencia Sanmiguel, Yinda Adriana Valencia Sanmiguel, Johana Marina Valencia Sanmiguel, Roland Andrés Valencia Sanmiguel, Ronald Mayiber Valencia Sanmiguel and Marina San Miguel Duarte.

<sup>6</sup> Esther Pinzón López and María Teresa Pinzón López

addition, she stated that she had “never received telephone calls from a person named Armando Céspedes Espinoza or from state officials, specifically from the CTI or the National Police.”

13. The Commission noted that, regarding the case concerning the alleged threats against Sara Paola Pinzon, this referred to investigations conducted in 2009, which the Court already knew about, and that the State had not referred to any recent procedure in the context of this investigation.

#### *1.4. Situation of Luis Guillermo Perez*

14. The representatives advised that Luis Guillermo Perez and his next of kin were forced to leave the country several years ago, as a result of the threats and harassment against him owing to his participation as defense counsel in the case being processed for the facts of the Mapiripán Massacre. Mr. Perez decided to return to Colombia as a member of the *Colectivo de Abogados Jose Alvear Restrepo* (hereinafter, “CCAJAR”) on July 30, 2010, and therefore they requested measures of protection for him.

15. The representatives stated that, currently, a campaign of stigmatization and harassment was being carried out in Colombia against the CCAJAR. The relationship between these acts and those that gave rise to the request for provisional measures may be analyzed in light of the letter sent to the President of the Republic Juan Manuel Santos by General Jaime Humberto Uscátegui, sentenced and convicted in the case of the Mapiripán massacre, in the criminal proceedings conducted based on the facts. The representatives sustained that, in this communication, General Uscátegui commended a manifestation held against the CCAJAR, and referred expressly to the lawyers Luis Guillermo Perez and Eduardo Carreño, stating that there were irregularities in the criminal proceedings and asking the President of the Republic to order the pertinent measures.

16. The Commission indicated that a direct relationship existed between the departure from the country of Luis Guillermo Perez and the harassments of the *Colectivo de Abogados*, as well as the facts that gave rise to the adoption of measures.

17. The State indicated that, under the precautionary measures requested by the Inter-American Commission in favor of the members of the CCAJAR, Luis Guillermo Perez also enjoys the protective measures that are implemented collectively by the Ministry of the Interior and Justice in favor of its members; they consist of protection for the office, a vehicle and AVANTEL communication equipment.

#### **2. Request to lift the measures**

18. The State indicated that, despite the Court’s request in its Order of September 2, 2010, the beneficiaries of the provisional measures had not presented information on the situation of each of the beneficiaries. In addition, it had not received requests for protection from them and did not know where they lived.

19. The Commission indicated that, at least, Viviana Barrera has stated that she continues to receive telephone calls that could fall within the context of intimidation and threats. The Commission considered it essential that, together with the risk assessments, all necessary efforts were made to ensure that the criminal investigations contribute to identifying the sources of risk in order to verify whether it

persists and to order the most appropriate protective measures, so that the beneficiaries do not have to continue displacing, risking their life and safety. The Commission considered that, owing to the complexity of these provisional measures, the prompt conduct of the risk assessments and any observations that the representatives may present on their results, are “relevant tools” to assess the pertinence of the request to lift the provisional measures. Moreover, the Commission asserted that, even though it was appropriate to weigh the time that has elapsed without the perpetration of acts of harassment, under the actual circumstances, other aspects must be taken into account, such as the fact that the risk for the beneficiaries arose from the common element of being an important part of the proceedings for the Mapiripán massacre, which is still under investigation at the domestic level. Lastly, it added that the decrease in the threats to each of the beneficiaries could be a result of the measures that they have adopted *motu proprio* to safeguard their life and safety, a situation that, in this matter, is reflected by the displacement of several of them.

20. The representatives stated that, in general, several factors are decisive for considering that there is still a situation of risk for the beneficiaries. The following were the most important: (a) “[it has been] proved that approximately 100 members of the AUC and a similar number of law enforcement agents participated in the planning, perpetration and subsequent concealment of the facts known as the Mapiripán massacre [and that] only a few of them have been investigated and punished”; (b) “although [...] the national Government launched a negotiation process with the *Autodefensas Unidas de Colombia* (United Self-Defense Groups of Colombia) (AUC) to ‘achieve their demobilization,’ the official figures reveal that the paramilitary demobilization process was not effective and that, in various regions of the country, there is presence of paramilitary groups with similar characteristics to those of the AUC [...]”; (c) “the activity of these groups is corroborated by the situation of several of the victims of this case, who, after the judgment was delivered, were forced to displace successively”; in particular the situation of Nory Giraldo, Carmen Contreras, Viviana Barrera and their next of kin; (d) “despite the situation of impunity [...], in this case, important judicial progress has been made in the last year, including the first sentencing and conviction of a general of the Republic for grave human rights violations, and the recent sentencing of two paramilitary agents who had participated in the massacre;<sup>7</sup> (e) the trials of some of them in Colombia,<sup>8</sup> and (f) the implication of law enforcement agents and members of paramilitary groups in judicial investigations. The representatives of the beneficiaries argued that “this progress involves an additional situation of risk for the victims and, although they assume the risk, this does not relieve the Colombian State of its guarantee of protection.”

21. Lastly, the representatives informed the Court that the beneficiaries of the measures – without specifying who - had agreed to inform the State of their contact information so that risk assessments could be made, and this would be forwarded as soon as possible. In addition, they repeated that the individual assessments must incorporate, among other elements, “a risk assessment perspective that takes into account structural factors related to the situation of human rights in the regions where the beneficiaries live,” as well as the current status of the criminal proceedings,

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<sup>7</sup> Third Criminal Court of the Villavicencio Specialized Circuit. Judgment of October 11, 2010. Case 50-001-31-07-003-2010-00073-00 against Humberto Antonio Aguilar Allian and Eliecer Manuel Romero Herrera.

<sup>8</sup> They advised that, on November 11, 2010, a preparatory hearing was held in the proceedings against Jesus Ramos Machado, one of the paramilitary agents who entered Mapiripán with the group. The defense counsel requested that the case be processed separately, and the hearing in the proceedings being conducted against paramilitary commanders has been postponed twice.

because “to limit the analysis to the immediate time and space sphere of each beneficiary would be restrictive.”

22. Article 63(2) of the Convention requires that three conditions must concur for the Court to be able to order provisional measures, namely: (a) “extreme gravity”; (b) “urgency” and (c) the need “to avoid irreparable damage.” By the same token, the three said conditions must persist for the Court to maintain the protection ordered. If one of them has ceased to be in effect, the Court must assess the pertinence of continuing the protection ordered. Nevertheless, it has the possibility of ordering them in the future, should the three conditions again coincide. Moreover, although, when ordering the measures of protection, the standard of assessing these requirements by the Court or the person presiding it is *prima facie*,<sup>9</sup> maintaining the measures of protection requires the Court to make a more rigorous evaluation of the existence of the situation that gave rise to them.<sup>10</sup>

23. According to the Court, if a State requests the lifting or modification of the provisional measures ordered, it must present sufficient evidence and arguments to allow the Court to assess that the risk or threat no longer fulfills the requirements of extreme gravity and urgency to avoid irreparable damage. Moreover, the burden of proof and argument of the beneficiaries and of the Commission will increase as time goes by and there are no new threats.<sup>11</sup> Evidently, the reason why no new threats have occurred may be due precisely to the protection provided or the dissuasive effect of the Court’s order. However, the Court has considered that the passage of a reasonable period of time without threats or intimidation, added to the lack of an imminent risk, can lead to the lifting of the provisional measures.<sup>12</sup>

24. When ordering provisional measures in this case, the Court considered that the purpose was the protection of individuals who the then President of the Court had required to provide affidavits or who had been summoned to appear as witnesses in the public hearing held before the Court, as well as their next of kin. Consequently, the

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<sup>9</sup> *Cr. Case of Raxcacó Reyes et al.* Provisional measures with regard to Guatemala. Order of the Inter-American Court of August 30, 2004, tenth considering paragraph; *Matter of Guerrero Larez*. Provisional measures with regard to the Bolivarian Republic of Venezuela. Order of the Inter-American Court of November 17, 2009, fourteenth considering paragraph, and *Matter of Alvarado Reyes et al.* Provisional measures with regard to United Mexican States. Order of the Inter-American Court of May 26, 2010, fourteenth considering paragraph.

<sup>10</sup> *Cr. Matter of the Kankuamo Indigenous People*. Provisional measures with regard to Colombia. Order of the Inter-American Court of April 3, 2009, seventh considering paragraph; *Matter of A. J. et al.* Provisional measures with regard to Haiti. Order of the Inter-American Court of September 21, 2009, eighteenth considering paragraph, and *Matters of the Monagas Detention Center (“La Pica”); the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison); the Occidental Region Penitentiary Center (Uribana Prison), and the Capital Detention Center El Rodeo I and El Rodeo II*. Provisional measures with regard to the Bolivarian Republic of Venezuela. Order of the Inter-American Court of November 24, 2009, fourth considering paragraph.

<sup>11</sup> *Cr. Case of Carpio Nicolle et al.* Provisional measures with regard to Guatemala. Order of the Inter-American Court of July 6, 2009, eighteenth considering paragraph, and *Matter of Ramírez Hinojosa et al.* Provisional measures with regard to Peru. Order of the Inter-American Court of February 3, 2010, thirtieth considering paragraph.

<sup>12</sup> *Cr. Matter of Gallardo Rodríguez*. Provisional measures with regard to Mexico. Order of the Inter-American Court of July 11, 2007, eleventh considering paragraph; *Matter of Pilar Noriega García et al.* Provisional measures with regard to Mexico. Order of the Inter-American Court of February 6, 2008, fourteenth considering paragraph; *Matter of Leonel Rivero et al.* Provisional measures with regard to Mexico. Order of the Inter-American Court of November 25, 2008, fourteenth considering paragraph, and *Case of Lilliana Ortega*. Provisional measures with regard to the Bolivarian Republic of Venezuela. Order of the Inter-American Court of July 9, 2009, fortieth considering paragraph.

protection of the life and personal integrity of the said individuals by urgent measures was intended, *inter alia*, to enable them to provide their testimony without any type of coercion or threat or without suffering any reprisal. This was, at that time, the essential purpose of the urgent measures.

25. Subsequently, when ratifying the urgent measures, the Court took into account that the individuals protected had already given their testimony and some of them had expressed their fear because they had done so. Therefore, in the circumstances of this case, the Court deemed that their situation should still be considered as of extreme gravity and urgency.

26. To determine whether the situation that gave rise to the measures exists or persists, the Court can assess the series of factors or circumstances of a political, historical, cultural or any other nature that affect the beneficiary or place him in a situation of vulnerability at a certain moment and lay him open to the violation of his rights. This situation may increase or decrease over time depending on numerous variables but, as mentioned, only extreme and urgent situations warrant protection by provisional measures.<sup>13</sup>

27. The Court confirms and emphasizes that the provisional measures have not been sufficiently and adequately implemented by the State since they were ordered. The internal forced displacements have affected the next of kin of the victims and have obstructed the adaptation of the protective measures to the needs of each family group. Nevertheless, the State has not demonstrated that this was sufficient reason for failing to comply with what the Court ordered and, above all, it has not conducted or presented risk assessments of the beneficiaries, despite have undertaken to do so.

28. In the instant case, one of the major obstacles to the implementation of these measures is the absence of sufficient, permanent and adequate communication between the beneficiaries of the measures or their representatives and the State to agree on their implementation and to learn the actual situation of risk faced by the beneficiaries. In this regard, the Court has insisted in this case<sup>14</sup> and in others<sup>15</sup> on the need for the beneficiaries and their representatives to collaborate to ensure the satisfactory implementation of the provisional measures.

29. Notwithstanding the foregoing, the State's obligation to protect is clear. It is true that the representatives have not provided individualized information on the actual situation of risk of each beneficiary, but neither has the State revealed any domestic procedures or efforts by the different State institutions that possess databases to locate the beneficiaries of these provisional measures and to proceed to

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<sup>13</sup> Cr. *Case of Liliانا Ortega*, *supra* note 10, twenty-second considering paragraph; *Matters of the Monagas Detention Center ("La Pica")*; *the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison)*; *the Occidental Region Penitentiary Center (Uribana Prison)*, and *the Capital Detention Center El Rodeo I and El Rodeo II*, *supra* note 8, thirtieth considering paragraph, and *Case of Mack Chang et al.* Provisional measures with regard to Guatemala. Order of the Inter-American Court of November 16, 2009, twenty-first considering paragraph.

<sup>14</sup> Cr. *Case of the Mapiripán Massacre*. Provisional measures with regard to Colombia. Order of the Inter-American Court of September 2, 2010, twentieth considering paragraph.

<sup>15</sup> Cr. *Case of the 19 Tradesmen*. Provisional measures with regard to Colombia. Order of the Inter-American Court of July 8, 2009, fortieth and ninety-sixth considering paragraphs; *Matter of the Jiguamiandó and Curbaradó Communities*. Provisional measures with regard to Colombia. Order of the Inter-American Court of August 30, 2010, fifty-first considering paragraph; *Case of Carpio Nicolle*. Provisional measures with regard to Guatemala. Order of the Inter-American Court of July 6, 2009, thirty-first considering paragraph.



determine whether their situation of risk persists, before requesting the lifting of the measures.

30. In particular, in relation to the situation of Luis Guillermo Perez, the Court observes that the State is providing him with protection under the precautionary measures ordered by the Inter-American Commission in favor of the members of the *Colectivo de Abogados Jose Alvear Restrepo*. Even though a high-ranking Army officer who has been sentenced for the facts of the Mapiripán massacre alluded directly to Mr. Perez, which could indicate a current risk,<sup>16</sup> it appears that this was related to his work in the above-mentioned organization whose members are beneficiaries of precautionary measures. Hence, it is not appropriate to maintain these provisional measures in his favor, without prejudice to what the Commission considers pertinent in this regard.

31. The Court observes that, although a reasonable time has elapsed and despite the Court's request (*supra* having seen paragraph 7), neither the State nor the representatives have provided sufficient information to allow the Court to assess the real actual situation of risk faced by each of the beneficiaries and their family. Moreover, considering the situation of risk experienced by the beneficiaries, particularly owing to their internal forced displacement, it is probable that they have preferred not to provide information for fear of suffering another attack.<sup>17</sup> However, the useful effect of the provisional measures depends on the real possibility that they can be implemented.<sup>18</sup> Consequently, if there is a lack of information regarding the situation of risk over an extended period of time, the protective measures become illusory. In this case, the limited information provided has given rise to a situation of uncertainty at certain times, which is incompatible with the preventive and protective nature of the provisional measures and, therefore, makes it difficult to monitor their implementation. Most of the beneficiaries of the measures have not even agreed to provide their contact information so that their specific needs of protection can be determined. Hence, the provisional measures have had no effect in actual fact and, consequently, it is appropriate to order that they be lifted.

32. Lastly, the Court reiterates that Article 1(1) of the Convention establishes the general obligations of the State Parties to respect the rights and freedoms recognized therein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms, under all circumstances. For their part, provisional measures are exceptional in nature and are complementary to this general obligation of the States. In this regard, the Court's presumptions in order to lift the provisional measures cannot signify that the State is relieved of its convention-based protection obligations. Therefore, the Court emphasizes that, irrespective of the existence of specific provisional measures, the State has a special obligation to ensure the rights of those individuals in a situation of risk, particularly of Carmen Johana Jaramillo Giraldo, Esther Pinzón López, Sara Paola Pinzón López, María Teresa Pinzón López, Yur Mary Herrera Contreras, Zully Herrera Contreras, Maryuri Caicedo

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<sup>16</sup> The letter indicated in the representatives' brief has not been submitted to the Court; and no other probative elements have been submitted so that it can verify its existence.

<sup>17</sup> *Case of Clemente Teherán*. Provisional measures with regard to Colombia. Order of the Inter-American Court of June 19, 1998.

<sup>18</sup> *Case of the 19 Tradesmen*. Provisional measures with regard to Colombia. Order of the Inter-American Court of August 26, 2010, thirty-second considering paragraph. *Case of Caballero Delgado and Santana*. Provisional measures with regard to Colombia. Order of the Inter-American Court of July 4, 2006, thirteenth considering paragraph; *Case of Caballero Delgado and Santana*. Provisional measures with regard to Colombia. Order of the Inter-American Court of February 3, 2010, sixteenth considering paragraph.

Contreras, Nadia Marina Valencia Sanmiguel, Yinda Adriana Valencia Sanmiguel, Johana Marina Valencia Sanmiguel, Gustavo Caicedo Contreras, Rusbel Asdrúbal Martínez Contreras, Roland Andrés Valencia Sanmiguel, Ronald Mayiber Valencia Sanmiguel, Luis Guillermo Pérez, Nory Giraldo de Jaramillo, Marina San Miguel Duarte, Viviana Barrera Cruz, Luz Mery Pinzón López and Mariela Contreras Cruz, and their next of kin, victims of the Mapiripán Massacre, and must promote the investigations required to clarify the facts, followed by the consequences established in the pertinent legislation.<sup>19</sup>

**THEREFORE:**

**THE INTER-AMERICAN COURT OF HUMAN RIGHTS,**

in exercise of the authority conferred on it by Article 63(2) of the American Convention on Human Rights and Articles 27 and 31 of the Court's Rules of Procedure,

**DECIDES:**

1. To lift the provisional measures ordered by the Inter-American Court on June 27, 2005, and subsequently ratified, in the case of the Mapiripán Massacre.
2. To require the Secretariat of the Court to notify this Order to the State, the Inter-American Commission, and the representatives of the victims.
3. To close the file of these provisional measures.

Diego García-Sayán  
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

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<sup>19</sup> *Cr. Case of Velásquez Rodríguez*. Provisional measures with regard to Honduras. Order of the Inter-American Court of January 15, 1988, third considering paragraph; *Matter of the "El Nacional" and "Así es la Noticia" Newspapers*. Provisional measures with regard to Venezuela. Order of the Inter-American Court of November 25, 2008, thirty-ninth considering paragraph, and *Case of López Álvarez et al. Provisional measures with regard to Honduras*. Order of the Inter-American Court of January 26, 2009, twenty-eighth and twenty-ninth considering paragraphs.

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary