

**Order of the
Inter-American Court of Human Rights*
of May 17, 2007
Provisional Measures regarding Peru
Matter of Ramírez-Hinostroza *et al.***

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Tribunal") of September 21, 2005 on provisional measures, wherein it decided, *inter alia*, to ratify, in its entirety, the Order of the President of the Court (hereinafter "the President") of July 22, 2005, and, therefore, to call upon the State of Peru (hereinafter "the State" or "Peru") to maintain whatever measures it might have adopted and to adopt, forthwith, such measures as may be necessary to comply with the decisions of said Order regarding the protection of the life and personal integrity of Mr. Luis Alberto Ramírez-Hinostroza, his wife Susana Silvia Rivera-Prado, his three daughters: Yolanda Susana Ramírez-Rivera, Karen Rose Ramírez-Rivera and Lucero Consuelo Ramírez-Rivera, and his attorney Carlos Rivera-Paz, taking into account the gravity of the situation and the special risk conditions.

2. That the Court, in its Order of February 7, 2006, decided, *inter alia*, to call upon the State to maintain, for three months, such measures as might be necessary to protect the life and personal integrity of Mr. Carlos Rivera-Paz and that, upon lapse of said period of time, it would assess the need for said measures to remain in force.

3. The brief of May 9, 2006, wherein Mr. Ramírez-Hinostroza included a copy of the duly signed power-of-attorney granted in favor of Messrs. Raúl Ángel Ramos de la Torre and Cesar Manuel Saldaña-Ramírez to act before the Court as his attorneys.

4. The Order of the Court of July 4, 2006, wherein it decided, *inter alia*, to rescind and put an end to the provisional measures adopted by the Court in favor of Mr. Carlos Rivera-Paz, who used to be Mr. Ramírez-Hinostroza's attorney; and ordered the State to maintain the measures it might have adopted and to adopt, forthwith, such measures as may be necessary to protect the life and personal integrity of Mr. Luis Alberto Ramírez-Hinostroza, his wife Susana Silvia Rivera-Prado, and his three daughters: Yolanda Susana Ramírez-Rivera, Karen Rose Ramírez-Rivera and Lucero Consuelo Ramírez-Rivera.

* Judge Manuel E. Ventura-Robles excused himself before the Court from taking part in 30th Special Session held in Guatemala city, Guatemala and, therefore, he did not participate in the debate and signature of this Order. Judge Diego García-Sayán informed the Court that, for reasons beyond his control, he would not be able to participate in the debate and signature of this Order.

5. The e-mail of January 14, 2007, whereby Mr. Cesar Manuel Saldaña-Ramírez, representative of Mr. Luis Alberto Ramírez-Hinostrroza, referred to the action taken in compliance with the provisional measures and stated, *inter alia*, that "Peruvian authorities have discharged the personal security agents that used to protect" Mr. Ramírez-Hinostrroza.

6. The note of January 16, 2007, whereby the Secretary of the Court, following instructions of the President, requested the State to submit forthwith a bimonthly report on compliance with the measures since the term for presentation thereof had expired on August 12, 2006. Furthermore, following instructions of the President, the State was required to refer, in said report, to the situation alleged in the representative's communication of January 14, 2007 regarding compliance with these measures.

7. The e-mail and appendix of February 8, 2007, whereby Mr. Samuel Fernández-Gómez, President of the *Asociación de Familiares de Detenidos- Desaparecidos, Ejecuciones Extrajudiciales y Torturados* (AFDDEET) [Association of Disappeared Detainees' Relatives, Extrajudicial Executions and Tortured Individuals], referred to certain information on allegedly "imminent threats and attacks against [...] Luis Alberto Ramírez-Hinostrroza's life," in relation to the provisional measures ordered by the Court, and furnished a document signed by Mr. Ramírez-Hinostrroza and his two attorneys before this Court and stated, *inter alia*, that "the AFDDEET President is empowered to resort to the Inter-American Court of Human Rights to enforce Mr. Ramírez-Hinostrroza's and his next of kin's rights".

8. The note of February 12, 2007, wherein the Secretariat of the Court, following instructions by the President, requested the State to forthwith and urgently submit (*supra* Having Seen Clause No. 6) its bimonthly report on the action taken in compliance with the provisional measures, as the term for its presentation had expired on August 12, 2006.

9. By the brief and appendixes of May 14, 2007, whereby Peru submitted its bimonthly report on the action taken in compliance with the provisional measures and requested the Court to "address the convenience of continuing with [these] provisional measures" and to "order Mr. Luis Alberto Ramírez-Hinostrroza to comply with all domestic rules and refrain from taking illegal actions and acting recklessly and reprehensibly." The Secretariat had received such report prior to April 26, 2007, without appendixes.

10. The e-mail and appendixes of May 16, 2007, whereby three representatives of Mr. Ramírez-Hinostrroza submitted two briefs and copy of several documents. One of the briefs, which is dated May 15, 2007 and signed by Messrs. César M. Saldaña-Ramírez and Raúl A. Ramos De la Torre, highlights that due to the criminal proceedings instituted against Luis Pérez-Documet, retired general, for the crime of kidnapping against Mr. Luis Alberto Ramírez-Hinostrroza, on May 14, 2007, Mr. Luis Alberto Ramírez-Hinostrroza was threatened over the phone and was "required to fire his attorneys and refrain from attending the hearings to ratify the testimony rendered during the police investigation, the prosecution's actions and the criminal court proceedings;" he was also told that his "attorneys [were] being watched and threatened and that their telephones [had] been bugged." In this brief, Messrs. Saldaña-Ramírez and Ramos De la Torre request that "in light of the imminent risk

to Mr. Luis Alberto Ramírez-Hinostrroza's life and the undersigned's integrity in their capacity of attorneys, the Court should forthwith adopt the provisional measures it deems effective in favor of Mr. Luis Alberto Ramírez-Hinostrroza, his next of kin and his *ad honorem* legal representatives." The other brief, dated May 16, 2007, is signed by Mr. Samuel Fernández-Gómez and refers to an increase in the threats against Ramírez-Hinostrroza after the commencement of the trial against Luis Pérez-Documet; it further includes a request to order the State to implement effective and reinforcing security measures to protect" Mr. Ramírez-Hinostrroza and his next of kin.

CONSIDERING:

1. That the State of Peru has been a State Party to the American Convention on Human Rights since July 28, 1978, and accepted the contentious jurisdiction of the Court on January 21, 1981.

2. Article 1(1) of the Convention prescribes that:

[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, in cases not yet submitted to its consideration, adopt such provisional measures as it deems pertinent. With regard to matters not yet submitted to it, the Court may act at the request of the Commission.

3. That, in relation to this matter, Article 25 of the Rules of Procedure of the Court provides that:

1. At 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.

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

[...]

4. That Article 1(1) of the Convention provides for the State Parties' general obligation to respect the rights and freedoms contained therein, and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms. In furtherance of this obligation, any State Party has the *erga omnes* obligation of protecting all the persons subject to its jurisdiction. Said obligations become more evident in relation to proceedings carried out before oversight entities acting under the American Convention.¹

¹ Cf. *Matter of the Penitentiary Center of the Central Occidental Region (Uribana Prison)*. Provisional Measures. Order of the Inter-American Court of Human Rights of February 2, 2007, Considering Clause No. 5; *Matter of Pueblo Indígena de Kankuamo*. Provisional Measures. Order of the Inter-American Court of Human Rights of January 30, 2007, Considering Clause No. 4; and *Matter of Yare I and Yare II Capital Region Penitentiary Center*.

5. That International Law on Human Rights considers that provisional measures are not only of a precautionary nature in that they preserve a juridical situation, but fundamentally of a shielding nature as they protect human rights. As long as the basic requirements of extreme gravity and urgency and the necessity to avoid irreparable damage to persons are met, provisional measures become a true jurisdictional guarantee of a preventive nature.²

6. That as a response to the precautionary measures requested by the Inter-American Commission the Court ordered provisional measures in the instant case by Order of September 21, 2005, requiring Peru to adopt all necessary measures to protect the life and personal integrity of Mr. Luis Alberto Ramírez-Hinostrroza, his wife and three daughters, as well as his attorney Mr. Carlos Rivera-Paz, taking into account the gravity of the situation and special risk conditions (*supra* Having Seen Clause No. 1).

7. That the Court adopted provisional measures in the instant case on September 21, 2005, taking into account that, as the factual background of the case reveals,³ the situation of Mr. Luis Alberto Ramírez-Hinostrroza, his wife and daughters, as well as his then legal representative *prima facie* met the requirements of extreme gravity and urgency.

8. That during the proceedings conducted in relation to said provisional measures, Mr. Ramírez-Hinostrroza hired a new attorney and the Court, by Order of July 4, 2006, reversed the measures adopted to protect Mr. Carlos Rivera-Paz. In adopting such decision, the Court considered, *inter alia*, that Mr. Carlos Rivera-Paz had notified that he was no longer Mr. Ramírez-Hinostrroza's attorney because he "had been discharged as intervening attorney in the criminal case for the crime of kidnapping" pending before the Huancayo Court against General Pérez-Documet and stated that the measures were adopted to protect his life "in his capacity as attorney for Mr. Ramírez-Hinostrroza." Furthermore, the Court took into account that the information submitted by the Commission suggested that Mr. Rivera-Paz was no longer in a situation of extreme gravity and urgency, nor was he at risk of sustaining irreparable damage to his rights that might serve as grounds for the Court to continue to order measures of protection in his favor.⁴

Provisional Measures. Order of the Inter-American Court of Human Rights of March 30, 2006, Considering Clause No. 4.

² Cf. *Matter of the Penitentiary Center of the Central Occidental Region (Uribana Prison)*. Provisional Measures. Order of the Inter-American Court of Human Rights of February 2, 2007, Considering Clause No. 4; *Matter of Pueblo Indígena de Kankuamo*. Provisional Measures. Order of the Inter-American Court of Human Rights of January 30, 2007, Considering Clause No. 5; and *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. 5.

³ The referenced factual background is explained in Having Seen Clauses of the Order of the Court of September 21, 2005, and is mainly related to the threats and serious attacks against the life of Mr. Ramírez-Hinostrroza which allegedly occurred after March, 2004, by the time the criminal proceedings against the General of the Army Luis Pérez-Documet, retired, were instituted by the Huancayo Fourth Criminal Court for the crimes of kidnapping and injuries against, among others, Mr. Ramírez-Hinostrroza, who apparently ratified the testimony rendered before the Court in relation to the events allegedly occurred in February 1991. Furthermore, said factual background is related to the alleged fact that Mr. Carlos Rivera-Paz, who was Mr. Ramírez-Hinostrroza's counsel when the request for measures was filed, was in danger as a result of his professional tasks and direct contact with Mr. Ramírez-Hinostrroza.

⁴ Cf. Order of the Inter-American Court of July 4, 2006, Considering Clauses No. 6 and 7; and Order of the Inter-American Court of February 7, 2006, Considering Clause No. 13.

9. That in May 2006, Mr. Ramírez-Hinostrroza granted a power of attorney unto Messres. Raúl Ángel Ramos De la Torre and César Manuel Saldaña-Ramírez to act on his behalf before the Court (*supra* Having Seen Clause No. 3), and in February 2007, he empowered Mr. Samuel Fernández-Gómez, President of the *Asociación de Familiares de Detenidos- Desaparecidos, Ejecuciones Extrajudiciales y Torturados* (AFDDEET) [Association of Disappeared Detainees´ Relatives, Extrajudicial Executions and Tortured Individuals] “to resort to the Inter-American Court of Human Rights to make a defense of [Mr. Ramírez-Hinostrroza’s] and his next of kin’s rights” (*supra* Having Seen Clause No. 7).

10. That at the time Mr. Ramírez-Hinostrroza appointed the new representatives he failed to request that the provisional measures be extended to his new counsels (*supra* Having Seen Clauses No. 3 and 7), to the same extent as they applied to his former attorney.

11. That on the day before today, the representatives Saldaña-Ramírez and Ramos De la Torre requested that the State be ordered to adopt any necessary effective measures “in light of the imminent risk to [... their] lives” in their “capacity as counsels” for Mr. Ramírez-Hinostrroza. The representatives stated that certain threatening events and situations had occurred that jeopardized their lives *vis-à-vis* the commencement of the criminal proceedings conducted against Luis Pérez-Documet, retired general, for the crime of kidnapping against Luis Alberto Ramírez-Hinostrroza (*supra* Having Seen Clause No. 10).

12. That this Court deems it convenient to broaden the scope of the provisional measures to protect Messrs. Raúl Ángel Ramos De la Torre and César Manuel Saldaña-Ramírez, counsels for Mr. Ramírez-Hinostrroza and representatives before the Court, because the factual background explained by the representatives in the request for extension of the provisional measures filed on May 16, 2007, and its relation to the issues of fact and law addressed by the Commission in its first request for measures of July 22, 2005,⁵ suggested *prima facie* that said individuals were in a situation of extreme gravity and urgency. The *prima facie* assessment standard and the application of presumptions when protective measures are needed have made this Court to order measures on several occasions.⁶

13. That in this order the Court will not address the issues raised in other requests filed by the State and the representatives in May 14 and 16, 2007 (*supra* Having Seen Clauses No. 9 and 10), respectively, because the term to make objections to said requests has not expired yet.

14. That the Court finds it convenient that the representatives of the beneficiaries and the Inter-American Commission submit, together with their comments on the bimonthly report filed by the State on May 14, 2007 (*supra* Having Seen Clause No. 9), comments on the requests made by the State in said report.

⁵ The facts and legal grounds explained by the Commission in the request for provisional measures are summarized in Having Seen Clauses No. 1 and 2 of the Order delivered by the Court on September 21, 2005.

⁶ Cf. *Matter of Guerrero-Galluchi and Martínez-Barríos*. Provisional Measures. Order of the Inter-American Court of Human Rights of July 4, 2006, Considering Clause No. 13; and *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. 20; and *Matter of Monagas Judicial Confinement Center (“La Pica”)*. Provisional Measures. Order of the Inter-American Court of Human Rights of February 9, 2006, Considering Clause No. 22.

15. That the State should take all necessary action to cause the protective measures ordered herein to be duly scheduled and applied with the collaboration of the beneficiaries or their representatives, so that said measures are implemented in a diligent and effective way.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

Based on Article 63(2) of the American Convention on Human Rights and in exercise of the authority conferred on it by Article 25 of its Rules of Procedure

DECIDES:

1. To order the State to maintain the measures it might have adopted and to adopt, forthwith, such measures as may be necessary to protect the life and personal integrity of Mr. Luis Alberto Ramírez-Hinostroza, his wife Susana Silvia Rivera-Prado, and his three daughters: Yolanda Susana Ramírez-Rivera, Karen Rose Ramírez-Rivera and Lucero Consuelo Ramírez-Rivera, granted by Order of September 21, 2005.

2. To extend the scope of the measures and to order the State to adopt, forthwith, such measures as may be necessary to protect the life and personal integrity of Messrs. Raúl Ángel Ramos De la Torre and Cesar Manuel Saldaña-Ramírez, Mr. Ramírez-Hinostroza's counsels.

3. To order the State to continue investigating the events that gave rise to the provisional measures adopted herein and, in turn, to identify the persons to be held liable for said events and punish them accordingly.

4. To order the State to take all necessary action to cause the protective measures ordered herein to be duly scheduled and applied with the collaboration of the beneficiaries or their representatives, so that said measures are implemented in a diligent and effective way and, in general, to keep the Court informed of the progress of such implementation.

5. To order the State to report to the Inter-American Court within the term of fifteen days, as from the date this Order is served upon the parties, on the actions taken in compliance herewith and to submit comments on the briefs filed by the representatives on May 16, 2007.

6. To request the beneficiaries of said measures or their representatives and the Inter-American Commission on Human Rights to submit to the Inter-American Court of Human Rights, within the term of five and ten days as from service of the report filed by the State, respectively, comments on the report requested from the State under the previous operative paragraph.

7. To order the State to report to the Inter-American Court every two months on the actions taken in compliance with the adopted measures and to order the beneficiaries of said measures or their representatives to submit comments on the bimonthly reports filed

by the State within the term of four weeks as from service thereof and the Inter-American Commission on Human Rights to submit comments on said reports within the term of six weeks as from service thereof.

8. To request the Secretary to give notice of this Order to the Inter-American Commission of Human Rights, the beneficiaries' representatives and the State.

Guatemala city, Guatemala, May 17, 2007.

Sergio García-Ramírez
President

Cecilia Medina-Quiroga

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu-Blondet

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary