WorldCourts™

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan v. Trinidad and Tobago
Doc. Type:	Order (Provisional Measures)
Decided by:	President: Antonio A. Cancado Trindade; Judges: Sergio Garcia-Ramirez; Maximo Pacheco-Gomez; Oliver Jackman; Alirio Abreu-Burelli; Carlos Vicente de Roux-Rengifo
Dated:	2 December 2003
Citation:	James v. Trinidad and Tobago, Order (IACtHR, 2 Dec. 2003)
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

HAVING SEEN:

1. The June 14, 1998 Order of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court"), in which it decided:

1. To order Trinidad and Tobago to take all measures necessary to preserve the life and physical integrity of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia and Christopher Bethel, so as not to hinder the processing of their cases before the Inter-American system.
2. To order Trinidad and Tobago to submit a report by June 30, 1998, on the measures taken in compliance with th[e] Order, and to require the Inter-American Commission on Human Rights to submit its observations on this report within fifteen days of its receipt.
3. To summon Trinidad and Tobago and the Inter-American Commission on Human Rights to a public hearing on this matter at the seat of the Court on August 28, 1998, at 10:00 a.m.

2. The June 29 and 30 and July 8, 15 and 28, 1998 briefs by the State of Trinidad and Tobago (hereinafter "the State" or "Trinidad and Tobago") in which it stated that for domestic reasons it could not comply with the Orders of the Court.

provided by worldcourts.com

3. The observations of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") on the reports by the State, submitted on July 2, 17 and 30, 1998, in which it pointed out that, pursuant to domestic proceedings, the beneficiaries could be executed at any moment.

4. The August 12 and 27, 1998 briefs in which the State pointed out that it "decline[d] the summons by the Court to attend the public hearing," which it would not attend.

5. The August 19, 1998 letter of the President of the Court in which he "reiterated [to the State] the importance of [...] appearing before the Court on August 28, 1998 and thus complying with its obligation as a State Party to the American Convention."

6. The August 29, 1998 Order of the Court, in which it decided:

[…]
2. To order Trinidad and Tobago to take all measures necessary to preserve the life and physical integrity of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, and Denny Baptiste so as not to hinder the processing of their cases before the Inter-American system.
3. To require the State of Trinidad and Tobago to report every fifteen days, beginning on September 1, 1998, on the status of the appeals and scheduled executions of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, and Denny Baptiste, and to require the Inter-American Commission on Human Rights to send its observations on these reports to the Inter-American Court of Human Rights within two days of their receipt.
4. To require the State of Trinidad and Tobago and the Inter-American Commission on Human Rights to inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, and Denny Baptiste.

7. The September 1, 1998 brief in which the State reported that, in the future, it would not refer to this matter any more either with the Court or with the Inter-American Commission.

8. The September 30 and November 9, 1998 notes of the Secretariat of the Court (hereinafter "the Secretariat") in which it reminded the State to submit the reports required of it by the August 29, 1998 Order of the Court (supra Having Seen 6).

9. The December 2, 1998 letter of the Secretariat, under instructions by the Court, in which it pointed out that the State should comply with the provisional measures ordered by the Court. This letter was also forwarded to the Secretary General of the Organization of American States.

10. The 1998 Annual Report of the Inter-American Court in which, pursuant to Article 65 of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), it "inform[ed] the General Assembly of the Organization of American States that [the State …] ha[d] not complied with [the] decisions [of the Court] with respect to the

provided by worldcourts.com

provisional measures adopted in the James et al. Case, for which reason it request[ed] that the General Assembly urge [the State] to comply with the Orders of the Court."

11. The February 9, 1999 request by the Court to the State and to the Commission for information on progress of the judicial proceedings of the beneficiaries of the provisional measures ordered by the Court. On February 11, 1999, the Commission reported that the orders of execution had been read with respect to all the beneficiaries, although said executions were suspended due to appeals filed against those orders.

12. The May 25, 1999 Order of the Court, in which it decided:

1. With respect to the Provisional Measures adopted by the Court on 29 August 1998:

a. To maintain the Provisional Measures ordered by the Inter-American Court of Human Rights on 29 August 1998, in favour of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste. With respect to Anthony Briggs, to maintain the Provisional Measures ordered in his favour until such time as the Court, having previously considered the reports concerning the present status of his Case, issues a decision on this matter.

b. To urge the State [...] to comply with the Order of the Court of 29 August 1998, and henceforth report every fifteen days on the status of the appeals and scheduled executions of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste, and to require the Inter-American Commission [...] to send its observations on these reports to the [...] Court [...] within two days of their receipt.

c. To urge the State [...] and the Inter-American Commission [...] to inform the Inter-American Court [...] immediately of any significant developments concerning the circumstances of Wenceslaus James, Anthony Briggs, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire and Denny Baptiste.

2. With respect to the Commission's request for amplification of the Provisional Measures in favour of 20 persons:

a. To ratify the Order of the President of the [...] Court [...] of 11 May 1999.

b. To order the [State] to take all measures necessary to preserve the lives of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, so as not to hinder the processing of their Cases before the Inter-American system.

c. To require the State of Trinidad and Tobago to include in the fortnightly Reports to which reference is made in operative paragraph 1.b of this Order, information on the status of the appeals and scheduled executions of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester, and to require the Inter-American Commission on Human Rights to include its remarks on this information in its observations.

provided by worldcourts.com

d. To require the State [...] and the Inter-American Commission [...] to inform the Inter-American Court [...] immediately of any significant developments concerning the circumstances of Wilberforce Bernard, Naresh Boodram, Joey Ramiah, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas and Samuel Winchester.

13. The May 27, 1999 Order of the Court, in which it decided:

1. To amplify the provisional measures ordered in the James et al. Cases and to order the Republic of Trinidad and Tobago to take all measures necessary to preserve the lives of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal, so as not to hinder the processing of their Cases before the Inter-American system.
2. To require the State [...] to include in the fortnightly Reports to which reference is made in operative paragraph 1.b of the Order of the Court of 25 May 1999 [...] information on the status of the scheduled executions of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal, and to require the Inter-American Commission on Human Rights to include its remarks on this information in its observations.
3. To require the State [...] and the Inter-American Commission [...] to inform the Inter-American Court [...] immediately of any significant developments concerning the circumstances of Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mohlaw, Allan Phillip, Krishandath Seepersad and Narine Sooklal.

14. The May 24 and 25, 1999 letters addressed by the Court to the President of the Permanent Council of the Organization of American States, in which it asked that “an operative paragraph be included in the draft resolutions to be submitted to the General Assembly, urging [the State] to comply with the orders of the Court [...] regarding the provisional measures adopted in the [instant] case.”

15. The May 27, 1999 letter addressed by the Court to the Secretary General of the Organization of American States, in which the Court referred to the 1998 Annual Report (supra Having Seen 10), in which it reported that the State had not complied with the Orders of the Court regarding provisional measures in the instant case.

16. The September 25, 1999 Order of the Court, in which it decided:

1. To ratify the Order of the President of the Inter-American Court of Human Rights of 19 June 1999.
2. To order [the State] to take all measures necessary to preserve the life and physical integrity of Mervyn Parris and Francis Mansingh so as not to hinder the processing of their cases before the Inter-American system until the situation of extreme gravity and urgency no longer persists in relation to these persons.
3. To urge the State [...] to report every fifteen days on the status of the appeals and scheduled executions of Mervyn Parris and Francis Mansingh and to require the Inter-American

provided by worldcourts.com

Commission on Human Rights to send its observations on these reports to the Inter-American Court [...] within two days of their receipt.
4. To urge the State [...] and the Inter-American Commission [...] to inform the Inter-American Court [...] immediately of any significant developments concerning the circumstances of Mervyn Parris and Francis Mansingh.

17. The August 16, 2000 Order of the Court, in which it decided:

1. To order [the State to] maintain the Provisional Measures ordered by the Inter-American Court of Human Rights on 14 June 1998, 29 August 1998, 25 May 1999, 27 May 1999 and 25 September 1999 in favour of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh so as not to hinder the processing of their Cases before the Inter-American system.
2. To require [the State] to submit information, on or before 31 August 2000, on the circumstances that led to the execution of Joey Ramiah so that the Inter-American Court [...] may consider it and include it in its report to the next General Assembly of the Organisation of American States.
3. To require the Inter-American Commission [...] to submit, on or before 31 August 2000, detailed information on the status of the Cases of Anderson Noel, Christopher Bethel, Kevin Dial, Andrew Dottin and Anthony Johnson.
4. To urge the State [... to] report every two months on the status of the appeals and scheduled executions of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh and to require the Inter-American Commission [...] to send its observations on these reports to the Inter-American Court [...] within six weeks of their receipt.
5. To urge the State [...] and the Inter-American Commission [... to] inform the Inter-American Court of Human Rights immediately of any significant developments concerning the circumstances of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh.

provided by worldcourts.com

18. The October 18, 2000 letter of the Secretariat, reminding the State to submit the reports required of it by the August 16, 2000 Order of the Court (supra Having Seen 17).

19. The November 24, 2000 Order of the Court, in which it decided:

1. To order the State [... to] maintain the Provisional Measures ordered by the [...] Court [...] on 14 June 1998, 29 August 1998, 25 May 1999, 27 May 1999, 25 September 1999 and 16 August 2000 in favour of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh so as not to hinder the processing of their cases before the inter-American system of human rights protection.
2. To require the State [...] to submit, on or before 15 February 2001, detailed information concerning the proceedings of Anderson Noel, Christopher Bethel, Kevin Dial, Andrew Dottin and Anthony Johnson before the domestic courts.
3. To require the State [...] to submit information, on or before 15 February 2001, on the status of the cases of all the persons protected by the Provisional Measures ordered by the Inter-American Court [...], so that the Court m[ight] consider whether the State [...] has complied with its Orders in order to include such information in its report to the next General Assembly of the Organisation of American States.
4. To urge the State [...] to comply with the Orders of the Inter-American Court of Human Rights of 14 June 1998, 29 August 1998, 25 May 1999, 27 May 1999, 25 September 1999 and 16 August 2000 and, after its report of 15 February 2001, to continue to report every two months on the status of the appeals and scheduled executions of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh.
5. To require the Inter-American Commission [...] to send its observations on the reports of the State [...] to the Inter-American Court [...] within six weeks of their receipt.
6. To urge the State [...] and the Inter-American Commission [...] to inform the Inter-American Court [...] immediately of any significant developments concerning the circumstances of the cases of Wenceslaus James, Anderson Noel, Anthony Garcia, Christopher Bethel, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotolal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangaleen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishandath Seepersad, Narine Sooklal, Mervyn Parris and Francis Mansingh.

provided by worldcourts.com

20. The November 26, 2001 Order of the Court, in which it decided

[…]
2. To order [the State] to adopt such measures as may be necessary to preserve the life and physical integrity of Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace, and Takoor Ramcharan so as not to hinder processing of the Cases before the inter-American system for protection of human rights.
3. To order the State […] to report every thirty days on implementation of the provisional measures granted in favor of Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace, and Takoor Ramcharan, and to order the Inter-American Commission on Human Rights to submit its observations on those reports to the Inter-American Court [...] within fifteen days of their receipt.
4. To order the State […] and the Inter-American Commission […] to report immediately to the Inter-American Court [...] on any significant developments pertaining to the circumstances of Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace, and Takoor Ramcharan.

21. The September 3, 2002 Order of the Court, in which it decided:

1. To rescind its Orders for [p]rovisional [m]easures in favour of Christopher Bethel and Anderson Noel dated June 14, 1998, August 29, 1998, May 25, 1999, August 16, 2000 and November 24, 2000, respectively.
2. To require [the State] to maintain all measures necessary to preserve the life and personal integrity of Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan.
3. To communicate the present Order to the State and to the [...] Commission [...].

CONSIDERING:

1. Trinidad and Tobago was a State Party to the American Convention from May 28, 1991, date on which it also recognized the jurisdiction of the Court, until May 26, 1999, the date on which the denunciation made by the State entered into force, in accordance with Article 78 of the Convention.
2. Pursuant to Article 78(2) of the American Convention, the denunciation does not have the effect of releasing the State from its obligations with respect to acts that may constitute a violation of said Convention and that occurred before the entry into force of said denunciation, as stated both in the Judgments on Preliminary Objections and in the June 21, 2002 Judgment in the Hilaire, Constantine, and Benjamin et al. v. Trinidad and Tobago Case. The facts pertaining to the instant provisional measures occurred before the denunciation by the State.

provided by worldcourts.com

3. Article 63(2) of the 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."

4. Article 25(1) of the Rules of Procedure of the Court provide that, "[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."

5. Article 1(1) of the Convention stipulates the duty of the States Party to respect the rights and liberties recognized in that treaty and to ensure their free and full exercise by all persons under their jurisdiction.

6. Article 68(1) of the American Convention states 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." The States must also comply in good faith with their treaty obligations (pacta sunt servanda) as set forth in Article 26 of the 1960 Vienna Convention on the Law of Treaties, which codifies a basic principle of general international law and, as this Court has already stated, and, pursuant to Article 27 of said Vienna Convention, the States cannot refuse to fulfill the previously established international responsibility for domestic reasons.

7. The cases of Haniff Hilaire, George Constantine, Wenceslaus James, Denny Baptiste, Clarence Charles, Keiron Thomas, Anthony García, Wilson Prince, Darrin Roger Thomas, Mervyn Edmund, Samuel Winchester, Martin Reid, Rodney Davis, Gangadeen Tahaloo, Noel Seepersad, Wayne Matthews, Alfred Frederick, Natasha De Leon, Vijay Mungroo, Phillip Chotolal, Naresh Boodram, Nigel Mark, Wilberforce Bernard, Steve Mungroo, Peter Benjamin, Krishandath Seepersad, Francis Mansingh, Allan Phillip, Narine Sooklal, Amir Mowlah and Mervyn Parris are currently pending before the Inter-American Court at the stage of compliance with judgment; and the cases of Kevin Dial, Andrew Dottin, Anthony Johnson, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan are currently pending before the Inter-American Commission.

8. The Court, when it ordered the State to adopt provisional measures in favor of Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan (supra Having Seen 19 and 20), also ordered that it report on the implementation of said measures.

9. The purpose of provisional measures, in national juridical systems (domestic procedural law) in general, is to preserve the rights of the parties to a dispute, ensuring that the judgment on the merits is not hindered by their actions pendente lite.

10. The purpose of provisional measures in International Human Rights Law goes further, as in addition to their essentially preventive nature, they effectively protect fundamental rights, insofar as they seek to avoid irreparable damage to persons.

provided by worldcourts.com

11. The Court has established, in its June 14, 1998, August 29, 1998, May 25, 1999, May 27, 1999, September 25, 1999, August 16, 2000, November 24, 2000, November 26, 2001, and September 3, 2002 Orders, that the information submitted by the Commission in this case demonstrates prima facie a situation of extreme gravity and urgency regarding the lives and physical integrity of Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace and Takoor Ramcharan. It also established in operative paragraph four of the November 24, 2000 Order of the Court and in operative paragraph three of the November 26, 2001 Order of the Court (supra Having Seen 19 and 20) the obligation of the State to report to the Court on the measures adopted.

12. In light of the analysis of the documents in the file on the instant measures, the Court deems it necessary to reiterate to the State its responsibility to adopt security measures to protect all persons subject to its jurisdiction, and that this duty is even more evident with respect to those involved in proceedings before the protection bodies established by the American Convention.

13. Since September, 1998 the State has not submitted the reports ordered by the Court regarding the provisional measures in favor of the beneficiaries listed in the June 14, 1998, August 29, 1998, May 25, 1999, May 27, 1999, September 25, 1999, August 16, 2000, November 24, 2000, November 26, 2001, and September 3, 2002 Orders of the Court.

14. The State must supply sufficient information on the measures adopted, as this is a duty of the State that has repeatedly been established by this Court.

15. The State must comply with all orders of this Court and report at regular intervals on all measures it has adopted to protect the lives and physical integrity of Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace, and Takoor Ramcharan. This obligation of the State to report to the Court on how it is complying with its orders is crucial for assessment of the case.

16. Pursuant to 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.

17. Article 30 of the Statute of the Court provides 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

provided by worldcourts.com

recommendations on ways to improve the inter-American system of human rights, insofar as they concern the work of the Court.

18. Since the State has not fully complied with its obligation to report on the measures it has adopted to comply with the June 14, 1998, August 29, 1998, May 25, 1999, May 27, 1999, September 25, 1999, August 16, 2000, November 24, 2000, November 26, 2001, and September 3, 2002 Orders of the Court, if the current situation were to persist, the Court, applying Article 65 of the Convention (supra Considering 16) and Article 30 of the Statute (supra Considering 17), will include the instant Order in its Annual Report for the year 2003, for it to be considered by the General Assembly of the Organization of American States.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

exercising the authority granted to it by Articles 63(2), 65, 68(1) and 78(2) of the American Convention on Human Rights, Article 30 of the Statute of the Court and Articles 25 and 29(2) of its Rules of Procedure,

DECIDES:

1. To find that the State has not complied with the duty established in Article 68(1) of the American Convention on Human Rights because it has not fulfilled the obligation to report on the provisional measures ordered by the Inter-American Court of Human Rights in favor of Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace, and Takoor Ramcharan.

2. If the current situation were to persist, to report to the General Assembly of the Organization of American States -applying Article 65 of the American Convention on Human Rights and Article 30 of the Statute of the Inter-American Court on Human Rights- on non-compliance of the State with its duty to report to the Inter-American Court of Human Rights.

3. To reiterate to the State the order to maintain the provisional measures ordered by the Inter-American Court in its June 14, 1998, August 29, 1998, May 25, 1999, May 27, 1999, September 25, 1999, August 16, 2000, November 24, 2000, November 26, 2001, and September 3, 2002 Orders to preserve the lives and physical integrity of Wenceslaus James, Anthony Garcia, Darrin Roger Thomas, Haniff Hilaire, Denny Baptiste, Wilberforce Bernard, Naresh Boodram, Clarence Charles, Phillip Chotalal, George Constantine, Rodney Davis, Natasha De Leon, Mervyn Edmund, Alfred Frederick, Nigel Mark, Wayne Matthews, Steve Mungroo, Vijay Mungroo, Wilson Prince, Martin Reid, Noel Seepersad, Gangadeen Tahaloo, Keiron Thomas, Samuel Winchester, Peter Benjamin, Kevin Dial, Andrew Dottin, Anthony Johnson, Amir Mowlah, Allan Phillip, Krishendath Seepersad, Narine Sooklal, Mervyn Parris, Francis

provided by worldcourts.com

Mansingh, Balkissoon Roodal, Sheldon Roach, Arnold Ramlogan, Beemal Ramnarace, and Takoor Ramcharan.

4. To order the State to report to the Inter-American Court of Human Rights on the provisional measures adopted to comply with the instant Order, no later than January 20, 2004.

5. To order the Inter-American Commission on Human Rights to submit to the Inter-American Court of Human Rights, within two weeks of the date when it is notified of the report by the State, such observations as it may deem pertinent.

6. To order the State, subsequent to its communication described in operative paragraph four, to report to the Inter-American Court of Human Rights every two months, regarding the provisional measures adopted, and to order the Inter-American Commission on Human Rights to submit its observations to said reports by the State within six weeks of the date when it receives those reports.

7. To notify the State and the Inter-American Commission on Human Rights of the instant Order.

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