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## HAVING SEEN:

1. The brief of July 17, 1997, in which the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court"), pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Article 25 of its Rules of Procedure (hereinafter "the Rules of Procedure"), a request for provisional measures on behalf of Mr. Gustavo A. Cesti-Hurtado, in connection with case No. 11.730 against the State of Peru (hereinafter "the State" or "Peru"), at that time before the Commission.

2. The Order of the President of the Court of July 29, 1997, in which he decided:

1. To request the Government of the Republic of Peru to adopt, forthwith, such measures as may be necessary to ensure the physical and moral integrity of Mr. Gustavo Cesti-Hurtado, so that any provisional measures that the Court may take may have the pertinent effects.

2. To request the Government of the Republic of Peru to submit to the President of the Court, by August 25, 1997, a report on the measures taken in order to bring them to the attention of Court at its next session. It must report particularly on whether it complied with the request for precautionary measures sought by the Inter-American Commission on Human Rights in its note of April 25, 1997.

3. To summon the Inter-American Commission of Human Rights and the Government of Peru to a public hearing on the matter to be held at the Court on September 8, 1997 at 4.00 p.m.

3. The Order of the Court of September 11, 1997, in which it decided:

1. To ratify the order of the President of the Inter-American Court of July 29, 1997.

2. To call upon the State of Peru to maintain the provisional measures to ensure Mr. Gustavo Cesti-Hurtado's physical, psychological and moral safety.

3. To call upon the State of Peru to continue to report every three months on any measures it has taken to comply with this order.

4. To call upon the Inter-American Commission on Human Rights to submit to the Court its comments on that information at the latest within two months of receipt thereof.

4. The brief of January 9, 1998, in which the Commission submitted the case of Cesti Hurtado against Peru for the consideration of the Court.

5. The brief of January 9, 1998, in which the Commission submitted another request for provisional measures in favor of Mr. Gustavo Adolfo Cesti-Hurtado, in connection with this Cesti Hurtado case before the Court, pursuant to Article 63(2) of the Convention and Article 25 of its Rules of Procedure. In its brief the Commission requested the Court:

a) Order the unconditional release of the victim, while this case is completed, a condition that will be referred to the outcome of the instant case now before the Honorable Court of Human Rights ..., and that he be re-arrested in the event this request should prove unfounded.

b) That the property confiscated from the victim be released, and that Mr. Cesti be ordered to stand sufficient bail in case the ... Court declares the application to be unfounded.

6. The State's brief of January 19, 1998, in which it submitted its first report on the measures adopted pursuant to the order of the Court of September 11, 1997. In that brief Peru stated that it had taken the measures necessary to maintain Mr. Cesti-Hurtado's physical, psychological and moral safety and that his latest medical consultation had confirmed that he was in good condition, since he received periodic health check-ups.

7. The brief from Mr. Oscar Luján-Fappiano, delegate appointed by the Commission, of January 21, 1998 and its attachments.

8. The January 21, 1998 amicus curiae brief from the Chairman of the Executive Human Rights Committee of the Bar Association of Lima, Mr. Heriberto Manuel Benítez-Rivas.

#### CONSIDERING:

1. That Peru is a State Party on the American Convention since July 28, 1978, and accepted the contentious jurisdiction of the Court on January 21, 1981.

2. That Article 63(2) of the Convention provides that:

[I]n cases of extreme gravity or 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.

3. That, in this connection, Article 25 of the Rules of Procedure provides that:

1) At any stage of the proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order such provisional measures it deems pertinent, pursuant to Article 63(2) of the Convention.

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

4. That the President of the Court, in his Order of July 29, 1997, ratified by this Court by order of September 11, 1997, ordered the State of Peru to "take urgent measures by providing [Mr. Cesti-Hurtado with] proper medical treatment for his heart problems in order to preserve his physical, psychological and moral safety."

5. That the provisional measures adopted in this case began when the case was being processed by the Commission and that the new request of January 9, 1998, which refers to the same facts, was submitted on the same day that the Commission initiated proceedings before the Court in the Cesti Hurtado case.

6. That the new documentation supplied by the Commission does not contain sufficient evidence to suggest that Mr. Cesti-Hurtado's condition has deteriorated. However, although the State claims in its report of January 19, 1998 that Mr. Cesti-Hurtado is in "good health", the provision of preambular paragraph 4 of this order should be heeded so that a doctor of Mr. Cesti-Hurtado's choosing can conduct the examination needed to preserve his physical and psychological well-being at the Simón Bolívar Barracks.

7. That additional information to that now in the Court's possession is need for determining whether subparagraphs a) and b) of the request for provisional measures of January 9, 1998 (supra, whereas 5) and the Commission's brief of January 21, 1998 (supra, whereas 7) conform to the premises set forth in Article 63(2) of the Convention.

8. That a study of the new documentation provided and pursuant to Article 63(2) of the Convention, shows that there are sufficient reasons for maintaining the provisional measures adopted previously and developing them as indicated above (supra, whereas 6).

NOW, THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by virtue of the powers conferred on it by Article 63(2) of the American Convention and Article 25 of its Rules of Procedure,

RESOLVES:

1. To call upon the State of Peru to maintain the provisional measures adopted in the order of the Inter-American Court of Human Rights of September 11, 1997, in order to ensure Mr. Gustavo Adolfo Cesti-Hurtado's physical safety.

2. To call upon the State of Peru to allow Mr. Cesti-Hurtado to receive treatment from a doctor of his choosing.

3. To call upon the State of Peru to continue to report every two months on the measures it has taken to comply with this order.

4. To call upon the Inter-American Commission on Human Rights to submit to the Court its comments on that information within a period not exceeding six weeks from receipt thereof.