

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

**PROVISIONAL MEASURES**

**LILIANA ORTEGA IN THE MATTER OF VENEZUELA**

**HAVING SEEN:**

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") of November 27, 2002, on the provisional measures requested by the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") in favor of Liliana Ortega, Yris Medina Cova, Hilda (Gilda)<sup>1</sup> Páez, Maritza Romero, Aura Liscano (Lizcano)<sup>2</sup>, Alicia de González and Carmen Alicia Mendoza, in which it decided:

1. To order the State to adopt, without delay, all necessary measures to protect the life and the right to humane treatment of Liliana Ortega, Yris Medina Cova, Hilda Páez (Gilda Páez), Maritza Romero, Aura Liscano (Lizcano), Alicia de González and Carmen Alicia Mendoza, all of whom are members of the non-governmental organization *Comité de Familiares de Víctimas de los sucesos de Febrero-Marzo de 1989* (COFAVIC).

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 to 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, 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 on said 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], issued by [the] Court" in favor of Liliana Ortega, Yris Medina Cova, Hilda (Gilda) Páez, Maritza Romero, Aura Liscano (Lizcano), Alicia de González and Carmen Alicia Mendoza. In this respect, it advised that it had sent communications to the Ministry of the Interior and Justice, the Office

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\* 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.

<sup>1</sup> In the request for provisional measures submitted by the Inter-American Commission, Ms. Páez is referred to as both Hilda and Gilda.

<sup>2</sup> The request for provisional measures submitted by the Inter-American Commission refers to both Aura Liscano and Lizcano.

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 authorized the 44th prosecutor of the Office of the Attorney General of the Judicial District for the metropolitan area of Caracas and 24th at the national level" in order 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 expedite[d] for the full protection of the persons named by the Inter-American Court in the Order of November 27, 2002," because "the State ha[d] not taken any official action" to comply fully with the provisional measures.

4. Note CDH-S/1166 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 and indicated that on December 11, 2002, "the Attorney General [...] advised that the 44th prosecutor's unit of the Office of the Attorney General for the Judicial District of the metropolitan area of Caracas and 24th at the national level had been authorized [...]to comply with the measure contained in the third operative paragraph of the Order issued by [the] Court."

6. The brief of January 22, 2003, and its attachments, 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 their 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 Liliana Ortega, *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 Liliana Ortega Mendoza (*supra* ninth having seen paragraph) was "to demonstrate that the State had failed to comply with the measures."

11. Note CDH-S/073 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.

12. 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."

13. 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 their 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.

2. To convene Liliana Ortega to appear before the Inter-American Court of Human Rights at 10.30 a.m. on February 17, 2003, to give testimony on "the State's failure to comply with the measures ordered by the Court [and on] the absence of an investigation, the lack of police protection in favor of COFAVIC, the sporadic police protection for [herself], and the threats [she has] received since the provisional measures were issued."

[...]

14. 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  
Carlos Ayala, assistant, and  
Juan Carlos Gutiérrez, assistant

**For the State of Venezuela:**

Jorge Dugarte Contreras, Agent, and  
Gisela Aranda, Assistant

15. The testimony of Liliana Ortega before the public hearing, which is summarized as follows:

a) She is Venezuelan, resides in Caracas, and is a lawyer, professor and Executive Director of COFAVIC, "an organization that was established following the events of El Caracazo in 1989; its work has documented more

than 280 investigations of human rights crimes in Venezuela, it litigates cases before the inter-American system of human rights and it also carries out prevention work by raising the awareness of public opinion and organized sectors of Venezuelan civil society”;

b) Following the judgment delivered by the Inter-American Court of Human Rights in the *El Caracazo case*, COFAVIC began to receive a series of threats and acts of harassment that have been increasing constantly, particularly after the events of April 2002 and with regard to its work as a litigant before the inter-American system, as a result of which, it began to be subjected to a systematic campaign of telephone calls, e-mails and visits from individuals who proffered threats against the life and safety of several of its members;

c) On one occasion, while working in the state of Falcón, the COFAVIC investigation group “was approached by about eight officials of the Police Armed Forces” of that State, who “tried to intimidate them and make them desist from the work they were doing”, which consisted in “collecting information and to meet with the victims of executions by alleged para-police groups in that State [...]”;

d) The activities of COFAVIC have been affected by the violence which is occurring in the area where its offices are located and by the absence of safety guarantees. The members of COFAVIC have been called assassins and have been linked to opposition groups in an attempt to cast doubts on the legitimacy of the work it has carried out in Venezuela for over 14 years. Near the Mayor’s office in the municipality of El Libertador there was a poster with a photograph of Liliana Ortega with a text stating: “*reconócelos por traidores a la Patria, golpistas*” [these people are traitors, coupists];

e) “[S]ince the provisional measures, [she had] not had any meeting with the State of Venezuela to set up the protection measures [...] requested.” “[T]he police protection [of COFAVIC] had been totally unreliable, [and] although the Metropolitan Police had tried hard to comply with the protection, [...] the Ministry of the Interior and Justice and the Ministry of Defense had always put obstacles in the way of this protection being regular and truly effective”;

f) The “evidence regarding the acts of harassment and intimidation” had been reported to the Office of the Attorney General. However, the Office of the Attorney General retains the original prosecutors,” who “for nine months have not made any significant progress in the investigations.” On January 30, 2003, the Attorney General was requested to provide a copy of the files on the acts of intimidation and harassment against COFAVIC, and there has been no reply to this communication to date;

g) “A communication [was sent] to the Ministry of Foreign Affairs, detailing the measures that might improve the safety situation of the members of COFAVIC,” requesting that the officers of the Metropolitan Police be provided with appropriate equipment to allow them to carry out their work adequately; that a series of measures be taken to protect the other members of COFAVIC who are beneficiaries of the provisional measures; and that an

effective and thorough investigation of the facts be conducted to avoid impunity; and

h) In Venezuela, labor guarantees have clearly deteriorated. “[I]t is [...] important that the Venezuelan State give a clear sign of its respect for the defenders of human rights in Venezuela and that it provide the necessary guarantees so that non-governmental human rights organization can carry out their work effectively.”

16. The oral arguments of the Commission, presented at the said public hearing, which are summarized as follows:

a) The State has imposed obstacles to avoid providing the requested measures of protection. “Enough time [has elapsed] to have made progress in complying with the measures and, to date, no one has shown any willingness to comply. There have been nine months in which to make progress on the investigation and this is sufficient time to conduct [...] any type of investigation and, to date, there has been no progress.” The obligation to guarantee and protect human rights cannot be fulfilled by police officials who have no equipment to defend themselves or for communication.

b) “[T]he express acknowledgement by the State Agent that, owing to what he has called, disorder, disruption, the provisional measures have definitively not been complied with in the case of Liliana Ortega and the rest of the COFAVIC management team, [...] is [...] important”;

c) The attack on Liliana Ortega and on the other COFAVIC officials has become a continued and systematic attack against this non-governmental organization, owing to its work as a human rights defender. Only the person who endures these attacks is able to decide when there is sufficient protection;

d) “[D]eputies from the governing party have insulted Liliana Ortega during parliamentary debates, [...] there are members of the governing party [...] from the so-called “hot spot” (*esquina caliente*) in the center of Caracas, controlled by Bolivarian circles, where her photographs have been put up as a political target for attacks and she is identified by the phrase ‘*golpista, pueblos reconócelos*’ [coupist, may the people know you]”;

e) The Organization of American States has already referred to the issue of human rights defenders, when it decided in Resolution 1818 of the General Assembly “to reiterate [...] support for the work carried out, at both the national and regional levels, by human rights defenders; and to recognize their valuable contribution to the protection, promotion, and observance of human rights and fundamental freedoms in the Hemisphere[;] to condemn actions that directly or indirectly prevent or hamper the work of human rights defenders in the Americas[;] to urge member States to step up their efforts to adopt the necessary measures, in keeping with their domestic law and with internationally accepted principles and standards, to safeguard the lives, personal safety, and freedom of expression of human rights defenders[, and] to invite member States to publicize and enforce the instruments of the inter-American system and the decisions of its bodies on this matter, as well as the United Nations Declaration on the Right and Responsibility of Individuals,

Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms.

f) The Inter-American Court should conclude that the State has not complied with the provisional measures requested by the Court, which, in light of the Convention, constitutes a grave situation, without precedent in the inter-American system for the protection of human rights, because it endangers the lives and safety of human rights defenders;

g) “[O]ne of the officials the State [...] had assigned [to protect Liliana Ortega] is being prosecuted as a hired assassin in the alleged murder of an opposition leader; and

h) “[W]hen planning these measures of protection, the following should also be taken in account: [providing] COFAVIC personnel with bullet-proof vests for their personal protection[;] [...] the assignment of [...] motorcycles [...] to ensure rapid transport during the difficult moment that some members of the COFAVIC team have experienced; [...] the installation of a special metal detector in the entry to COFAVIC and of a double security door at the COFAVIC offices with the characteristics and requirements determined by the COFAVIC Board of Directors; [the appointment of a national prosecutor from the Office of the Attorney General, in consultation with the petitioners, and the State [should be] requested to make a statement [...] in favor of respect and protection for the work of human rights defenders in Venezuela [...].”

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

a) One of the results of the excess of democracy, the desire for prominence, and the longing to be included in the participatory democracy of the Venezuelans has been the disproportionate proliferation of non-governmental human rights organizations;

b) “It is clear that Liliana Ortega and her organization, COFAVIC, have been a concern of the Venezuelan State.” “Quite simply there has been disorder and disruption with regard to the precautionary measures and specifically the provisional measures or including them in the measures of protection for the physical and personal safety of Liliana Ortega [...].” “The implementation [...] of precautionary or provisional measures, [...] is not easy [...] under the bureaucratic system in our countries and owing to our idiosyncrasy [...]”;

c) “[I]t is not at all easy, for a precautionary measure or a provisional measure of protection to be established.” Moreover, the request for provisional measures was unnecessary, because the precautionary measures were being observed, with some difficulties;

d) In a country with the financial crisis that Venezuela is enduring, no cabinet minister or president of an autonomous institution has the protection requested by Liliana Ortega for herself and for COFAVIC. Also, the fact that COFAVIC has its offices in “a place where there are frequent meetings and even confrontations between supporters of the Government and the opposition” cannot be attributed to the State;

e) On December 12, 2002, the 24th prosecutor at the national level assigned to the case had a telephone conversation with Liliana Ortega, "in order to arrange her appearance before this Office to conduct an interview so that she could explain the reasons for the provisional measures decided by the Inter-American Court of Human Rights, because, it was presumed they were due to new facts." This prosecutor indicated that Liliana Ortega refused to attend because she did not consider it necessary and she also stated that she could "on no account travel through the center of Caracas because her life was in danger";

f) "On December 16, 2002, the 24th prosecutor at the national level assigned to the case forwarded an official letter to the Director of COFAVIC, requesting detailed information on the new events that had been reported before the inter-American system. He received a reply on January 20, 2003, in a communication stating that on January 6, 2003, Hilda (Gilda) Páez, President of COFAVIC, had delivered personally a document with 34 pages, as an attachment, to the Office of the Attorney General, and it had been stamped by the General Secretariat Department, Records Unit. In this communication, Liliana Ortega express[ed] her appreciation for the prosecutor's interest in requesting information in the case"; and

g) "[...The Commission's] intention is to find a prompt, adequate, convenient and necessary solution planned jointly by Liliana Ortega, the COFAVIC personnel, and the representatives of the Venezuelan State and the Government for [...] reasonable and fair compliance with the [...] precautionary measures; and to continue compliance with the precautionary measures, evidently, incorporate the provisional measures ordered by [the Court] into them."

18. The documents presented by the Commission during the public hearing held on February 17, 2003 (*supra* fourteenth having seen paragraph), which consisted in five folios with photographs of posters and graffiti put on display by "Government supporters" in different parts of Caracas, Venezuela.

19. The documents presented by the State during the public hearing on February 17, 2003 (*supra* fourteenth having seen paragraph), that consisted in "[d]ocuments relating to the measures taken by the prosecutors appointed to investigate the case and the actions of the Venezuelan Ministry of the Interior and Justice, related to the Liliana Ortega *et al.* case."

20. The Order of the Court of February 21, 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 of Human Rights in its Order of November 27, 2002.

2. To reiterate to the State the requirement that it adopt forthwith all necessary measures to protect the lives and safety of Liliana Ortega, Yris Medina Cova, Hilda Páez [Gilda Páez], Maritza Romero, Aura Liscano [Lizcano], Alicia de González and Carmen Alicia Mendoza.

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 stated in the complaint that gave rise to these measures in order to discover those responsible and punish them.

5. To call upon the State y a the Inter-American Commission on Human Rights to take the necessary measures to create an appropriate mechanism to coordinate and monitor the above-mentioned measures by March 22, 2003, at the latest.

6. 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 March 1, 2003, at the latest.

7. 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.

8. To call upon the State, subsequent to its communication of March 1, 2003 (*supra* sixth 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.

[...]

21. 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, within the framework of their legal jurisdiction, they should proceed to comply with the Orders" issued by the Court.

22. 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 with regard to provisional measures.

23. The brief of March 13, 2003, and its attachments, in which the Commission presented its comments on the third report of the State. 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 provisional measures, and this constituted "failure to comply with the express mandate of the Court." It also observed that the measures of protection provided to Liliana Ortega were insufficient and that those corresponding to the offices of COFAVIC had been suspended.

24. Notes CDH-S/433 and CDH-S/403 of March 26, 2003, in which the Secretariat requested the State and the Commission to forward, in their next communications, the information on compliance with "the fifth operative paragraph of the Order issued by the Court on February 21, 2003" (*supra* twentieth having seen paragraph), "without prejudice, to forwarding a brief with information in this respect at any time, if they deem this appropriate."

25. The fourth report of the State of April 25, 2003, and its attachments, in which it indicated that the Attorney General had advised that "[w]ith regard to the investigation of the reported facts that gave rise to these provisional measures, the Office of the Attorney General[,] through the Fundamental Rights Protection Department, had instructed the 24<sup>th</sup> Prosecutor at the national level of the Office of the Attorney General, Raiza Rodríguez, to take the necessary measures."



26. The brief of April 29, 2003, and its attachments, in which the Commission advised that "it had written to the Venezuelan State on March 13, 2003, requesting a meeting during the week of March 17, 2003," but had not received a reply to this request. The Commission had repeated this request to Venezuela on April 15, 2003, and the State had replied on April 23, 2003, that "it [was] studying an appropriate date, in order to propose it to the Commission and [...] reach agreement on a date and time for this meeting.

27. The brief of May 9, 2003, in which the Commission forwarded copies of two letters sent to the State (*supra* twenty-sixth having seen paragraph).

28. The brief of June 9, 2003, and its attachments, in which the Commission presented its comments on the fourth report of the State of April 25, 2003 (*supra* twenty-fifth having seen paragraph), which are summarized as follows:

a) Regarding the investigation of the facts, more than a year had elapsed since the Office of the Attorney General of Venezuela had begun investigations in this case and to date no one had been detained. Likewise, no judicial proceeding had been filed and no formal accusation had been made against anyone involved. Moreover, "the victims ha[d] not had access to the file," because the documents requested "[were] confidential";

b) Regarding the measures of protection, "only one paragraph" of the 14 pages of the report referred to the measures of protection granted to Liliana Ortega and the other members of COFAVIC. Furthermore, the remaining references repeated information that had been presented previously. The beneficiaries of the provisional measures had indicated that the members of COFAVIC had never received police protection and that only Liliana Ortega was protected by these measures, even though the officials assigned to protect her could not enter their command posts or have weapons while providing their services, which made it difficult to ensure "safe and effective" protection";

c) Regarding the participation of the petitioners in the planning and implementation of the measures "[i]t was inadmissible' that the State ha[d] allegedly appointed the Intelligence and Prevention Services Division (DISIP) and the Police of the Libertador municipality to implement the measures, without the consent of the beneficiaries, when they had requested that the Motorized Division of the Metropolitan Police should protect them; and

d) Regarding the monitoring mechanism, on March 13, 2003, the Commission sent a note to the State, requesting a meeting and, on April 15, 2003, repeated this request. It received a telephone call from the Permanent Mission of Venezuela to the OAS to hold a meeting on June 4, 2003. The Commission agreed to this suggestion and requested written confirmation, but no reply had been received.

29. The fifth report of the State of August 15, 2003, and its attachments, in which it advised that the "Director General of the Metropolitan Police ha[d] advised the Director General of Police Coordination of the Ministry of the Interior and Justice that the protection requested in the precautionary measures for [...] Liliana Ortega [was] provided by two police agents from that institution 24 hours each day, and

there was also an agent to protect the offices of COFAVIC, from Monday to Friday, from 8 a.m. to 5 p.m.”

30. The brief of October 3, 2003, and its attachments, in which the Commission presented its comments on the fifth report of the State, among which, it indicated:

a) Regarding the investigation of the facts, the State did not submit any information on the status of the investigations into the facts that gave rise to the provisional measures. Furthermore, the beneficiaries of the measures continue not to have access to the file, because it is “confidential.” Also, the Office of the Attorney General insisted on inspecting the COFAVIC computers, a request that was agreed to, provided the inspection was carried out by “independent international experts who enjoy[ed] the confidence of the victims”;

b) Regarding the measures of protection, the members of COFAVIC continued to receive threats and harassment. Maritza Romero, Hilda (Gilda) Páez, Aura Liscano (Lizcano), Alicia González and Carmen Alicia Mendoza were not receiving permanent measures of protection. The protection measure for the COFAVIC offices was only in place from Monday to Friday, from 9 a.m. to 11.30 a.m. and from 1.30 p.m. to 4.00 p.m., when working hours were really from 8.00 a.m. to 6.30 p.m. Likewise, COFAVIC did not have minimum security mechanisms to detect metals or firearms and the protection official did not have an appropriate weapon “to guarantee the minimum protection required.” “Given the increase in the threats [...], COFAVIC was obliged to close its offices on three occasions during July, August and September for fear of receiving direct attacks”; and

c) Regarding the participation of the petitioners in the planning and implementation of the measures, on November 19, 2002, COFAVIC communicated with the Ministry of Foreign Affairs to decide on the type of protection they had requested. On July 10, 2003, it requested an audience with the Ministry of the Interior and Justice. It received no reply to either communication, so it requested that the measures of protection should be taken with the consent of the person to be protected.

31. 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.”

32. 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, pursuant to 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:

[a]t 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.

[w]ith 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 Liliana Ortega, Yris Medina Cova, Hilda (Gilda) Páez, Maritza Romero, Aura Liscano (Lizcano), Alicia de González and Carmen Alicia Mendoza, the Court also ordered it to report on the implementation of these measures (*supra* first and twentieth 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 beneficiaries, 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 had 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<sup>3</sup>.

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 effective compliance, requires the formal submission of a document within the time limit, 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 the persons protected by the provisional measures in this case; 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**

<sup>3</sup> 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.

**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 Liliana Ortega, Yris Medina Cova, Hilda (Gilda) Páez, Maritza Romero, Aura Liscano (Lizcano), Alicia de González and Carmen Alicia Mendoza.
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