

**Order of the
Inter-American Court of Human Rights*
of November 16, 2009
Provisional Measures
Case of Mack-Chang v. Guatemala**

Having Seen:

1. The Order rendered by the Presidency of the Inter-American Court of Human Rights on August 14, 2002 and the Court Orders of August 26, 2002, February 21 and June 6, 2003, and January 26, 2009. In this last Order, *inter alia*, the Court decided:

[...]

2. To request the State to maintain the measures which have been adopted and to adopt all the measures necessary to protect the right to life and physical integrity of Helen Mack-Chang and her next of kin, Zoila Esperanza Chang-Lau (mother), Marco Antonio Mack-Chang (brother), Freddy Mack-Chang (brother), Vivian Mack-Chang (sister), Ronald Chang-Apuy (cousin), Lucrecia Hernández-Mack (daughter) and her children, of the members of the Myrna Mack-Chang Foundation, and of Luis Roberto Romero-Rivera, Jorge Guillermo Lemus-Alvarado and his next of kin, for an additional term of at least six months from the notice of the [...] Order, upon the elapsing of which, the Court shall decide the pertinence of keeping them in force.

3. To request the representatives to forward a risk assessment regarding the situation of each of the beneficiaries protected by these measures within the term of four weeks, in accordance with Considering clauses No. 17, 21, 23 and 27 hereof, in which assessment they shall expose the arguments and supporting evidence for which they consider that the Ordered measures should be kept in force with regard to Helen Mack-Chang and each of her next of kin singled out in operative paragraph two hereof, as well as regarding the protection granted to the members of the Myrna Mack Foundation. Concretely, they shall submit information on the alleged facts occurred against Mr. Ronald Chang-Apuy, on his present situation and the proceedings instituted regarding said facts, as well as the information required regarding Luis Roberto Romero-Rivera and Jorge Guillermo Lemus-Alvarado. Furthermore, the Inter-American Commission on Human Rights is requested to submit its observations in an individualized manner, with regard to each of the beneficiaries within the term of two weeks, which shall commence upon the reception of the information forwarded by the representatives.

4. To request the State to submit a thorough report within the term of one month from the reception of the observations presented by the Inter-American Commission on Human Rights in which it makes reference to the observations presented by both the representatives and the Inter-American Commission. Likewise, the State is requested to forward information on the alleged facts occurred against Mr. Ronald Chang-Apuy, on his present situation and the proceedings instituted regarding said facts.

5. To request the State to see to the implementation of the provisional measures in mutual agreement with the beneficiaries thereof or their representatives for the effective protection of their rights.

* Due to reasons of *force majeure*, the President of the Court, Judge Cecilia Medina Quiroga, and Judge Leonardo A. Franco did not participate in the deliberation and signing of the present Order. The Vice-President, Judge Diego García-Sayán, assumed the presidency, pursuant to Article 5(1) of the Rules of Procedure.

2. The briefs of the State of Guatemala (hereinafter "the State") submitted on June 12, July 3, July 28, August 26, and October 1, 2009, whereby the State provided information on the implementation of the provisional measures.

3. The observations presented by the representatives of the beneficiaries (hereinafter referred to as "the representatives") of the provisional measures submitted on April 20, on July 24, on September 1 and on October 1, 2009.

4. The observations made by the Inter-American Commission on Human Rights (hereinafter referred to as "the Commission" or "the Inter-American Commission"), presented on January 26, May 12, and September 9, 2009.

5. The briefs sent by the Court Secretariat (hereinafter referred to as "the Secretariat") dated March 23 and May 13, 2009; in the latter -following instructions given by the President-, the State was requested to forward information on the alleged facts against Mr. Ronald Chang-Apuy, on his present situation and the proceedings instituted in that respect.

6. The brief sent by the Secretariat on July 31, 2009, whereby it granted the representatives and the Inter-American Commission a term until August 17 and September 1, 2009, respectively, so that they submit their observations, regardless of the information requested by the State.

7. The Order rendered by the President of the Court of August 14, 2009, whereby it called the State, the Inter-American Commission and the representatives for a private hearing to be held at the seat of the Inter-American Court of Human Rights on October 1, 2009.

8. The brief sent by the Secretariat on August 21, 2009, whereby - following instructions given by the President- the representatives were requested to forward their observations to the State report of June 12, 2009 as soon as possible, in accordance with brief Ref: CDH-10.636/1022 issued by this Secretariat, taking into account that the term expired on August 17, 2009.

9. Furthermore, by means of a notice dated August 27, 2009, following instructions given by the President, the representatives and the Commission were granted a term until September 2 and 9, respectively, in order to forward their observations.

10. The brief sent by the Secretariat on September 3, 2009, whereby, following instructions given by the President, the representatives and the Commission were informed that they could expose their observations to the report submitted by the State on August 26, 2009 at the private hearing which would be held on October 1, 2009.

11. The private hearing held on October 1, 2009 at the seat of the Court.¹ During said private hearing, the State, the Commission and the representatives referred to the compliance with the provisional measures in the instant case.

¹ In accordance with Article 6(2) of the Rules of Procedure in force, the Court held the hearing with a commission composed by the following Judges: Sergio Garcia-Ramírez, Rhadys Abreu-Blondet and Leonardo A. Franco. Lilly Ching appeared to the above mentioned hearing for the Inter-American

Considering,

1. That Guatemala is a State Party to the American Convention on Human Rights (hereinafter referred to as “the American Convention” or “the Convention”) since May 25, 1978 and it has acknowledged the adversarial jurisdiction of the Court on March 9, 1987.

2. That the provision of Article 63(2) of the Convention sets forth the mandatory adoption on the part of the State of the provisional measures Ordered by this Court, as pursuant to the basic legal principle of liability of the State supported by international case law, the States must comply with their conventional obligations in good faith (*pacta sunt servanda*).²

3. That the Court has pointed out that provisional measures have two characters: a provisional character and a protective character.³ The protective character of provisional measures is related to the context of international adversarial lawsuits. In that sense, the purpose of these measures is to protect the rights at possible risk until the dispute is solved. Their purpose is to guarantee the integrity and effectiveness of the Order on the merits so as to avoid damage to the rights in dispute, a situation which may turn the final Order innocuous or distort its effective application. Thus, provisional measures allow that the interested State is able to comply with the final Order and, should it be the case, proceed to the ordered reparations.⁴ As to the protective character of provisional measures, this Court has pointed out that they turn into a real jurisdictional guarantee of preventive nature, as they protect human rights because they seek to avoid irreparable damage to persons.⁵

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4. That Article 63(2) of the Convention sets forth that in Order for the Court to Order provisional measures three requirements are necessary: i) “extreme gravity”; ii) “urgency”, and iii) they must be necessary “to avoid irreparable damage to persons.” Those three conditions coexist and must be present in any situation in

Commission, Helen Beatriz Mack-Chang for the victims and the beneficiaries of the provisional measures, and Delia Marina Dávila-Salazar and María Elena de Jesús Rodríguez-López appeared for the State.

² Cf. *Matter of James et al. Provisional Measures regarding Trinidad and Tobago*. Order of the Inter-American Court of Human Rights of June 14, 1998, sixth considering clause; *Case of Pueblo Indígena Kankuamo. Provisional Measures regarding Colombia*. Order of April 3, 2009, fifth considering clause; and *Matter of Fernández-Ortega et al. Provisional Measures regarding the United Mexican States*. Order of the Court of April 30, 2009, sixth considering clause.

³ Cf. *Case of Herrera Ulloa. Provisional Measures regarding Costa Rica*. Order of the Court of September 7, 2001, fourth considering clause; *Matter of Fernández-Ortega et al.*, *supra* note 2, considering clause 5; and *Cae of Carpio Nicolle et al. Provisional Measures regarding Guatemala*. Order of the Court of July 6, 2009. Considering clause 16.

⁴ Cf. *Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela*. Order of the Court of February 8, 2008, seventh considering clause; *Matter of Newspapers “El Nacional” and “Así es la Noticia”. Provisional Measures regarding Venezuela*. Order of the Court of November 25, 2008, twenty-third considering clause; and *Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela*. Order of the Court of January 27, 2009, nineteenth considering clause.

⁵ Cf. *Case of Herrera Ulloa*, *supra* note 3, Considering clause 4, *Case of Bámaca-Velásquez, Provisional Measures regarding Guatemala*. Order of the Court of January 27, 2009, forty-fifth considering clause; and *Matter of Fernández-Ortega et al.*, *supra* note 1, fifth considering clause.

which the Court intervention is requested. Likewise, the three above described conditions must persist in Order for the Court to maintain the ordered protection. In the event one of them had ceased to exist, the Court shall assess the pertinence of continuing with the enforcement of the ordered protection.

5. That should a State request the rescission or the alteration of the ordered provisional measures, it shall present sufficient evidence and arguments so as to allow the Court to assess that the risk or threat no longer complies with the requirements of extreme gravity and urgency to avoid irreparable damage. Likewise, the representatives wishing for the continuance of the measures shall have to submit evidence of the reasons for it.⁶

6. That on that respect, the Court must take into account that the Preamble of the American Convention, states that the protection of essential rights justifies "international protection in the form of a convention reinforcing or complementing the protection provided by the domestic law of the American states." Therefore, should it be verified that the interested State has developed efficient protection mechanisms or actions for the beneficiaries of the provisional measures, the Court could decide to withdraw the provisional measures, thus discharging the pertinent responsible party, that is, the State itself, of the obligation to protect. Again, this Order is to be rendered by the Court, and not by the State, as it would be inadmissible to subordinate the mechanism provided for in the American Convention to restrictions that turn the Court function inoperative, and therefore, the protective system of human rights enshrined in the Convention.⁷ Should the Court rescind the provisional measures on those grounds, the State, by virtue of its duty to protect human rights, shall maintain the provisional measures it may have adopted and that the Court considered efficient, for the time the circumstances so require.⁸

7. That when ordering the protection measures the Court or whomever presides it does not initially request evidence of the facts, which *prima facie* seem to comply with the requirements of Article 63 of the Convention. On the contrary, the maintenance of the protection measures calls for an evaluation by the Court -based on evidence-, of the persistence of the situation of extreme gravity and urgency to avoid irreparable damage,⁹ which gave rise to the measures.¹⁰

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⁶ Cf. *Case of Carpio Nicolle et al.*, *supra* note 3, Considering clause 18, and Case of ECAP. Provisional Measures regarding Guatemala. Order of the Court of July 8, 2009, Considering clause 5.

⁷ Cf. *Matter of Luis Uzcátegui. Provisional Measures regarding Venezuela*. Order of the Court of February 20, 2003, thirteenth considering clause; *Case of Raxcacó Reyes et al. Provisional Measures*. Order of the Inter-American Court of Human Rights of February 2, 2007, Considering clause 12, and Case of ECAP, *supra* note 6, Considering 6.

⁸ Cf. *Case of Carpio Nicolle et al.*, *supra* note 3, Considering clause 21, and Case of ECAP, *supra* note 6, Considering clause 6.

⁹ Cf. *Matter of Pueblo Indígena Kankuamo*, *supra* note 2, Considering clause 7, Case of Mack Chang *et al.* Provisional Measures regarding Guatemala. Order of the Court of January 26, 2009, Considering clause 32, and Case of Carpio Nicolle *et al.*, *supra* note 3, Considering clause 15.

¹⁰ Cf. *Case of Carpio Nicolle et al.*, *supra* note 3, Considering clause 15, *Matter of Lilliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of July 9, 2009, Considering clause 33, and *Matter of A.J. et al.*, Provisional Measures regarding Haiti. Order of the Court of September 21, 2009, Considering clause 18.

8. That the Court, in its Order of January 26, 2009, requested the State to maintain the measures which have been adopted and to adopt all the measures necessary to protect the right to life and physical integrity of Helen Mack-Chang and her next of kin, Zoila Esperanza Chang-Lau (mother), Marco Antonio Mack-Chang (brother), Freddy Mack-Chang (brother), Vivian Mack-Chang (sister), Ronald Chang-Apuy (cousin), Lucrecia Hernández-Mack (daughter) and her children, of the members of the Myrna Mack-Chang Foundation, and of Luis Roberto Romero- Rivera, Jorge Guillermo Lemus-Alvarado and his next of kin, for an additional term of at least six months from the notice of said Order, upon the elapsing of which the Court shall decide the pertinence of keeping them in force. Furthermore, in operative paragraph three, the Court requested the parties to provide specific information regarding the risk situation of each of the beneficiaries protected by these measures.

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With regard to Helen Mack-Chang, her next of kin and other members of the Myrna Mack- Chang Foundation.

9. That in its reports the State pointed out that the *Ministerio de Gobernación* [Ministry of Internal Affairs and Security] through the *División de Protección de Personas y Seguridad* [Persons Protection and Security Division] performed risk assessments to the beneficiaries of provisional measures, with regard to the safety of Mrs. Helen Mack-Chang, her next of kin and members of the Myrna Mack-Chang Foundation. The assessment concluded that “it is suggested to continue with the protection measures with regard to Mrs. Helen Mack and [her] next of kin [as] the risk [still persists], due to the fact that the apprehension of Colonel Juan Valencia-Osorio has not yet been effected” and “due to the work [...] Helen Mack-Chang develops regarding the [m]ilitary reconversion, her seek for justice and fight against impunity”. The State further indicated that in accordance with the Order of January 26, 2009 and the agreement signed on March 12, 2009 between officials of the *COPREDEH (Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos)* [Presidential Coordinating Commission of the Executive Policy on Human Rights] and the representatives “shows their will to comply with the implementation of provisional measures in mutual agreement with the beneficiaries”. Finally, the State pointed out that it provides security to Mrs. Helen Mack, her next of kin and the Myrna Mack-Chang Foundation through six agents of the National Civil Police and that Helen Mack is provided personalized protection.

10. That regarding Ronald Chang-Apuy, the State, in the above mentioned agreement signed on March 12, 2009, also assessed the risk related to his safety and suggested to maintain the provisional measures he had been awarded. It further informed that as a consequence of the criminal proceedings instituted to investigate the facts he was a victim of on July 29, 2008, Aníbal Aquino-Hernández, one of the responsible parties for the counts of attempted murder and aggravated theft, was convicted. At present, another accused person is pending apprehension and the public prosecutors´ office is carrying out the proper proceedings so as to achieve his soon detention.

11. That at the private hearing, the State repeated what it had previously stated regarding the need to maintain the provisional measures in favor of Helen Mack and her next of kin, as well as in favor or the other members of the Myrna Mack

Foundation for an additional term of six months. It also made reference to the manner in which said measures were implemented.

12. That in its observations, the representatives pointed out that, with regard to the adoption of measures in favor of Helen Mack and her next of kin, among which Ronald Chang-Apuy is included, and also of the other members of the Myrna Mack Foundation, on March 12, 2009, there was a meeting between officials of the *COPREDEH (Comisión Presidencial Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos)* [Presidential Coordinating Commission of the Executive Policy on Human Rights] and the *Ministerio de Gobernación* [Ministry of Internal Affairs and Security], in Order to assess the existing risk with regard to the beneficiaries of the provisional measures. On the matter, they repeated what the State had indicated regarding the risk situation derived from the work developed by Mrs. Helen Mack. Consequently, they requested the Court to maintain the provisional measures in favor of Mrs. Helen Mack, her next of kin and the personnel of the Myrna Mack Foundation in the manner agreed upon with the State.

13. That the Inter-American Commission, through briefs of May 12 and September 9, 2009, pointed out that "the information given by the beneficiaries and the lack of advances in matters of [...] punishment to the responsible for these facts, motivate the permanence of these provisional measures."

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14. That the Court considers it convenient to repeat that provisional measures have an exceptional character, they are ordered in accordance with the need of protection and, once they are Ordered, they must be maintained provided the Court considers that the basic requirements of extreme gravity and urgency and the prevention of irreparable damage to the rights of the persons they protect still persist.¹¹

15. That with regard to Mrs. Helen Mack, her next of kin and the members of the Myrna Mack Foundation, the Court notices, from the information provided by the parties, that the provisional measures have been complied with in the manner agreed upon by means of the agreement signed on March 12, 2009 (*supra* Considering 9). Furthermore, the Court takes cognizance that the State, in coordination with the representatives, performed risk assessments upon the beneficiaries of the provisional measures, assessments which determined the risk level regarding the safety of the above mentioned persons and of the members of the Foundation.

16. That based on the information and the observations submitted by the parties regarding the present status of the situation of extreme gravity and urgency, the Court considers it pertinent to keep the provisional measures in force in favor of Helen Mack-Chang; of each one of the next of kin of Mrs. Mack-Chang, to wit: Zolia

¹¹ Cf. *Case of the Constitutional Court*. Provisional Measures regarding Peru. Order of the Court of March 14, 2001, Considering clause 3; Matter of *Carlos Nieto-Palma et al. Provisional Measures regarding Venezuela*. Order of the Court of January 26, 2009, Considering clause 20, and Matter of Pueblo Indígena Kankaumo, *supra* note 2, fourth considering clause.

Esperanza Chang-Lau, Marco Antonio Mack-Chang, Freddy Mack-Chang, Vivian Mack-Chang, Ronald Chang-Apuy, Lucrecia Hernández-Mack and her children, as well as the other members of the Foundation.

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With regard to Jorge Guillermo Lemus-Alvarado and his next of kin

17. That as to Jorge Guillermo Lemus-Alvarado, the State, in its brief of August 26, 2009, informed that on July 17, 2009, it held a meeting with he beneficiary through the *División de Protección de Personas y Seguridad* [Persons Protection and Security Division] in which he expressed that due to his work related activities,¹² he had been threatened and intimidated. Based on the risk assessment performed, the *División de Protección de Personas y Seguridad* [Persons Protection and Security Division] concluded that “there is danger latent risk [...] regarding Mr. José Guillermo Lemus-Alvarado and his next of kin by virtue of the activity he performs.” The State further informed that the beneficiary submitted before the *Ministerio Público* [Office of the Public Prosecutor] complaints dated October 25, 2008, January 21, February 24 and June 14, 2009, both personally and by e-mail, which relate to his activity at work but not to the facts which gave rise to the provisional measures within the Mack case.

18. Finally, the State concluded that it has implemented security mechanisms for Mr. Jorge Guillermo Lemus, which were adopted in attention to the preventive and protective character of fundamental rights, as they seek to avoid irreparable damage to persons. Likewise, the State requested the Court to withdraw the provisional measures in favor of Mr. Jorge Guillermo Lemus-Alvarado, pursuant to the risk assessment performed and in view of the non-existence of information regarding the extreme gravity and urgency to avoid irreparable damage to the life and physical integrity of the beneficiary. At the private hearing the State repeated that Mr. Jorge Guillermo Lemus is a beneficiary of the protection measures since May 19, 2003 and that his residence has been provided with perimeter protection. The State further repeated that the risk situation of the beneficiary relates to his activity at work but not to the facts which gave rise to the provisional measures in the instant case.

19. That regarding Mr. Jorge Guillermo Lemus-Alvarado, the representatives coincided in that it has not been possible to ascertain whether the facts denounced by Mr. Lemus-Alvarado have any relation with his participation as a witness in the case of *Mack-Chang*. At the private hearing, the representatives indicated that they had the same position they had in the brief of observations dated April 20, 2009 and they added that the threats derive from his personal activity and that he had admitted so.

20. That with regard to the situation of Mr. Jorge Guillermo Lemus-Alvarado and his next of kin, the Commission referred to what the State and the representatives had pointed out, but it made no reference to the maintenance or the withdrawal of the measures in his favor.

21. That in Order to determine whether the situation of extreme gravity and urgency to avoid irreparable damage exists or persists, the Court may appraise the

¹² From the appendixes to the brief dated August 26, 2009 submitted by the State it arises that the beneficiary at present works as editor of “Laberinto” comic book and “Y QUE” magazine.

aggregate of political, historical, cultural or any other type of factors or circumstances which may affect the beneficiary or place him in a situation of vulnerability at a certain time and expose him to violations against his rights. This situation may increase or decrease in time, depending on innumerable variables but, as pointed out before, only extreme and urgent situations shall deserve protection through provisional measures.

22. That the Court considers that provisional measures have an exceptional character, they are ordered in accordance with the protection needs and, once they are ordered, they must be maintained, provided the Court considers that the basic requirements of extreme gravity and urgency and the prevention of irreparable damage to the rights of the persons they protect still persist.

23. That regarding Mr. Jorge Guillermo Lemus-Alvarado and his next of kin, in what was pointed out in Considering Clauses 24 to 27 of the Order of January 26, 2009, the Court observes that the alleged threats the beneficiary has been a victim of were, among other, the denial to grant him a loan and the cancellation of a seeds Order he had requested. The Court notes that the relation between those actions and his participation in the case of Mack-Chang was not proven and from then on he presented two complaints to which neither the Commission nor the representatives made reference in their briefs. Furthermore, from the information forwarded by the State and the representatives in their briefs, as well as at the private hearing, this Court notices that the State pointed out that even though the activity the beneficiary develops implies a certain risk against him and his next of kin, such a situation does not have any relation with the facts which gave rise to the granting of provisional measures, which was not contested by the representatives.

24. That consequently, the Court considers it reasonable to presume that the situation of extreme gravity and urgency and imminent risk which motivated the adoption of provisional measures to protect the life and physical integrity of Mr. Jorge Guillermo Lemus-Alvarado and his next of kin in relation with the case of Mack-Chang no longer exists. Therefore, the Court deems that the situation regarding the beneficiary and his next of kin is no longer framed within the requirements pointed out in Article 63(2) of the Convention and considers it pertinent to withdraw the above mentioned measures, as from what has been stated by the representatives and by the State it can not be concluded that the alleged situation with regard to Mr. Lemus-Alvarado and his next of kin has any relation with the facts which gave rise to the adoption of the provisional measures in his favor.

With regard to Luis Roberto Romero-Rivera

25. That regarding Mr. Luis Roberto Romero-Rivera, the State informed that since September 4, 2002, he receives permanent personal protection through two police agents. However, it stated that it has not received any information on complaints of threats against him and that Mr. Romero-Rivera at present works as legal advisor for the Human Rights Ombudsman. The State further informed that it has implemented security mechanisms for Mr. Luis Roberto Romero-Rivera, which were adopted by virtue of the protection fundamental rights deserve, as they seek to avoid irreparable damage to persons. Furthermore, the State requested the Court to withdraw the provisional measures in favor of Mr. Luis Roberto Romero-Rivera, in accordance with the risk assessment performed and in view of the non-existence of

information of extreme gravity and urgency to avoid irreparable damage to life and physical integrity of the beneficiary. The above was repeated at the private hearing.

26. That with regard to Mr. Luis Roberto Romero-Rivera, the representatives expressed that he was an attorney in the case of Mack-Chang, but that due to his present capacity as official at the office of the Human Rights Ombudsman, he may use other institutional mechanisms of protection. During the private hearing the representatives repeated the above and added that if Mr. Luis Roberto Romero-Rivera wanted to be awarded provisional measures through the Inter-American Commission they would not contest such an initiative.

27. As to the situation of Mr. Luis Roberto Romero-Rivera, the Commission referred to what had been pointed out by the State and by the representatives, but it made no reference to the maintenance or the withdrawal of the measures Ordered in his favor.

28. On that respect, the Court observes that in Considering Clauses 22 and 23 of the Order of January 26, 2009, the representatives and the Commission were asked to provide accurate information in Order to evidence facts of extreme gravity and urgency which could represent an imminent risk directly related with the facts which gave rise to the granting of the measures in Order to evaluate the enforcement thereof. However, the Court notices that from the information forwarded by the State and the representatives in their briefs, as well as at the private hearing, the parties coincide that in the last seven years there have not been any situations, which may presume the existence of a risk for the beneficiary. Added to the above, at present the beneficiary works as legal advisor at the office of the Human Rights Ombudsman, reason for which, as pointed out by the parties, he would have access to other protection measures.

29. That from all the above, it can be concluded that from the enforcement of these provisional measures no episodes of threats have been evidenced against Mr. Luis Roberto Romero-Rivera. In view of that, the Court considers it reasonable to presume that the situation of extreme gravity, urgency and imminent risk which gave rise to the adoption of the provisional measures to protect the life and physical integrity of the beneficiary no longer exists, reason for which his situation is no longer framed within the requirements set forth in Article 63(2) of the Convention. Therefore, the Court considers it pertinent to withdraw the abovementioned provisional measures.

30. That from the Considering clauses abovementioned (*supra* Considering clauses 17 to 29) it is stated that from the currency of the present provisional measures, there has not been any incidents directly related to the beneficiaries of these measures in relation to Jorge Guillermo Lemus Alvarado and his next of kin, and Luis Roberto Romero Rivera. The Court deemed it reasonable to consider that the situation regarding said beneficiaries no longer frames within the settings pointed in Article 63(2) of the Convention.¹³

¹³ Cf. *Case of Velásquez Rodríguez*. Provisional Measures regarding Honduras. Order of the Court of January 15, 1988. Considering clause 3; Matter of the "*El Nacional*" and "*Así es la Noticia*" newspapers, *supra* note 4, Considering clause 39, and Matter of Leonor Rivero *et al.*, *supra* note 4, Considering clause 4.

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31. That regardless of the existence of the provisional measures Ordered by the Court in the instant case, the State has the constant and permanent duty to comply with the general obligations set forth in Article 1(1) of the Convention to respect the rights and freedoms recognized therein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.¹⁴

Therefore,

The Inter-American Court of Human Rights,

exercising its power conferred in Article 63(2) of the American Convention on Human Rights, and Article 26 and 30 of its Rules of Procedure,

Decides:

1. To rescind the provisional measures in favor of beneficiaries Jorge Guillermo Lemus-Alvarado and his next of kin, and in favor of Luis Roberto Romero-Rivera, in accordance with Considering Clauses 21 to 24, and 28 to 29, and 30, and 31 hereof.

2. To request the State to maintain the measures which have been adopted and to adopt all the measures necessary to protect the right to life and physical integrity of Helen Mack-Chang and her next of kin, Zoila Esperanza Chang-Lau (mother), Marco Antonio Mack-Chang (brother), Freddy Mack-Chang (brother), Vivian Mack-Chang (sister), Ronald Chang-Apuy (cousin), Lucrecia Hernández-Mack (daughter) and her children, and of the members of the Myrna Mack-Chang Foundation.

3. To request the State to effect the implementation of the provisional measures in mutual agreement with the beneficiaries thereof or their representatives for the effective protection of their rights.

4. To repeat the State to continue to provide information to the Inter-American Court of Human Rights every two months on the provisional measures adopted, and to request the beneficiaries of those measures or their representative to submit their observations within the term of four weeks from the notice of the reports of the State, and to request the Inter-American Commission on Human Rights to submit its observations to the above mentioned reports of the State within the term of six weeks from the reception thereof.

5. To request the Court Secretariat to serve notice of this Order upon the State, the Inter-American Commission on Human Rights and the representatives.

¹⁴ Cf. *Case of Velásquez-Rodríguez*. Provisional Measures regarding Honduras. Order of the Court of January 15, 1988, third considering clause; *Case of Newspapers "El Nacional" and "Así es la Noticia"*, *supra* note 1, thirty-ninth considering clause; and *Case of Leonel-Rivero et al.*, *supra* note 4, fourth considering clause.

Diego García-Sayán
President in exercise

Sergio García Ramírez

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary