

**Order of the  
Inter-American Court of Human Rights  
of February 2, 2007  
Request for Provisional Measures filed by the Inter-American  
Commission on Human Rights  
regarding the Bolivarian Republic of Venezuela  
Matter of the Penitentiary Center of the  
Central Occidental Region (Uribana Prison)**

**HAVING SEEN:**

1. The brief of February 1, 2007 and its appendixes, whereby the Inter-American Commission (hereinafter, "the Inter-American Commission" or "the Commission") filed a request for provisional measures with the Inter-American Court of Human Rights (hereinafter, "the Inter-American Court" or "the Court"),<sup>1</sup> pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter, "the Convention" or "the American Convention"), Article 25 of the Court's Rules of Procedure (hereinafter, "the Rules of Procedure") and Article 74 of the Commission's Rules, in order that the Bolivarian Republic of Venezuela (hereinafter, "the State" or "Venezuela") "protect the life of, and afford humane treatment to, the persons deprived of liberty at the Penitentiary Center of the West-Central Region known as "Uribana" (hereinafter [...] "the Uribana Prison") and all the people entering into such center, including relatives and other visitors".

2. The alleged facts upon which the request for provisional measures filed by the Commission is based, to wit:

- a) The Uribana Prison is located in the city of Barquisimeto, in the State of Lara. As reported by the Commission, the Prison accommodated 1448 inmates as of January 25, 2007, although it only had capacity for 790. The prison is divided into minimum, medium and maximum security areas, and it has a watch wing and an appendix for female inmates. In addition, convicted inmates are kept together with those pending trial, and there is no appropriate separation between men and women.
- b) Internal custody is performed by civil officers, and external custody is under the charge of National Guard personnel. The prison clearly lacks an appropriate security control system to check the prevailing violent atmosphere, as the prison's entire population is controlled by eight

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<sup>1</sup> The original request was submitted to the Inter-American Commission on January 11 and 16, 2007 by Mr. Humberto Prado and Mr. Wilmer Linero (Venezuelan Prison Watch), Mr. Pedro Nikken and Mr. Carlos Ayala-Corao, and by Ms Ariela Peralta (CEJIL). Such request was recorded under number MP-1/07.

officers, which means there is one guard for every 181 prisoners. In view of the poor security conditions in the prison, the internal custody staff "refuse to enter the internal area of the prison before the last count of the prisoners has been completed, and only do so in company with the National Guard";

- c) Between January 2006 and January 2007, violent incidents have taken place in the Uribana Prison, with a total of 80 violent deaths and 213 injured, most of whom were wounded with knives and firearms. The highest number of deaths and wounded nationwide in 2006 was recorded in that prison. During January 2007, violent events took place, leaving 18 dead and at least 15 injured. The most recent events of violence took place on January 20, 2007, resulting in two injured, one with a knife and the other with a firearm;
- d) The events included a series of hunger strikes by the inmates as a form of protest against the poor detention conditions, the overcrowding, and the alleged mistreatment by the National Guard officers, and as a demonstration against the procedural delays. In addition, in September 2006, inmates took a group of visiting relatives as hostages, and during another strike in October that year, approximately 500 relatives, including children, "decided to hold themselves as hostages and stay in the prison facility in support of the inmates' claims";
- e) The high level of violence in the facilities is due to a number of contributing factors, such as the possession of weapons including firearms by the inmates; inadequate and poorly trained security staff unable to assure peaceful living in the facilities; the alleged ill treatment afforded the inmates; and the excessive use of force by the authorities responsible for controlling the mutinies;
- f) acts of violence, threats between inmates, mutinies, hunger strikes, fights, beatings and alleged torture take place often without the authorities having adopted measures to address the problem;
- g) The lack of security also affects visitors, "since situations have been reported in which visitors have been killed or injured". Another worrisome aspect concerns the physical integrity and safety of visitors, who are allegedly subjected to humiliating searches;
- h) Inmates live under appalling conditions that generate or intensify discontent, and without appropriate control or security measures; and
- i) The Ombudsman of the state of Lara and the Ombudsman of the Bolivarian Republic of Venezuela have mentioned several of the situations referred to above.

3. The legal grounds upon which the Commission requests for provisional measures, including the following:

- a) The events described are serious enough for the Court to take immediate action in order to protect the life and assure humane treatment to the persons mentioned in this request;
- b) Pursuant to the Court's prior decisions and to international instruments, the State is the guarantor of persons deprived of liberty. Some of the

measures attempted at the domestic level<sup>2</sup> have not been effective to guarantee the lives of the inmates and deter further violent events in the Uribana Prison. There is no showing that strong and effective action aimed at reducing overcrowding, improving cleanliness or establishing basic security conditions for those deprived of liberty and the visitors will be taken;

- c) The urgency requirement set forth in Article 63(2) of the American Convention for the Court to order provisional measures is met by the death of 80 inmates and the serious injuries suffered by at least 213 prisoners. These events represent a serious and imminent risk in view of the poor security conditions in the prison facility and the high rate of violence between inmates and from the guards towards the prisoners, which calls for the urgent intervention of the Court so that further irreparable harm is prevented;
- d) The irreparable harm is reflected in the death and injuries of several of the inmates of the Uribana Prison. This demonstrates the State's failure to fulfill its duty to prevent attacks against the life and physical integrity of prisoners and its failure to adopt security measures essential for preventing further incidents. The failure to adopt investigation and punishment measures and the absence of basic control measures increase the likelihood that such violent situations as those in this case will happen again;
- e) The inadequate surveillance system intensifies the discontent and violence among inmates, and creates extremely unsafe conditions for anyone visiting the facilities. In addition, the repeated recourse to hunger strikes reveals the lack of channels of communication between the inmates, the authorities, and civil society organizations. All the foregoing evidences the seriousness of the situation;
- f) It is sufficient for the beneficiaries to be "identifiable" to be granted the above-stated protection measures. In this case, the beneficiaries of the requested protection are the persons detained in the Uribana Prison, those who might be imprisoned there in the future, and visitors; and
- g) The final solution to the problem of the Venezuelan detention centers and particularly the Uribana Prison also requires integral mid- and long-term measures. However, the urgency and imminence in the present situation require that the State take action that causes immediate impact on the hazardous situation in which the detainees being granted the protection measures are.

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<sup>2</sup> The Commission has pointed out the following measures and actions allegedly adopted by the State, among others: In November 2004, the National Assembly requested the Executive to declare a state of "prison emergency"; on November 23, 2004, the President of Venezuela established a Presidential Commission to address the Prison Emergency, through Executive Order No.3265; throughout 2006, the State held a series of hearings before the Commission in which it submitted information about a "Humanization Plan involving all penitentiary centers in the country", the strengthening of the "Custody Immediate Response Team, the removal of directors and sub-directors of [...] penitentiary centers for committing acts of corruption, the incorporation of officers into the Human Rights Department in some penitentiary centers, the incorporation of 92 aid custody officers and security forces staff with specialized training, and the creation of the toll-free telephone line *0800 DHumanos*"; the Presidential Commission carried out a survey to gather information about the legal position of inmates and promote the reduction of overcrowding in prisons and procedural delays.

4. The request of the Inter-American Commission that the Court, pursuant to Article 63(2) of the American Convention, require the State to:

- a) [...] immediately adopt all such security and control measures as are necessary to preserve the life and physical integrity of the detainees held in [...] the Uribana Prison, of the people who may be detained in such prison in the future, and of the visitors to the prison;
- b) [...] staff the Uribana Prison with adequate and properly trained prison guards to prevent new events of violence from happening;
- c) [...] carry out serious, thorough and timely investigations of the acts of violence that took place inside the prison [...]; identify those responsible and impose the applicable punishment with a view to deterring further events of violence;
- d) [...] order, as one of the immediate measures, the separation of inmates whose trials are pending from those already convicted, and men from women, pursuant to the international rules on the matter;
- e) [...] adopt all such measures as are necessary to increase the number of staff in charge of the internal security of the prison, assuring that the guards responsible for the custody and surveillance of the inmates are of the same sex as the inmates and that they receive appropriate training for performing their duties with scrupulous respect for human rights;
- f) [...] immediately adopt measures aimed at reducing overcrowding and confiscating weapons and other illegal possessions kept in the prison;
- g) [provide] a full list of the names and surnames of the inmates and visitors who have died or been injured in [...] the Uribana Prison since January 2006, including the dates and the circumstances surrounding the events, and a description of the medical treatment afforded the injured[: and]
- h) [provide] a full and up-to-date list of all the persons detained in [...] the Uribana Prison, specifically indicating the area of the prison in which they are kept and the progress of their prosecutions.

CONSIDERING:

1. That Venezuela has been a State Party to the American Convention since August 9, 1977 and, pursuant to Article 62 of the Convention, it acknowledged the Court's contentious jurisdiction on June 24, 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 not yet submitted to it, adopt such provisional measures as it deems pertinent at the Commission's request.

3. In this regard, Article 25 of the Rules provides that:

[...]

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

[...]

6. The beneficiaries of provisional measures or urgent measures ordered by the President may address their comments on the report made by the State directly to the Court. The Inter-American Commission of Human Rights shall present

observations to the State's report and to the observations of the beneficiaries or their representatives.

4. That under the International Law of Human Rights, provisional measures have not only a preventive purpose, to the extent that they preserve a given legal situation, but also and fundamentally a protective purpose, inasmuch as they are intended to protect human rights, preventing individuals from suffering irreparable harm. Provided that the requisite conditions of extreme gravity and urgency and prevention of irreparable harm to individuals are met, provisional measures become a true judicial guarantee of preventive nature.

5. That Article 1(1) of the Convention sets forth the State Parties' duty to respect the rights and freedoms enshrined therein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms. In furtherance of such duty, the State Party has the *erga omnes* obligation to protect all persons under its jurisdiction, which applies not only in connection with the power of the State but also in relation with the acts of individual third parties.<sup>3</sup>

6. That the Inter-American Commission requested this Court to order the protection of the detainees in the Uribana Prison, the persons to be held there in the future, and inmates' relatives and other visitors. Even though the Court in ordering provisional measures has in some cases deemed it essential to identify the persons who are at risk of suffering irreparable harm,<sup>4</sup> in some other cases the Court has ordered for the protection of a group of people who have not been previously identified but are nevertheless identifiable and are in grave peril by reason of their being members of a group or community,<sup>5</sup> such as those held in prison.<sup>6</sup> In this matter, the

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<sup>3</sup> Cf. *Matter of Monagas Judicial Confinement Center ("La Pica")*. Provisional Measures. Order of July 6, 2004, considering clause No. 4; *Matter of Yare I and Yare II Capital Region Penitentiary Center*. Provisional Measures. Order of the Inter-American Court of Human Rights of March 30, 2006, considering clause No. 14; *Matter of Children Deprived of Liberty in the "Complejo do Tatuapé" of FEBEM*. Provisional Measures. Order of the Inter-American Court of Human Rights of November 30, 2005, considering clause No. 14; *Matter of the Mendoza Prisons*. Provisional Measures. Order of June 18, 2005, considering clause No. 11; *Matter of Pueblo Indígena de Sarayaku*. Provisional Measures. Order of July 6, 2004; *Matter of Pueblo Indígena de Kankuamo*. Provisional Measures. Order of July 5, 2004; *Matter of the Communities of Jiguamiandó and Curbaradó*. Provisional Measures. Order of March 6, 2003, para. 169; *Matter of the Peace Community of San José de Apartadó*. Provisional Measures. Order of June 18, 2002, para. *Matter of Urso Branco Prison*. Provisional Measures. Order of June 18, 2002, para. 53.

<sup>4</sup> Cf. *Matter of Haitians and Dominicans of Haitian-origin in the Dominican Republic. Provisional Measures*. Order of the President of the Inter-American Court of Human Rights of September 14, 2000. Series E No. 3, Considering clause No. 4; and *Matter of Haitians and Dominicans of Haitian-origin in the Dominican Republic. Provisional Measures*. Order of the President of the Inter-American Court of Human Rights of August 18, 2000. Series E No. 3, Considering clause No. 8.

<sup>5</sup> Cf., *inter alia*, *Matter of Yare I and Yare II Capital Region Penitentiary Center*. Provisional Measures, *supra* note 3, Considering clause No. 8; *Matter of Children Deprived of Liberty in the "Complejo do Tatuapé" of FEBEM*. Provisional Measures, *supra* note 3, Considering clause No. 6; *Matter of Pueblo Indígena de Sarayaku*. Provisional Measures, *supra* note 3, Considering clause No. 9; *Matter of Pueblo Indígena de Kankuamo*. Provisional Measures, *supra* note 3, Considering clause No. 9; *Matter of the Communities of Jiguamiandó and Curbaradó*. Provisional Measures, *supra* note 3, ninth *whereas* clause; *Matter of the Peace Community of San José de Apartadó*. Provisional Measures, *supra* note 3, Considering clause No. 8; and *Matter of Mendoza Prisons*. Provisional Measures. Order of November 22, 2004, Considering clause No. 13.

potential beneficiaries are identifiable, as they are persons held in prison, who might be held in prison in the future, or who enter the prison either in the course of their normal business or occasionally, either as officers or as visitors.

7. That the State has a special role as guarantor for the persons deprived of liberty in prisons or detention centers, as the prison authorities have total control over them. In addition, “[o]ne of the duties which the State must inescapably fulfill as guarantor, with a view to protecting and assuring the right of life and physical integrity of persons deprived of liberty, is to [afford] them the minimum conditions in keeping with their dignity while they are held in detention centers”.<sup>7</sup>

8. That the facts raised by the Commission in connection with the events in the Uribana Prison (*supra* Having Seen clause No. 2), evidence *prima facie* a situation of extreme gravity and urgency that may have caused irreparable harm to the lives and physical integrity of the inmates of the Uribana Prison and the persons who enter it. In particular, it must be noted that ever since January 2006 several violent events have taken place in the Uribana Prison, causing a total of 80 violent deaths as a result of firearm shots, wounds with knives, strangling, decapitations and dismemberments, and 213 injured, out of which 18 were killed and 15 were wounded in January 2007 only (*supra* Having Seen clause No. 2). The Commission alleges that some of those people were killed and injured in brawls between inmates. Furthermore, the Commission has pointed out the lack of control of the introduction and possession of weapons in the detention center.

9. That according to the information provided by the Commission, the State has adopted or is about to adopt certain measures with the aim to protect the life and physical integrity of Venezuelan prisoners and improve the living conditions in the prisons (*supra* Having Seen clause No. 3), which have allegedly not sufficed to eliminate or at least mitigate the situation described above.

10. That those people must therefore be protected through the immediate adoption of provisional measures by the State, pursuant to the provisions of the American Convention. The measures which need to be adopted must effectively and definitely do away with violence, the loss of lives and the harm to the physical, mental and moral integrity of the inmates in the Uribana Prison, the people who work there and visitors.

11. That the Court deems it appropriate and necessary for protecting the life and physical integrity of the inmates of the Uribana Prison that the conditions in this penitentiary center be in keeping with the applicable international rules on the

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<sup>6</sup> Cf. *Matter of Yare I and Yare II Capital Region Penitentiary Center*. Provisional Measures, *supra* note 3, Considering clause No. 8; and *Matter of Monagas Judicial Confinement Center (“La Pica”)*. Provisional Measures, *supra* note 3, Considering clause No. 8; *Matter of Children Deprived of Liberty in the “Complejo do Tatuapé” of FEBEM*. Provisional Measures, *supra* note 3, Considering clause No. 6; and *Matter of Mendoza Prisons*. Provisional Measures. Order of November 22, 2004, Considering clause No. 13.

<sup>7</sup> Cf. *Inter alia*, *Matter of Monagas Judicial Confinement Center (“La Pica”)*, *supra* note 3, Considering clause No. 1; *Matter of Children Deprived of Liberty in the “Complejo do Tatuapé” of FEBEM*, *supra* note 3, Considering clause No. 7; *Matter of Mendoza Prisons*. Provisional Measures, *supra* note 3, Considering clauses No. 7 and 11; *Matter of Yare I and Yare II Capital Region Penitentiary Center*. Provisional Measures, *supra* note 3, Considering clause No. 9, and *Case of “Juvenile Reeducation Institute”*. Judgment of September 02, 2004. Series C No. 112, para. 159.

protection of human rights.<sup>8</sup> In particular, the Court takes the view that the inmates should be separated into categories, so that “[t]he prisoners in different categories shall be kept in different [...] parts of [the] institution, taking account of sex, age, criminal record, legal reason for their detention and the necessities of their treatment”,<sup>9</sup> and “untried prisoners shall be kept separate from convicted prisoners”.<sup>10</sup> Furthermore, as regards discipline and punishment, it must be noted that prison officers “shall not, in their relations with the prisoners, use force except in self-defense or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations.”<sup>11</sup> In addition, given the circumstances surrounding this matter, the measures to be adopted must include measures aimed at encouraging the persons deprived of liberty to respect each other’s human rights, particularly measures aiming at preventing the possession of weapons by the prisoners; reducing overcrowding; improving the detention conditions; and providing enough and adequately trained staff to assure appropriate and effective control, custody and surveillance in the prison.

12. That provisional measures are exceptional, and are ordered to satisfy protection needs and, once ordered, must remain in force for as long as the Court deems that the requisite conditions of extreme gravity and urgency and prevention of irreparable harm to persons thereby protected persist<sup>12</sup>. That the matter which triggers these provisional measures is not yet under the consideration of the Court, and that the adoption of such measures does not import a decision on the merits of the dispute between the petitioners and the State.<sup>13</sup>

**THEREFORE,**

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<sup>8</sup> Cf. Standard Minimum Rules for the Treatment of Prisoners. Adopted by the First U.N. Congress on the Prevention of Crime and Treatment of the Offender held in Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663C (XXIV) of July 31, 1957 and 2076 (LXII) of May 13, 1977; Basic Principles for the Treatment of Prisoners. Adopted and Proclaimed by the General Assembly by its resolution 45/111 of December 14, 1990; and Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment. Adopted by the General Assembly by its resolution 43/173 of December 9, 1988.

<sup>9</sup> Cf. Standard Minimum Rules for the Treatment of Prisoners, *supra* note 8, rule No. 8.

<sup>10</sup> Cf. Standard Minimum Rules for the Treatment of Prisoners, *supra* note 8, rules No. 8.(b) and 85.(1).

<sup>11</sup> Cf. Standard Minimum Rules for the Treatment of Prisoners, *supra* note 8, rule No. 54.(1).

<sup>12</sup> Cf. *Matter of Guerrero-Gallucci and Martínez-Barrios*. Provisional Measures. Order of the Inter-American Court of Human Rights of July 4, 2006, Considering clause No. 5; *Matter of Ramírez Hinojosa et al.* Provisional Measures. Order of the Inter-American Court of Human Rights of February 07, 2006, Considering clause No. 7; and *Matter of the Forensic Anthropology Foundation regarding Guatemala*. Order of the Court of July 4, 2006, Considering clause No. 5.

<sup>13</sup> Cf. *Matter of Guerrero-Gallucci and Martínez-Barrios*. Provisional Measures, *supra* note 9, Considering clause No. 14; *Matter of the Forensic Anthropology Foundation regarding Guatemala*, *supra* note 9, Considering clause No. 6; *Matter of the Mendoza Prisons*, *supra* note 3, Considering clause No. 5; and *Matter of the Yare I and Yare II Capital Region Penitentiary Center*, *supra* note 3, Considering clause No. 5.

**THE INTER-AMERICAN COURT OF HUMAN RIGHTS**

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

**DECIDES:**

1. To require that the State adopt forthwith and definitively all such provisional measures as are necessary and effective to prevent the loss of lives and the harm to the physical, mental and moral integrity of all persons deprived of liberty in the Uribana Prison, of all persons who might be kept in prison in such penitentiary center in the future, of the people working there, and of the visitors.

2. To require that the State adopt, in addition to the measures to be adopted forthwith as ordered in the above operative paragraph, all such measures as are appropriate to bring the above-stated situation into line with the applicable international rules regarding the treatment of persons deprived of liberty, in particular:

- (a) to confiscate the weapons kept by the inmates;
- (b) to reduce overcrowding and improve detention conditions;
- (c) to provide adequate trained staff to assure appropriate and effective control, custody and surveillance of the prison;
- (d) separate male inmates from female inmates;
- (e) to separate untried prisoners from convicted prisoners, and
- (f) to implement a system of continuous oversight of detention conditions.

3. To require that the State, no later than February 16, 2007, submit to the Inter-American Court of Human Rights a preliminary report on the provisional measures it has adopted pursuant to this Resolution, particularly those ordered in the first operative paragraph, and to request the representatives of the beneficiaries and the Inter-American Commission on Human Rights to submit observations of said report within seven and ten days respectively as from notification of the State's report.

4. To request the State that, after submitting the report mentioned in the previous operative paragraph, it informs the Inter-American Court of Human Rights every two months about the urgent measures adopted, and to request the beneficiaries of such measures or their representatives, and the Inter-American Commission on Human Rights, to submit their comments within four and six weeks respectively as from reception of the State's reports.

5. To request the Court's Secretariat to notify this Order to the State, the Inter-American Commission on Human Rights and the representatives of the beneficiaries of these measures.

Sergio García-Ramírez  
President

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra-Alesandri  
Secretary

So ordered,

Sergio García-Ramírez  
President

Pablo Saavedra-Alessandri  
Secretary