

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF NOVEMBER 27, 2002**

**PROVISIONAL MEASURES REQUESTED BY
THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
WITH RESPECT TO THE REPUBLIC OF VENEZUELA**

LILIANA ORTEGA ET AL. V. VENEZUELA

HAVING SEEN:

1. The November 27, 2002 brief and its appendices, in which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") filed before the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court"), pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and 74 of the Rules of Procedure of the Commission, a request for Provisional Measures in favor of Liliana Ortega, Yris Medina Cova, Hilda Páez (Gilda Páez)¹, Maritza Romero, Aura Liscano (Lizcano)², 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 (hereinafter "COFAVIC"). In said brief, the Commission asked the Court to order the Bolivarian Republic of Venezuela (hereinafter "the Venezuelan State", "the State" or "Venezuela") the following:

a. To urgently adopt effective security measures to ensure the rights to life, to humane treatment (*sic*), and freedom of association (Articles 4, 5 and 16 of the American Convention) of Liliana Ortega, Yris Medina, Gilda Páez, Maritza Romero, Aura Lizcano, Alicia de González, and Carmen Alicia Mendoza, all of whom are officials of COFAVIC. To this effect:

- 1) To grant secure and sufficient police protection to the abovementioned persons.
- 2) To provide a secure internal communication radio to Dr. Liliana Ortega and to the COFAVIC office for them to be able to communicate immediately and at any time with a responsible police official with no delay.
- 3) For the State to provide protection for the offices of COFAVIC. This measure must include nighttime protection of the offices.

b. To coordinate the protection measures set forth in the above subparagraph "a" with the persons to be protected, and specifically through consultation with Dr. Liliana Ortega, the Executive Director of COFAVIC.

¹ The brief by the Inter-American Commission requesting Provisional Measures, refers to Mrs. Páez indiscriminately as Hilda and as Gilda.

² The brief by the Inter-American Commission requesting Provisional Measures refers indiscriminately to Aura Liscano or Lizcano.

c. To adopt, as an essential component of the duty to provide protection, effective measures to investigate the facts that give rise to these measures, so as to identify and punish those acts in accordance with due process.

d. To inform the [...] Court within a brief term of the concrete and effective measures taken to protect Liliana Ortega, Yris Medina, Gilda Páez, Maritza Romero, Aura Lizcano, Alicia de González, and Carmen Alicia Mendoza and to subsequently report to the [...] Court every two months on the status of the Provisional Measures.

2. The grounds argued by the Inter-American Commission in its request for Provisional Measures, based on the following facts:

a. that the Commission "has noted with great concern a progressive increase in the threats and attacks against the various civil society organizations, which have intensified significantly during [2002]" and that "during the *in loco* visit, carried out [by the Commission to Venezuela] in [...] the month of May [2002], [it] received information that civil society organizations were suffering harassment;"

b. that on April 19, 2002 the Inter-American Commission asked the Venezuelan State to adopt precautionary measures "in favor of Liliana Ortega Mendoza, Yris Medina Cova, Hilda Páez, Maritza Romero, Aura Lizcano, Alicia de González, and Carmen Alicia Mendoza, so as to protect their life and their right to humane treatment." For this reason, it requested that the State:

1. Provide the protection required by Liliana Ortega Mendoza, Yris Medina Cova, Gilda Páez, Maritza Romero, Aura Lizcano, Alicia de González, and Carmen Alicia Mendoza, to safeguard their rights to life and to humane treatment, pursuant to Articles 4 and 5 of the American Convention [on] Human Rights. Also, that it provide protection to the offices of "COFAVIC". This measure must be adopted in consultation with doctor Liliana Ortega Mendoza, the Executive Director of said organization.

2. Conduct and extensive investigation of the acts of intimidation and threats received by members of the non-governmental organization "COFAVIC" on January 20 and 29, and on April 17 and 18, 2002 [;]

c. that said precautionary measures (*supra* 2.b) were granted due to acts of harassment and direct and indirect threats to COFAVIC members Liliana Ortega, Yris Medina Cova, Hilda Páez (Gilda Páez), Maritza Romero, Aura Lizcano (Lizcano), Alicia de González, and Carmen Alicia Mendoza;³

d. that on October 14, 2002 "the Commission agreed to extend the precautionary measures adopted on April 19, 2002 in favor of COFAVIC for another six months, based on [...] new facts" that occurred between the months of May and September, 2002,⁴ and

³ It its request, the Inter-American Commission referred to several facts, among which they highlighted that "on Tuesday, April 16, COFAVIC was left without electrical power three times [...] and they were therefore completely without communication, as their phone system operates electrically [and] [t]he building where COFAVIC is located was the only one where the power was cut." They also stated that "after [...] COFAVIC's phone number appeared on a television program, [...] they received a phone call saying: 'Tell the doctor to get out of the way because we revolutionaries are willing to do anything, and if it is blood they want, blood will be shed...'"

⁴ The Inter-American Commission submitted a list of the threats received in each of those months (May through September, 2002) and referred to the threatening phone calls and e-mails, to statements against Liliana Ortega and COFAVIC, to the presence of strange persons outside the offices of COFAVIC, to persons with hostile and threatening attitudes, to insults and harassment, among others.

e. that on November 21, 2002 the Center for Justice and International Law (CEJIL), the Episcopal Vicarship of Caracas and another entity "requested that the Commission in turn ask the [...] Inter-American Court of Human Rights to grant Provisional Measures in favor of the Non-Governmental Organization *Comité de Familiares de Víctimas de los Sucesos de Febrero-Marzo de 1989* (COFAVIC)".

3. The additional statement by the Commission, in its request for Provisional Measures, that:

a. the threatening phone calls as well as the acts of intimidation that are intensifying and are related to COFAVIC's work, constitute clear signs that the safety of its members "depends on their silence;"

b. the threats have continued despite the request for precautionary measures made by the Commission and that the State of Venezuela ordered police protection for Liliana Ortega, Yris Medina Cova, Hilda Páez (Gilda Páez), Maritza Romero, Aura Liscano (Lizcano), Alicia de González, and Carmen Alicia Mendoza, entrusted to the Metropolitan Police;

c. Liliana Ortega "was guarded on a daily basis by four motorized officers of the Metropolitan Police and two officers of the Motorized Brigade [and that] COFAVIC's offices were guarded internally and externally, on a daily basis, by two Metropolitan Police officers;"

d. the police protection they receive "has been interrupted several times due to the difficult situation of the Metropolitan Police in the last two months [the first time being] due to the strike begun [...] on October 1 [2002]," for which reason "Liliana Ortega had to leave Venezuela [...] because during the strike the daily police protection she had received was not provided, which together with the growing political violence in the country, seriously threatened her safety." Her protection was interrupted a second time, due to "intervention of the Motorized Directorate of the Metropolitan Police by the Venezuelan army and the National Guard" in November. "[I]ntervention of the Metropolitan Police has made police protection uncertain, increasing the risk run both by the organization and by its members;"

e. Liliana Ortega has received information that one of the officers who guarded her personally had been arrested for his alleged participation in the homicide of Luis Alcalá, Media coordinator for the opposition organization "*Defensores de la Nueva República*", who "had been conducting investigations on paramilitary activities allegedly carried out by members of the Bolivarian circles that support the government;"

f. in view of the above, (*supra* 3.e) "it was agreed by the General Directorate of the Metropolitan Police that personal protection of Dr. Ortega would be entrusted to two officers of the Motorized Directorate of the Metropolitan Police [and also that] protection of COFAVIC's offices would continue to be provided by the Police Station at La Candelaria;"

g. subsequently, "on November 16, [2002] the Minister of the Interior and Justice, Diosdado Cabello, ordered an intervention of the Metropolitan Police, subordinate to the Mayor's Office in Caracas," and appointed retired

Commissioner Gonzalo Sánchez Delgado, who “has publicly identified with the government supporters grouped in the Bolivarian circles” as its new director, and

h. in compliance with the precautionary measures issued by the Commission, “the Venezuelan State through the Public Prosecutors’ Office commissioned the Twenty-Fourth National Prosecutors’ Office with full competence, and the Forty-fourth Prosecutors’ Office of the Metropolitan Area of Caracas. Nevertheless, the applicants (*sic*) argue that only Liliana Ortega has been summoned to make her statement before the Public Prosecutors’ Office on Tuesday, May 14, 2002, in the investigative proceeding entrusted to those Prosecutors’ offices. To date, there has been no progress regarding the complaints, despite insistence by Dr. Liliana Ortega, who has several times asked the Public Prosecutors’ Office to conduct an extensive investigation of the facts, providing new probatory elements. The Public Prosecutors’ Office has not summoned anyone to make their statements, nor has it begun investigative steps to identify those allegedly responsible, nor has it filed any formal action with respect to the facts set forth; therefore, the juridical situation of its action is in the preliminary stages, without having begun the criminal proceeding, despite the fact that seven months have gone by since the request for precautionary measures.”

CONSIDERING:

1. The State ratified the American Convention on August 9, 1977 and, pursuant to Article 62 of that Convention, it recognized the contentious jurisdiction of the Court on June 24, 1981.

2. 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 consideration, adopt such Provisional Measures as it deems pertinent, and in cases not yet submitted to the Court, it may act at the request of the Commission.

3. Pursuant to 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 such provisional measures as it deems pertinent, 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. Article 1(1) of the Convention states the obligation of the States Parties to respect the rights and freedoms recognized in that treaty and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.

5. The background information submitted by the Commission in its request (*supra*, second and third Having Seen) demonstrates *prima facie* the existence of a situation of extreme gravity and urgency regarding the life and physical safety 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).

6. The purpose of urgent and provisional measures, in International Human Rights Law, in addition to their essentially preventive nature, is to effectively protect fundamental rights, insofar as they seek to avoid irreparable damage to persons. Granting urgent and provisional measures, given their own juridical nature and purpose, can under no circumstances prejudice on the merits of the case.

7. It is a responsibility of the State to adopt security measures to protect all persons under its jurisdiction, and this duty is even more evident in connection with persons involved in proceedings before the bodies responsible for protection under the American Convention.

8. The State also has the obligation to investigate the facts that gave rise to this request for Provisional Measures with the aim of identifying those responsible and punishing them as appropriate.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

exercising the authority granted by Article 63(2) of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

DECIDES:

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 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 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.

4. To order the State to report to the Inter-American Court of Human Rights on the measures adopted to comply with the instant Order, no later than December 12, 2002.

5. To order the Inter-American Commission on Human Rights to submit its comments on the report by the State to the Inter-American Court of Human Rights, within a week of being notified thereof.

6. To order the State, subsequent to its first report (*supra* operative paragraph four), 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 to said reports within six weeks of receiving them.

Antônio A. Cançado Trindade
President

Alirio Abreu-Burelli

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

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