

**Order of the
Inter-American Court of Human Rights
of January 26, 2009
Provisional Measures
regarding Honduras
Case of López-Álvarez *et al.***

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter “the Court” or the “Inter-American Court”) of June 13, 2005, wherein it decided:

1. To request the State to adop[t] forthwith such measures as may be necessary to protect the life and physical integrity of Alfredo López-Álvarez, Teresa Reyes-Reyes, and Gregoria Flores-Martínez, who will appear as witnesses before the Inter-American Court of Human Rights at the public hearing to be held on June 28, 2005, regarding the case of López-Álvarez.

[...]

2. The Order of the Inter-American Court of September 21, 2005, wherein it decided:

1. To reiterate the Order of the Inter-American Court of Human Rights of June 13, 2005, requiring the State to adop[t] such measures as may be necessary to protect the life and physical integrity of Alfredo López-Álvarez, Teresa Reyes-Reyes, and Gregoria Flores-Martínez.

2. To require the State to:

a) exten[d] the provisional measures in order to protect the life and physical integrity of Gregoria Flores-Martínez’s mother and daughters;

b) effectively secur[e] and implemen[t] the necessary conditions so that Gregoria Flores-Martínez, who was forced to leave the country, may return to her home safely;

c) conduc[t] forthwith an investigation into the facts of the case which prompted the adoption and maintenance of these provisional measures in order to identify those responsible for such facts and punish them accordingly; and

d) allo[w] the beneficiaries’ representatives to take part in the planning and implementation of the protection measures and, in general, to kee[p] them informed about the progress regarding compliance with the measures ordered by the Inter-American Court.

3. To request the representatives of the beneficiaries of the provisional measures to submi[t] to the Court, within seven days as from notice of this Order, the name and address of Gregoria Flores-Martínez’s mother and daughters, in whose behalf the State must adopt the protection measures referred to above.

[...]

3. The briefs of the Republic of Honduras (hereinafter "Honduras" or "the State") of November 14, 2005; March 14 and 17, and September 19, 2006; January 26, May 23, June 5, July 23, September 28, and December 5, 2007; and February 15, April 7, May 30, August 6, October 15, and December 18, 2008.

4. The briefs of the beneficiaries' representatives (hereinafter "the representatives") of October 11 and 19, and November 23, 2005; April 3, August 3, and October 13, 2006; February, 27, July 6, August 29, September 10, October 31, and December 28, 2007; and March 20, April 30, May 7 and 30, July 1, September 8 and 25, and November 14, 2008; and January 14, 2009.

5. The briefs of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of November 30, 2005; April, 13, August 18, and November 2, 2006; March 13, July 18, and November 13, 2007; and January 18, April 7, May 23, July 16, November 6, and December 29, 2008.

6. The communications of the Secretariat of the Court (hereinafter "the Secretariat") of July 7, 2006; and August 1 and September 5, 2007, whereby, on instructions from the President of the Court, it requested the representatives and the Commission to inform the Court whether the situation of extreme gravity and urgency which prompted the adoption of these provisional measures in order to avoid irreparable damage to the beneficiaries persisted, in accordance with the purpose of the provisional measures adopted by the Court regarding the *Case of López-Álvarez*.

7. The communication of the Secretariat of August 12, 2008, whereby, on instructions from the President of the Court, it requested the representatives to submit to the Court an updated assessment of the risk conditions faced by Alfredo López-Álvarez, Teresa Reyes-Reyes and Gregoria Flores-Martínez, as well as by the latter's mother and children, Martina Reyes-Marcelino, Diego Armando Aranda, Sherly Martina Flores, Dennis Rosario Ramos-Flores, and Jonny Zelene Zapata-Flores, stating the grounds on which the measures ordered in behalf of the above-mentioned beneficiaries should be maintained in effect, in light of the purpose of those measures. The representatives were further requested to submit information regarding Ms. Flores-Martínez's intention to return to Honduras.

CONSIDERING:

1. That Honduras ratified the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") on September 8, 1977 and, in accordance with Article 62 thereof, it recognized the contentious jurisdiction of the Court on September 9, 1981.

2. That Article 1(1) of the Convention sets forth the general duty of States Parties thereto to ensure to all persons subject to their jurisdiction the free and full exercise of the rights and freedoms protected by said treaty.¹ Under such duty of

¹ Cf. *Case of Velásquez-Rodríguez*. Provisional Measures regarding Honduras. Order of the Court of January 15, 1988, Considering clause 3; *Matter of Kawas Fernández*. Provisional Measures regarding

guarantee, the State Party has the obligation *erga omnes* to protect all individuals under its jurisdiction.²

3. That under Human Rights International Law, provisional measures are not only precautionary in that they preserve a legal status, but essentially protective for they protect human rights, insofar as they seek to prevent irreparable damage to persons. These measures are applied as long as the prerequisites of extreme gravity and urgency and the need to avoid irreparable damage to persons are met. Thus, provisional measures become a true preventive jurisdictional guarantee.³

4. That in Order of September 21, 2005, the Court decided, *inter alia*: a) to reiterate the measures ordered in its Order of June 13, 2005, requiring the State to adopt such measures as may be necessary to protect the life and physical integrity of Alfredo López-Álvarez, Teresa Reyes-Reyes, and Gregoria Flores-Martínez; b) to extend the provisional measures in order to protect the life and physical integrity of Ms. Flores-Martínez's mother and daughters; and c) to effectively bring about and secure the necessary conditions so that Gregoria Flores-Martínez, who has been forced to leave Honduras, may return to her home safely (*supra* Having Seen 2).

5. That the Court deems it relevant to reiterate Considering clauses 7 and 8 of the Order issued by the Court on June 13, 2005, whereby it ordered the adoption of provisional measures on the grounds that there was "[...] a situation of extreme gravity and urgency [...] and in order] to avoid irreparable damage to the rights to life and physical integrity of Alfredo López-Álvarez, Teresa Reyes-Reyes, and Gregoria Flores-Martínez [...]," who had been summoned to give testimony as witnesses at the public hearing held by the Court in the case of *López-Álvarez*. At the moment, the measures adopted aimed at protecting the life and physical integrity of their beneficiaries, who faced a situation of imminent danger as a result of having been summoned as witnesses in the case of *López-Álvarez*. Furthermore, the Court notes that according to Considering clause 12 of Order of September 21, 2005, the Court extended the provisional measures in behalf of Gregoria Flores-Martínez's mother and daughters, who argued that they had noticed "[...] the presence of a car in the surroundings of their residence which was identified by the Land Defense General Coordinator of the Honduran Black Fraternal Organization [*Defensa de Tierras de la Organización Negra Fraternal Hondureña*, hereinafter "OFRANEH"] as belonging to the Criminal Investigation General Office ([*Dirección General de Investigación Criminal*]) hereinafter "DGIC") [...]," which is why Ms. Flores-Martínez was afraid for the safety of her next of kin.

*
* *

Honduras. Order of the Court of November 29, 2008, Considering clause 4; and *Case of Tyrone DaCosta Cadogan*. Provisional Measures regarding Barbados. Order of the Court of December 2, 2008, Considering clause 5.

² *Cf. Matter of the Peace Community of San José de Apartadó*. Provisional Measures regarding Colombia. Order of the Court of June 18, 2002, Considering clause 11; *Matter of Carlos Nieto Palma et al.* Provisional Measures regarding Venezuela. Order of the Court of August 5, 2008, Considering clause 3, and *Matter of Leonel Rivero et al.* Provisional Measures regarding Mexico. Order of the Court of November 25, 2008, Considering clause 4.

³ *Cf. Case of Herrera-Ulloa*. Provisional Measures regarding Costa Rica. Order of the Court of September 7, 2001, Considering clause 4; *Matter of Carlos Nieto Palma et al.*, *supra* note 2, Considering clause 4; and *Matter of Leonel Rivero et al.*, *supra* note 2, Considering clause 5.

6. That regarding the threats against Alfredo López-Álvarez, which were allegedly made on May 27 and June 3, 2007 by members of the Municipality of Tela workers' union, the State argued that the first of such threats, concerning the property damage caused to the prejudice of the community of Triunfo de la Cruz, was under investigation, and that, as regards the second one, it had received no information whatsoever. Later, it informed that Alfredo López-Álvarez had failed to file a complaint in relation to the alleged threats made against him and that regarding the complaint filed by the above community, the Public Prosecutor's Office for Ethnic Groups and Cultural Heritage [*Fiscalía Especial de Etnias*] had instructed that the complaint be admitted and processed. Furthermore, the State alleged that in their observations, the representatives failed to inform about the current and specific situation faced by each of the beneficiaries, as required by the Court, and that the information submitted was not related to the case of *López-Álvarez*, which is why it had repeatedly requested that the measures be lifted. Notwithstanding the foregoing, the State, on several occasions, has stated that, should the measures be maintained, it is willing to revise them together with the beneficiaries.

7. That the representatives pointed out the need to maintain the measures adopted in behalf of Alfredo López-Álvarez and Teresa Reyes-Reyes due to the pressures exerted on the Garifunas communities as a result of the speculations of the real estate sector concerning the development of tourism megaprojects in the city of Bahía de Tela. Such need was grounded on the lack of respect for the human rights of black and indigenous communities, on the persistence of harassment techniques inherited from the Cold War and, mainly, on the seizure of the Garifunas lands for the development of tourism megaprojects. Among the threats received and reported during 2006, 2007 and 2008, the representatives included such facts as the destruction of crops, the invasion of lands and the verbal threats and attempted attacks against Mr. López-Álvarez and other members of the Garifuna community by members of the Municipality of Tela workers' union and other "invaders." The representatives pointed out that Mr. López-Álvarez had reported the above-mentioned threats and that they were still waiting that the officials of Tela Criminal Court complied with the instructions of the Public Prosecutor's Office for Ethnic Groups and Cultural Heritage [*Fiscalía Especial de Etnias*] so that the complaint filed by the community of Triunfo de la Cruz be admitted and processed. In this regard, according to the representatives, there was a direct link between the work of the beneficiaries for the defense of the lands of the Garifunas communities and the threats against them. The representatives added that such threats and attacks were related to the beneficiaries' work as leaders in the fight for the lands belonging to the Garifuna people of the community of Triunfo de la Cruz and that, therefore, taking into consideration the impunity regarding said complaints, the beneficiaries will continue facing a situation of imminent danger until the conflict for the lands has been settled. In their last brief of January 14, 2009, the representatives pointed out that the removal of the provisional measures, as requested by the State, "is unacceptable and inappropriate in the current context, as there is a serious land conflict in which the community of Triunfo de la Cruz and its representatives are involved [...] in addition to the polarization of interests created by the tourism investments in Bahía de Tela, which also places the safety of the beneficiaries at risk."

8. That the Commission acknowledged the efforts made by the State in compliance with the obligations arising from the provisional measures and urged the parties to continue with the dialogue so that such obligations may be fulfilled.

Notwithstanding, it considered that there is a contradiction between the information provided by the State and the information provided by the representatives regarding the complaints allegedly filed by the beneficiary López-Álvarez, wherefore it requested the pertinent clarification and information regarding the progress in the pertinent investigation.

9. That “in the context of domestic procedural law, provisional measures are usually intended to preserve the rights of the parties to a dispute, guaranteeing that the enforcement of the judgment on the merits rendered in a case will not be hindered or prevented by any action taken by the parties *pendente lite*. Under Human Rights International Law, provisional measures are not only precautionary, to the extent that they preserve a legal status, but essentially protective in nature, for they protect human rights, insofar as they seek to avoid irreparable damage to persons.”⁴

10. That, furthermore, provisional measures are exceptional, are ordered in response to the need of protection, and, once ordered, must be maintained as long as the Court deems that the prerequisites of extreme gravity and urgency and the need to prevent irreparable damage to the rights of the persons thereby protected persist.⁵

11. That though the representatives alleged that Alfredo López-Álvarez and Teresa Reyes-Reyes had suffered threats and harassment (*supra* Considering clause 7), the Court notes that, in accordance with the representatives, the facts and situations described are related to the defense of the lands belonging to the Garifuna community of Triunfo de la Cruz. In this regard, it is relevant to reiterate that these provisional measures were intended to protect the right to life and physical integrity of the beneficiaries of such measures, who faced a situation of extreme gravity and urgency as a result of their capacity as witnesses in the case of *López-Álvarez* (*supra* Considering clause 5).

12. That this Court recalls that in the processing of the case of *López-Álvarez*, Alfredo López-Álvarez, Teresa Reyes-Reyes, and Gregoria Flores-Martínez were summoned by the Court to give testimony at the public hearing of the case, and that before appearing at such hearing, Gregoria Flores-Martínez was attacked with fire shots and wounded as she was heading to the community of Triunfo de la Cruz to collect the statements (affidavits) rendered by other witnesses in the case of *López-Álvarez*, which was the grounds for the request for these provisional measures. Additionally, it is to be noted that, according to the alleged violations described by the Commission in its application and by the representatives in their brief of pleadings, motions and evidence filed in the case referred to above, in its Judgment of February 1, 2006, the Court determined the international responsibility of the State for the violation of Articles 7(1), 7(2), 7(3), 7(4), and 7(6) (Right to Personal Liberty); 5(1), 5(2), and 5(4) (Right to Humane Treatment); 8(1), 8(2), 8(2)(b),

⁴ Cf. *Matter of the Yare I and Yare II Capital Region Penitentiary Center*. Provisional Measures regarding Venezuela. Order of the Court of March 30, 2006, Considering clauses 4 and 5; *Matter of the Persons Imprisoned in the “Dr. Sebastião Martins Silveira” Penitentiary in Araraquara*. Provisional Measures regarding Brazil. Order of the Court of September 30, 2006, Considering clauses 4 and 5; and *Matter of Colotenango*. Provisional Measures regarding Guatemala. Order of the Court of July 12, 2007, Considering clause 6.

⁵ Cf. *Case of the Constitutional Court*. Provisional Measures regarding Peru. Order of the Court of March 14, 2001, Considering clause 3; *Matter of Leonel Rivera et al.*, *supra* note 2, Considering clause 13, and *Case of the Gómez-Paquiyaury Brothers*. Provisional Measures regarding Peru. Order of the Court of January 22, 2009, Considering clause 14.

8(2)(d), 8(2)(g) (Right to a Fair Trial); 25(1) (Judicial Protection); 13 (Freedom of Thought and Expression) and 24 (Right to Equal Protection) of the American Convention, to the detriment of Alfredo López-Álvarez, in relation to the general duty to respect and guarantee rights and liberties as set forth in Article 1(1) thereof, as well as for the violation of Article 5(1) (Right to Humane Treatment) of the American Convention, in relation to Article 1(1) thereof, to the detriment of Teresa Reyes-Reyes, Alfa Barauda López-Reyes, Suamein Alfred López-Reyes, Gustavo Narciso López-Reyes, Alfred Omaly López-Suazo, Deikel Yanell López-Suazo, Iris Tatiana López-Bermúdez, José Álvarez-Martínez, Joseph López-Harolstohn, José Jaime Reyes-Reyes, María Marcelina Reyes-Reyes, Apolonia Álvarez-Aranda, Catarino López, Alba Luz García-Álvarez, Rina Maribel García-Álvarez, Marcia Migdalia García-Álvarez, Mirna Suyapa García-Álvarez, and Joel Enrique García-Álvarez.

13. That the Court notes that in view of the foregoing, and in light of the purpose of the provisional measures and the facts described in the case of *López-Álvarez* which gave rise to the request for the adoption of the above-mentioned measures, as well as of the Judgment rendered in said case, it does not follow that the alleged threats and harassment described by the representatives and the Commission and allegedly committed to the detriment of the beneficiaries in connection with their work in the defense of the rights of the Garifuna community of "Triunfo de la Cruz" over their ancestral lands have a direct bearing on the facts which prompted the adoption of provisional measures.

14. That the Court notes that the beneficiaries of the above-mentioned provisional measures and the State have reached an agreement within the framework of such measures. It is also to be noted that the State has complied with its duty to inform the Court about the measures adopted, from which it follows that it is willing to allow the beneficiaries to take part in the adoption of such measures.

15. That, additionally, the Court has taken cognizance of the information provided by the Inter-American Commission in its communication of August 18, 2006, wherein it pointed out that case No. 12.548 (Garifuna community of Triunfo de la Cruz and its members), as well as precautionary measure No. 253-05 (Community of Triunfo de la Cruz) are being processed before the Commission, in relation to facts which, in accordance with the Commission, have a bearing on these provisional measures.

16. That when determining the adoption of provisional measures, the Court may not consider the merits of any arguments pertaining to issues other than those which relate strictly to the situation of extreme gravity and urgency and the need to avoid irreparable damage to persons. Such other issues may only be brought before the Court through contentious cases or requests for advisory opinions.⁶

17. That in view of the foregoing, and taking into consideration that from the information requested to the parties it does not follow that the situation of extreme gravity and urgency persists in relation to the purpose of these provisional measures, the Court deems it relevant to lift the protection measures adopted in behalf of Alfredo López-Álvarez and Teresa Reyes-Reyes.

⁶ Cf. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of August 20, 1998, Considering clause 6; *Matter of Leonel Rivero et al.*, *supra* note 2, Considering clause 17; and *Matter of Children Deprived of Liberty in the "Complexo do Tatuapé" of FEBEM.* Provisional Measures regarding Brazil. Order of the Court of November 25, 2008, Considering clause 13.

*
* *
*

18. That regarding Gregoria Flores-Martínez, taking into consideration that she left Honduras, on several occasions, the State has pointed out that if she were to return, it is willing to afford her security services specialized in the protection of dignitaries and, additionally, to patrol the area in which she were to live. As to the investigation into the alleged injuries suffered by Gregoria Flores-Martínez on May 30, 2005 as a result of the shots allegedly fired at her, the State informed that as such injuries were minor and, together with the pecuniary damage caused by such facts, they were punishable with penalties lower than five years' imprisonment, the Office of the Public Prosecutor exercised its discretionary power to dispense with criminal proceedings on said grounds. Notwithstanding, as Ms. Flores-Martínez refused to sign the related record, the case file was not closed. As a result of the request filed by Ms. Flores-Martínez so that those responsible for such facts be punished, the detention of the accused was ordered, which could not be accomplished, as he was not located. The State has informed on several occasions that since then he has been a fugitive from justice and that an arrest warrant has been issued against him. Furthermore, it has informed that the local head of the city of Tela, Atlántica Department, Chief of Police Omar Matamoros-Ávila, visited the beneficiaries on several occasions and gave them several telephone numbers to which they could call whenever they deemed so necessary. Later, the State also informed that, though the perpetrator of the injuries suffered by Ms. Flores-Martínez has not as yet been arrested, the Criminal Investigation General Office has made its best efforts to apprehend him. Furthermore, the Special Prosecutor's Office for Human Rights [*Fiscalía Especial de Derechos Humanos*] has requested the intervention of the National Security Department [*Secretaría de Estado en Despacho de Seguridad*] in order to apprehend the suspect.

19. That regarding the State's offer to afford personal security to Gregoria Flores-Martínez, the representatives reiterated that said measure would be inadequate if not accompanied by other measures which guarantee the apprehension, trial, and punishment of those responsible for the attack against Ms. Flores-Martínez. Regarding the investigation into such attack, they added that the perpetrator of the injuries suffered by Ms. Flores-Martínez was at large as a result of the application by the Office of the Public Prosecutor of its discretionary power not to institute criminal proceedings, which was negotiated by the Public Prosecutor without the consent of the injured party, and that though she had filed a new complaint, no information had been provided about the investigation. The representatives further pointed out that the State had not informed about the steps taken to apprehend the accused. By means of their brief of January 14, 2009, the representatives informed that Ms. Flores-Martínez pointed out that "she is still afraid of returning, as her aggressor is still fugitive, which is why she will continue living abroad until she considers that safety conditions for her return have been brought about."

20. As to the obligation of the State to secure the necessary conditions so that Gregoria Flores-Martínez may return safely to Honduras, the Commission pointed out that the State had offer to bring about such conditions; notwithstanding, it stressed that the perpetrator of the attack against Ms. Flores-Martínez was still fugitive and that his apprehension was a prerequisite for her safety.

21. That by means of communication of August 12, 2008 (*supra* Having Seen clause 7), the representatives were requested to provide information regarding Ms. Flores-Martínez's intention to return to Honduras, despite which, no information was submitted to the Court. Consequently, the Court does not have sufficient elements to consider that Ms. Flores-Martínez wishes to return to the country, which is why maintaining the provisional measures ordered in her behalf would serve no purpose.

22. That, furthermore, from the information submitted by the parties, *inter alia*, it follows that since at least September 2005 Gregoria Flores-Martínez has been abroad, and considering that the provisional measures adopted were aimed at protecting the right to life and physical integrity of Ms. Flores-Martínez, who faced a situation of extreme gravity and urgency as a result of being a witness in the case of *López-Álvarez*, the Court deems that said risk has disappeared. Accordingly, the Court deems that the situation of extreme gravity and urgency which gave rise to the adoption of the provisional measures intended to protect the life and physical integrity of Gregoria Flores-Martínez no longer exists, wherefore it deems that the provisional measures ordered in her behalf must be lifted.

23. That the Court has pointed out that the alleged failure by the State to conduct an effective investigation into the facts which prompted the adoption of the present provisional measures does not amount in and of itself to a situation of extreme gravity and urgency justifying that provisional measures be maintained.⁷ In this regard, when a situation of extreme gravity and urgency was evidenced, the Court ordered that an investigation into the facts which prompted such situation be conducted; notwithstanding, the violations of the Convention resulting from the alleged lack of effectiveness in the investigation are to be examined in a contentious case and not in the framework of a request for provisional measures,⁸ except where the failure to investigate is clearly related to extreme conditions posing a risk to life and physical integrity. With respect to the foregoing, the representatives' allegations that the provisional measures should be maintained until the facts have been effectively investigated into and the eventual punishment of those responsible for the threats imposed, do not amount to a circumstance of extreme gravity and urgency, which, together with the lack of information regarding the beneficiary's intention to return to the country, have led the Court to consider that the present provisional measures should not be maintained.⁹

*
* *
*

⁷ Cf. *Case of the Constitutional Court*, *supra* note 5, Considering clause 4; *Case of the Gómez-Paquiyaui Brothers*. Provisional Measures regarding Peru. Order of the Court of May 3, 2008, Considering clause 7, and *Matter of "El Nacional" and "Así es la Noticia"*. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, Considering clause 36.

⁸ Cf. *Matter of Children Deprived of Liberty in the "Complexo do Tatuapé" of FEBEM*. Provisional Measures regarding Brazil, *supra* note 6, Considering clause 16; *Matter of Monagas Judicial Confinement Center ("La Pica")*. Provisional Measures regarding Venezuela. Order of the Court of July 3, 2007, Considering clause 23; and *Matter of "El Nacional" and "Así es la Noticia"*, *supra* note 7, Considering clause 36.

⁹ Cf. *Case of the Constitutional Court*, *supra* note 5, Considering clause 4; *Matter of Gallardo-Rodríguez*. Provisional Measures regarding Mexico. Order of the Court of July 11, 2007, Considering clause 11; and *Case of the Gómez-Paquiyaui Brothers*, *supra* note 5, Considering clause 14.

24. That regarding Martina Reyes-Marcelino, Ms. Flores-Martínez's foster mother, and Ms. Flores-Martínez's children, Diego Armando Aranda, Sherly Martina Flores, Dennis Rosario Ramos-Flores and Jenny Zelene Zapata-Flores, the Court notes that neither the representatives nor the Commission have submitted the information required by means of communications of the Secretariat of July 7, 2006; August 1 and September 5, 2007 (*supra* Having Seen clause 6); and August 12, 2008 (*supra* Having Seen Clause 7), stating whether the situation of extreme gravity and urgency which prompted the adoption of provisional measures in their behalf still persists. Furthermore, in their various observations, the representatives referred to Gregoria Flores-Martínez's next of kin in a general manner, without describing the situation that each of them is currently facing, nor justifying the existence and persistence of the conditions of extreme gravity and urgency or the need to avoid irreparable damage to persons which are required to maintain the provisional measures ordered by the Court in the beneficiaries' behalf.

25. That the *prima facie* standard of evidence in a case and the application of presumptions when assessing a request for protection have led [...] this Court to order provisional measures on a number of occasions;¹⁰ notwithstanding, in order to maintain such provisional measures, it is necessary that the proven situation of extreme gravity and urgency or the need to avoid irreparable damage to persons persist and be directly linked to the events which prompted the adoption of provisional measures in the case at hand;¹¹ therefore, in accordance with the requirements of the Court to assess whether the measures should be maintained in effect, the information must be duly grounded and proven.

26. That, accordingly, regarding the beneficiaries Martina Reyes-Marcelino, Diego Armando Aranda, Sherly Martina Flores, Dennis Rosario Ramos-Flores and Jenny Zelene Zapata-Flores, though the requirements established have not been met, over the three years during which the provisional measures in their behalf have been in effect no acts of interference by the State with the above beneficiaries' right to life and physical integrity have been reported. Therefore, the Court deems it reasonable to presume that the situation regarding said beneficiaries no longer fulfills the requirements set forth in Article 63(2) of the Convention and, therefore, it finds it relevant to lift the measures adopted in their behalf.

*
* *
*

27. That, as noted by the Court in prior cases, lifting these provisional measures does not mean that the State has complied with its conventional obligations to continue with the investigations at the domestic level to identify and, if applicable, punish those responsible for the facts of the case¹² who have violated conventional rights in detriment of Gregoria Flores-Martínez, as well into the threats against other members of the community.

¹⁰ Cf. *Inter alia*, *Case of the "White Van" (Paniagua-Morales et al.)*. Provisional Measures regarding Guatemala. Order of the Court of January 29, 2001, Considering clause 7; *Case of Gloria Giralte de García-Prieto et al.*, Provisional Measures regarding El Salvador. Order of the Court of September 26, 2006, Considering clause 10; and *Matter of Adrián Meléndez-Quijano et al.* Provisional Measures regarding El Salvador. Order of the Court of March 23, 2007, Considering clause 9.

¹¹ Cf. *Matter of Millacura Llaipén et al.* Provisional Measures regarding Argentina. Order of the Court of February 6, 2008, Considering clause 21; *Matter of Carlos Nieto Palma et al.* *supra* note 2, Considering clause 16; and *Matter of Leonel Rivero et al.*, *supra* note 2, Considering clause 13.

¹² Cf. *Matter of Colotenango regarding Guatemala*, *supra* note 4, Considering clause 14.

28. That, regardless of the adoption of the provisional measures ordered by the Court in the case at hand, the State is under the permanent obligation of complying with the general obligations set forth in Article 1(1) of the Convention to respect and secure the rights and liberties therein recognized and to guarantee their free and full exercise to all individuals under its jurisdiction.¹³

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

In the exercise of the powers conferred on it by Article 63(2) of the American Convention on Human Rights and Articles 25 and 29 of its Rules of Procedure,

DECIDES

1. To lift and hereby end the provisional measures ordered by the Inter-American Court of Human Rights in its Orders of June 13 and September 21, 2005, in behalf of Alfredo López-Alvarez, Teresa Reyes-Reyes, Gregoria Flores-Martínez, Martina Reyes-Marcelino, Diego Armando Aranda, Sherly Martina Flores, Dennis Rosario Ramos-Flores, and Jonny Zelene Zapata-Flores, pursuant to Considering clauses 6 to 26 hereof.

2. To request the Secretariat to serve notice of this Order to the State, the Inter-American Commission on Human Rights, and the beneficiaries of these measures or the representatives thereof.

3. To close the record of the present matter.

Cecilia Medina-Quiroga
President

Diego García-Sayán

Sergio García-Ramírez

¹³ Cf. *Case of Velásquez-Rodríguez*, *supra* note 1, Considering clause 3; *Matter of "El Nacional" and "Así es la Noticia"*, *supra* note 7, Considering clause 39; and *Matter of Leonel Rivero et al.*, *supra* note 2, Considering clause 4.

Manuel E. Ventura-Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu-Blondet

Pablo Saavedra-Alessandri
Secretary

So ordered,

Cecilia Medina-Quiroga
President

Pablo Saavedra-Alessandri
Secretary