

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Peruvian Prisons v. Peru
Doc. Type:	Order of the Court
Decided by:	President: Hector Fix-Zamudio; Vice President: Sonia Picado-Sotela; Judges: Rafael Nieto-Navia; Alejandro Montiel-Arguello; Hernan Salgado-Pesantes; Asdrubal Aguiar-Aranguren
Dated:	27 January 1993
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The Inter-American Court of Human Rights adopts the following Decision:

1. On November 25, 1992, pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and 24 of the Rules of Procedure (hereinafter "the Rules") of the Inter-American Court of Human Rights (hereinafter "the Court"), the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") submitted to the Court a request for provisional measures in Cases 11.015 and 11.048 which are before the Commission and concern the grave situation in the Peruvian prisons of Miguel Castro Castro and Santa Mónica in Lima, Cristo Rey in Ica and Yanamayo in Puno.
2. The Commission's petition is founded upon its President's request to the Government of Perú on August 18, 1992, pursuant to Article 29 of the Commission's Regulations, for the adoption of provisional measures "in relation to those persons deprived of their liberty for allegedly committing terrorist acts." Moreover, the President of the Commission stated that if the necessary measures were not adopted within 10 days, "the request for provisional measures might be presented to the Inter-American Court."
3. The facts the Commission considered in requiring the Government to adopt precautionary measures, and subsequently in asking the court for provisional measures, are the existence of "credible evidence of a grave situation in the Peruvian prisons" Miguel Castro Castro, Santa Mónica, Cristo Rey and Yanamayo, which poses "an immediate danger to the right to integrity of the person of those accused and sentenced for terrorism because of the poor conditions in which they are imprisoned." The Commission has received information that in those prisons there is a "high incidence of diseases," loss of weight, overcrowding, isolation, and psychological and emotional problems among male and female prisoners. When the prisoners are transferred to those prisons, some of which are in very cold zones, they are "mistreated, insulted, humiliated," although some of them are wounded and only have their "worn" summer clothing. Neither can

the prisoners receive the visits of their relatives with the implications that conveys. The International Committee of the Red Cross is not currently authorized to inspect those prisons. All the above lends a grave and urgent nature to the situation described.

4. On December 4, 1992, the Secretariat of the Commission sent additional documentation containing a complaint which caused the Commission to note

as may be gathered from the communication, a situation may be developing which could result in the violation of the rights of the women prisoners in the Santa Mónica Prison of Chorrillos, and if true, would increase the seriousness and urgency of the situation being considered by the Members of the Court.

5. In exercise of his authority under Article 24(4) of the Rules, the President of the Court (hereinafter "the President") handed down an Order on December 14, 1992, which contains the following Decision:

1. Based upon the foregoing considerations, it is not appropriate at this time to ask the Government of Perú to take urgent provisional measures.

2. To submit the request presented by the Inter-American Commission to the Court at its next regular period of sessions, so it may adopt the appropriate measures pursuant to Article 63(2) of the Convention.

The Order was made known to the Commission and the Government.

WHEREAS:

1. By Order of December 14, 1992, the President decided not to adopt urgent measures, the Court shall now determine whether provisional measures are appropriate under Articles 63(2) of the Convention and Article 24(2) of its Rules.

2. The instant case concerns a matter which is not presently before the Court, but rather before the Commission, and the latter has not submitted information to the Court sufficient to support the adoption of such measures, which requires the Commission to have gathered preliminary evidence to support a presumption of the truth of the allegations and of a situation whose seriousness and urgency could cause irreparable harm to persons.

3. Therefore, it is inappropriate at this time for the Court to adopt the provisional measures requested by the Commission, but it does ask the Commission to invoke its powers under the Convention, its Statute and its Regulations, to obtain the evidence or carry out the investigations needed to determine the truth of the allegations.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

RESOLVES:

1. Not to adopt, at the present time, the provisional measures requested by the Commission and provided for under Articles 63(2) of the Convention and 24 of its Rules.
2. To ask the Commission to take all the measures legally available to it to ascertain the truth of the allegations.

Done in Spanish and in English, the Spanish text being authentic. Read at the seat of the Court in San José, Costa Rica, on January 27, 1993.

Héctor Fix-Zamudio
President

Sonia Picado-Sotela
Rafael Nieto-Navia
Alejandro Montiel-Argüello
Hernán Salgado-Pesantes
Asdrúbal Aguiar-Aranguren

Manuel E. Ventura-Robles
Secretary