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Institution: Inter-American Court of Human Rights
Title/Style of Cause: Baruch Ivcher Bronstein v. Peru
Doc. Type: Order
Decided by: President: Antonio A. Cancado Trindade;
Judges: Maximo Pacheco-Gomez; Hernan Salgado-Pesantes; Oliver Jackman;
Alirio Abreu-Burelli; Sergio Garcia-Ramirez; Carlos Vicente de Roux-Rengifo
Dated: 23 November 2000
Citation: Ivcher Bronstein v. Peru, Order (IACtHR, 23 Nov. 2000)
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HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter the “Court” or the “Inter-American Court”) of November 21, 2000, whereby it resolved:

1. To require that the State of Peru adopt, forthwith, whatever measures are necessary to protect the physical, psychological and moral integrity, and the right to the legal guarantees of Mr. Baruch Ivcher-Bronstein, his wife, Noemí Even-de-Ivcher, and his daughters, Dafna Ivcher-Even, Michal Ivcher-Even, Tal Ivcher-Even, and Hadaz Ivcher-Even.

2. To require that the State of Peru adopt, forthwith, whatever measures are necessary to protect the physical, psychological and moral integrity, and the right to the legal guarantees of Rosario Lam-Torres, Julio Sotelo-Casanova, José Arrieta-Matos, Emilio Rodríguez-Larraín, and Fernando Viaña-Villa.

3. To require that the State of Peru inform the Inter-American Court of Human Rights, no later than December 5, 2000, about the provisional measures it will have adopted in compliance with this Order, and that it continue, as of that date, to submit its reports every two months.

4. To require that the Inter-American Commission on Human Rights submit its observations to the reports of the State of Peru within six weeks of receiving them.

2. The brief of the Inter-American Commission on Human Rights (hereinafter the “Commission” or the “Inter-American Commission”) of November 22, 2000, whereby it requested the Court to grant an expansion of the provisional measures rendered (supra 1) on behalf of Messrs. Menachem Ivcher-Bronstein, brother of Mr. Baruch Ivcher-Bronstein, and Roger González, a member of his companies. As a basis for its request, the Commission stated that

both [gentlemen] were included also into the proceedings against Productos del Paraíso S.A. (companies owned by Mr. Ivcher) and both have been accused, the prosecutor having asked for a

sentence of twelve years imprisonment; they are being tried for contempt of court as well, because of having been subjected to such prosecution.

CONSIDERING:

1. That Peru became a State Party to the American Convention on July 28, 1978, and recognized the jurisdiction of the Court, pursuant to Article 62 of the Convention, on January 21, 1981.

2. That Article 63.2 of the American Convention provides that in cases of “extreme gravity and urgency, and when necessary to avoid irreparable damage to persons,” the Court may, in matters it has under its consideration, adopt the provisional measures that it deems pertinent.

3. That, in the terms of Article 25(1) 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 such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

4. That Article 1(1) of the Convention points out the obligation that the States Parties have, to respect the rights and freedoms therein recognized, and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.

5. That the events presented in the request of the Commission, as well as the depositions of the witnesses and the expert witness rendered at the seat of the Court during the public hearing on the merits of the Ivcher-Bronstein Case on November 20-21, 2000, and the final arguments of the Commission enable the Court to establish prima facie the existence of threats against the personal integrity and the legal guarantees of Messrs. Menachem Ivcher-Bronstein and Roger González. The prima facie case assessment standard and the application of presumptions vis-à-vis the needs for protection, have served as a basis for provisional measures adopted by this Court on different occasions.

6. That it is the responsibility of the State to apply security measures to protect all persons subject to its jurisdiction.

7. That the purpose of the Provisional Measures in the national legal systems (internal procedural law) in general, is to preserve the rights of the parties to the controversy, ensuring that the future judgment on the merits not be harmed by their actions pendente lite.

8. That the purpose of Provisional Measures in international human rights law is broader since, in addition to their essentially preventive character, they protect effectively basic rights inasmuch as they seek to avoid irreparable damage to persons.

NOW, THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

In exercise of the powers conferred upon it by Article 63(2) of the American Convention, and Article 25 of its Rules of Procedure,

DECIDES:

1. To require that the State of Peru adopt, forthwith, whatever measures are necessary to protect the physical, psychological and moral integrity, and the right to the legal guarantees of Messrs. Menachem Ivcher-Bronstein and Roger González.
2. To require that the State of Peru, in its first report on the Provisional Measures rendered by the Inter-American Court of Human Rights on November 21, 2000, inform also about the urgent steps it will have taken in compliance with this Order, and that it continue, as of that date, to submit its reports every two months.
3. To require that the Inter-American Commission on Human Rights submit its observations to the reports of the State of Peru within six weeks of receiving them.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez
Hernán Salgado-Pesantes
Oliver Jackman
Alirio Abreu-Burelli
Sergio García-Ramírez
Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary