

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 2, 2006* ****

**REQUEST FOR PROVISIONAL MEASURES
SUBMITTED BY THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
REGARDING THE UNITED MEXICAN STATES**

MATTER OF GARCÍA-URIBE *ET AL.*

HAVING SEEN:

1. The brief of January 31, 2006, and its Appendixes,¹ whereby the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Court", "the Inter-American Court" or "the Tribunal") a request for provisional measures in accordance with Article 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Article 25 of the Rules of Procedure of the Court, in order for the United Mexican States (hereinafter "the State" or "Mexico") to "adopt any necessary measures to protect the life and physical integrity of Víctor Javier García-Uribe, Miriam García-Lara and their legal representatives," among other things.

CONSIDERING:

1. Mexico is a State Party to the American Convention since March 24, 1981, and on December 16, 1998, the State recognized the contentious jurisdiction of the Court pursuant to Article 62 of the Convention.

2. Article 63(2) of the American 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" (emphasis added).

* Judge Sergio García-Ramírez, a national of Mexico, relinquished the Presidency of the Inter-American Court for the purposes of proceedings on the requested provisional measures to the Vice-President of the Court, Judge Alirio Abreu-Burelli, pursuant to Article 4(3) of the Rules of Procedure of the Court.

** Judge Diego García-Sayán informed the Court that, for reasons beyond his control, he would not be able to attend the deliberation and signing of this Order.

¹ To the date of this Order, the Inter-American Commission only submitted two of the four Appendixes specified in the request for provisional measures.

3. The phrase “a case *not yet submitted to the Court*” contained in Article 63(2), last paragraph, of the American Convention implies that there must be at least a slight possibility for the matter originating the request for provisional measures to be submitted to the contentious jurisdiction of the Court.

4. Pursuant to a comprehensive interpretation of the American Convention, the matter originating the request for provisional measures may only be submitted to the Court provided the proceeding set forth in Articles 44 and 46 to 48 of the American Convention has been initiated. Therefore, it will not be sufficient for the Commission to state that it has studied the matter pursuant to the regulatory proceeding applicable to provisional measures only.

5. The considerations above show that the Court may only adopt provisional measures if the Inter-American Commission has at least recorded and initiated the study of a request in accordance with the appropriate regulatory provisions, and ruling on the admissibility or the merits of the case will not be necessary.

6. The Commission stated that this “matter has not yet been classified as a request pursuant to the terms of Articles 44 and 46 to 48 of the Convention.”

NOW, THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the powers conferred upon it by Articles 63(2) of the American Convention on Human Rights and Articles 25 and 29 of the Rules of Procedure of the Court,

DECIDES:

1. Not to process this request for provisional measures until a petition is submitted to the Inter-American Commission on Human Rights in accordance with Articles 44 and 46 to 48 of the American Convention on Human Rights.

2. To give notice of this Order to the Inter-American Commission on Human Rights.

Judges Cançado Trindade and Ventura-Robles informed the Court of their Joint Separate Opinion, attached to this Order.

Alirio Abreu-Burelli
President

Sergio García-Ramírez

Oliver Jackman

Antônio A. Cançado Trindade

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Pablo Saavedra-Alessandri
Secretary

So ordered,

Alirio Abreu-Burelli
President

Pablo Saavedra-Alessandri
Secretary

**JOINT SEPARATE OPINION OF
JUDGES A. A. CANÇADO TRINDADE AND M. E. VENTURA-ROBLES**

1. We have concurred in our Opinions with the adoption on this date by the Inter-American Court of Human Rights of the orders in the *Matters of García-Uribe et al* regarding Mexico, and *Yare I and Yare II Capital Region Penitentiary Center* regarding Venezuela. However, we must express our concern for the relevance of the events reported which involve, in the first case, the publicly known and flagrant killing of women in Ciudad Juárez and, in the second case, the conditions of imprisonment and alleged murders at Yare prison in Venezuela.

2. Had all the requirements set forth in the Convention been met, all necessary requests been recorded and proceedings on the corresponding cases been initiated by the Inter-American Commission on Human Rights, the Inter-American Court would have had the chance to duly evaluate the related requests for provisional protection measures in both cases. We highlight the importance of the rule of law, both in the domestic and international context, to guarantee an efficient protection, particularly regarding such an extremely urgent and serious situation. Therefore, we believe that the Inter-American Commission should now redress said omission so that the Inter-American Court may proceed to analyze the requests for provisional protection measures in both cases and, if necessary, extend protection thereunder as required.

Antônio Augusto Cançado Trindade
Judge

Manuel E. Ventura-Robles
Judge

Pablo Saavedra-Alessandri
Secretary