

**Order of the
Inter-American Court of Human Rights
Of February 2, 2010**

**Provisional Measures regarding Colombia
Matter of Giraldo-Cardona *et al.***

Having Seen:

1. The Order of the President of the Inter-American Court of Human Rights (hereinafter, the "Court", the "Inter-American Court" or the "Tribunal") of October 28, 1996 and the Orders of the Court of February 5 and April 16, 1997; June 19 and November 27, 1998; September 30, 1999; December 3, 2001 and November 29, 2006. In the last Order, the Court decided, *inter alia*:

1. [T]o request the State to maintain the provisional measures and adopt such other measures as may be necessary to protect the life and physical integrity of Sister Noemy Palencia (as soon as she returns to Meta Department), of Islena Rey, and of Mariela de Giraldo and her two minor daughters, Sara and Natalia Giraldo[;]

2. [T]o reiterate the request made to the State to investigate the facts denounced which gave rise to the adoption of these measures in order to identify those responsible for such acts and, where appropriate, punish them, and to inform the Inter-American Court of Human Rights about said investigation[;]

3. [T]o reiterate the request made to the State to inform about the steps taken in order to reopen the Comité Cívico por los Derechos Humanos del Meta (Meta Department Human Rights Civic Committee) [and]

4. [T]o reiterate the request made to the State so that the beneficiaries of the provisional measures be allowed to take part in the planning and implementation thereof and, in general, to keep them informed about the progress regarding the compliance with the measures ordered by the Inter-American Court of Human Rights.

2. The Order of the President of the Court of December 18, 2009, by means of which it decided to convene the State of Colombia (hereinafter, the "State" or "Colombia"), the Colombian Jurists Commission – representative of the beneficiaries of the provisional measures (hereinafter, the "representatives") and the Inter-American Commission on Human Rights (hereinafter, the "Inter-American Commission") to a public hearing in order to obtain information from the parties about the implementation of the provisional measures ordered in this matter.

3. The arguments put forward by the parties at the public hearing on these provisional measures held on January 29, 2010 at the seat of the Tribunal.¹

¹ To this hearing, there appeared: a) on behalf of the Colombian State: Carlos Franco Echeverría, Director of the Presidential Program on Human Rights and International Humanitarian Law; Margarita Rey Anaya, Director of Human Rights and International Humanitarian Law of the Ministry of Foreign Affairs; Miguel Soto, Group Coordinator of the protection and information issues of the Department of Human Rights and IHL of the Ministry of Foreign Affairs; Ekaterina Ortiz Linares, Adviser of the Human Rights and

Considering:

1. That Colombia is a State Party to the American Convention on Human Rights (hereinafter, the "American Convention" or the "Convention") since July 31, 1973, and it accepted the binding jurisdiction of the Court, in keeping with Article 62 of the Convention, on June 21, 1985.
2. That Article 63(2) of the American Convention establishes that, "[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission."
3. That the Tribunal has established that the provisional measures are not only precautionary but also protective. The precautionary nature of the provisional measures is related to the framework of international contentious cases. In that sense, these measures are intended to preserve the rights that may be at risk until the controversy is settled. Their goal is to ensure the integrity and effectiveness of the decision on the merits and in this way, avoid the violation of other rights in dispute, situation that might be harmless or that could adversely affect the useless effect of the final decision. The provisional measures make it possible for the State in question, in this sense, to comply with the final decision and, if applicable, to go ahead with the reparations so ordered.² That as to the protective nature of the provisional measures, this Court has pointed out that provisional measures are transformed in a true judicial guarantee of precautionary nature, since they protect human rights inasmuch as they are intended to avoid irreparable damage to persons.³

IHL Department of the Ministry of Foreign Affairs; Edith Claudia Hernández, Human Rights Director of the Ministry of National Defense; Brigadier -General Jorge Rodríguez Clavijo, Head of Human Rights of the National Army; Lieutenant Colonel John Henry Arango Alzate, Human Rights Coordinator of the National Police; Colonel Efraín Oswaldo Aragón Sánchez, Human Rights Adviser to the General Inspection Office of the National Police; Oswaldo Ramos Arrendó, Head of the Legal Office of the Administrative Department of Security and Juliana Bustamante, Human Rights Adviser to the Administrative Department of Security; b) on behalf of the beneficiaries' representatives: Luz Marina Monzón Cifuentes; Viviana Rodríguez Peña, and Oscar Javier Carbonell Valderrama, representatives of the Colombian Jurists Commission, and c) on behalf of the Inter-American Commission on Human Rights: Lilly Ching and Silvia Serrano, legal advisers.

² Cf. *Matter of Rodeo I and Rodeo II Capital Judicial Confinement Center*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 8, 2008, considering clause seven. *Case of the Plan de Sanchez Massacre*. Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of July 8, 2009; Considering Clause three; *Case of Mack Chang et al.* Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of November 16, 2009, Considering Clause three.

³ Cf. *Case of "La Nación" Newspaper*. Provisional Measures regarding Costa Rica. Order of the Inter-American Court of Human Rights of September 7, 2001; considering clause four; *Matter of Monagas Judicial Confinement Center ("La Pica")*; *Yare I and Yare II Capital Region Penitentiary Center*; *Penitentiary Center of the Central Occidental Region (Uribana Prison) and El Rodeo I and El Rodeo II Capital Judicial Confinement Center*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of November 24, 2009, Considering Clause six. *Matter of Guerrero Larez*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights, of November 17, 2009; Considering clause four.

*

* *

4. In relation to this matter, in November 1995, the Inter-American Commission adopted precautionary measures in favor of the members of the *Comité Cívico por los Derechos Humanos* of Meta [Human Rights Civic Committee], taking into account that since the year 1992 the members of said Committee “have been subjected to threats, harassment and persecution, and that since that year there have been six executions, three disappearances and two persons have been forced to be internally displaced and seek asylum in the exterior.”⁴ In October 1996, Josué Giraldo Cardona, President of the Human Rights Civic Committee of Meta, was murdered. For that reason, the Commission requested provisional measures, which are currently maintained in the form previously explained (*supra* Having Seen clause 1). According to information presented by the Commission, “in a communication of August 22, 2007”, “the status of case 11.690 Giraldo Cardona is in the admissibility and merits stage”, a situation that continues up to the present. The representatives indicated that the processing of the petition began in 1996 and that it was requested to join this case in “the processing of case N° 11.227 of Unión Patriótica.”

5. That based on the foregoing, within the framework of provisional measures, the Court cannot consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons. In order to decide whether to maintain the provisional measures in force, the Tribunal should analyze whether the situation of extreme gravity and urgency that led to their adoption persists,⁵ or whether new circumstances, also extremely grave and urgent, warrant keeping them in force. All other issues may be brought to the Court’s attention solely through the procedure for contentious cases.⁶

1. On the persistence of the situation of extreme gravity and urgency to avoid irreparable damage

1.1. On the situation of the beneficiary Islena Rey

6. The State informed that on October 17, 2009, Mrs. Rey was injured in an incident that occurred while she was returning from an activity organized by the Human Rights Civic Committee of Meta. The State “condemn[ed] this fact as it did it at that time.” It further alleged that “the information the security and criminal

⁴ Matter of Giraldo Cardona *et al.* Provisional Measures regarding the Republic of Colombia. Order of the President of the Inter-American Court of Human Rights of October 28, 1996, Having Seen clause 7.

⁵ *Cf.* Matter of James *et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Inter-American Court of Human Rights of August 20, 1998; considering clause six; Matter of Urso Branco Prison. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of November 25, 2009; considering clause four; Matter of *Monagas Judicial Confinement Center (“La Pica”); Yare I and Yare II Capital Region Penitentiary Center; Penitentiary Center of the Central Occidental Region (Uribana Prison) and El Rodeo I and El rodeo II Capital Judicial Confinement Center*, *supra* note 3, considering clause five.

⁶ See Matter of James *et al.*, *supra* note 5, considering clause 6; Matter of Urso Blanco Prison, *supra* note 5, considering clause four and Matters of *Monagas Judicial Confinement Center (“La Pica”); Yare I and Yare II Capital Region Penitentiary Center (Yare Prison); Penitentiary Center of the Central Occidental Region (Uribana Prison) and El Rodeo I and El Rodeo II Capital Judicial Confinement Center*, *supra* note 5, considering clause five.

investigative bodies have, up to now" allow establishing that said incident would seem "to be attributed" to "the FARC guerrillas" and that "it was apparently an attack" against another person that was accompanying Mrs. Rey. The State asserted that it provided security and "the guarantees so that [Mrs. Rey] receive adequate medical treatment." It indicated that "the medical treatment, fortunately, helped overcome this incident" and it also allowed "the full recovery of Mrs. Rey so that she could keep doing her job."

7. Moreover, the State denied the statements made by the representatives (*infra* para. 8) regarding the alleged irregularities attributed to the Law Enforcement Personnel of the area, a piece of information that the State allegedly disregarded. In that respect, it pointed out that "the community" has expressed "its satisfaction with the fact that the State has presence in the area, as well as the benefits derived from such presence." Finally, the State indicated that Mrs. Rey moved without consideration of the protection plan, and this is why it is contradictory the argument according to which "due to the humanitarian work [...] there were no armed guards" and at the same time, "there were flaws in the protection plan." On the contrary, according to the State, "there are clear signs of the good communication that exist" between Mrs. Rey "and the authorities in charge of her protection", which is why "there was no coordination flaw."

8. The representatives pointed out that what occurred in October 2009 was something "extremely serious" and that if Mrs. Rey "had not have [...] a fast transport, she would have lost her life." Furthermore, they indicated that the incidents had "intimidate[d] the community" in relation to the conduct of the Law Enforcement Personnel" and had aroused "fear [...] in the members of the Meta Committee to continue doing their work." In that respect, they informed that, at least, two of the members of the Board of Directors "have expressed that they would take some distance from the Committee for their own safety." Moreover, they pointed out that "there is no judicial conclusion indicating who the perpetrators of these facts are and which the reasons for the attack were." They emphasized that the purpose of the activity carried out was "to listen to the complaints of the community regarding the conduct of the law enforcement personnel in the area", which is why "she could not have been accompanied by armed guards." They indicated that this humanitarian mission had been informed to the authorities and therefore, it would have been possible to carry out "preventive actions." In addition, they alleged that the guards knew about said mission and were waiting in a certain place. They expressed "concern" about the alleged "statements made by members of the law enforcement personnel" regarding "the defenseless state in which the dwellers of the area were", given that nobody would come to "defend their rights" and that, supposedly, a colonel had stated that "the human rights would not return to this little town" and that he had accused the inhabitants of being "collaborators of the FARC *guerrilla*."

9. The Commission pointed out that "the results of the investigation" carried out in relation to the attack against Mrs. Rey are still unknown, which reveals, "at least", "flaws in the security plan." It further asserted that said attack had had negative consequences for the work of Mrs. Rey and for the members of the Committee, given that "at least, two members" had decided to take distance on some occasion, which denotes "intimidating effects."

10. The Court notes that, in prior reports, the State acknowledged that there was presence of the 'Bloque Meta Aguilas Negras' [Meta Bloc of Black Eagles]" in the

Department of Meta. Said group was the one that, allegedly, in the month of September 2007, sent an electronic mail announcing raids against several human rights defenders, including Mrs. Rey. Taking into account this type of threats against Mrs. Rey, which the State considered they were extraordinary risky for her in July 2008, and the attack to which she was subject in October 2009, the Tribunal considers that there is still a situation of extreme gravity and urgency of causing irreparable damage to the life and physical integrity that justifies the continuance of the provisional measures adopted in her favor.

1.2. *On the situation of the beneficiaries Mariela Duarte, widow of Giraldo and her daughters, Sara and Natalia*

11. The representatives informed that thieves broke into Mrs. Mariela Duarte's residence and stole information in 1997, 2005 and 2007 and that, up to the present, no investigation has been carried out in order to know the causes of the theft and its perpetrators. They indicated that, "this information has been brought before the Court's attention in a report forwarded on April 8, 2009."

12. The State alleged that, between 2006 and 2010, it had not received "information in relation to the theft of information" committed against Mrs. Duarte. It further asserted that the beneficiaries, Sara and Natalia Giraldo, "live outside Villavicencio and they are just simply waiting for the implementation of a necessary measure."

13. The Commission did not rule on the risk situation of the beneficiaries Mariela Duarte and her daughters.

14. The Court verifies that in a report presented by the representatives, it was indicated that, on January 8, 2007, Mariela Duarte informed that, on several occasions, unknown people had broke into her house and that "most of the times, they had not stolen items of value, but they [allegedly] had left a trace of having looked for documentation." Nevertheless, during 2008, evaluations were carried out, which indicated that Mrs. Duarte de Giraldo and her daughters were at a "common" level of risk and threat. Therefore, based on this situation and taking into account that the facts that gave rise to these provisional measures took place more than thirteen years ago, the Court deems necessary to request the parties to forward information on the persistence of the situation of "extreme gravity and urgency" that led to the adoption of the measures in favor of Mrs. Mariela Duarte de Giraldo and her daughters. Upon receipt of such information, the Tribunal shall assess the relevance of maintaining these measures.

1.3. *On the situation of the beneficiary Noemy Palencia*

15. The State requested the rescission of the provisional measures in relation to Sister Noemy Palencia, taking into account that "it has been years since the State stopped receiving information on her place of residence"; in addition, there is no request of the beneficiaries to the effect of implementing any measure in her favor and there is no information on "her interest to return to Meta."

16. The representatives pointed out that said beneficiary "had to leave the country and had been abroad since then and had not returned", which is why "they

would not object to the request to suspend the enforcement of these provisional measures in relation to her."

17. The Commission made no statement in relation to such a request.

18. Taking into account the statements made by the parties during the public hearing, the Court concludes that the situation of extreme gravity and urgency that caused the adoption of the provisional measures to protect the life and physical integrity of Sister Noemí Palencia does not persist. In consequence, the Tribunal considers convenient to rescind the measures ordered in her favor.

2. On the protective measures in favor of the beneficiaries and their participation in planning and implementing such measures

2.1. On the protective measures in favor of beneficiary Islena Rey

19. In its prior reports, the State pointed out that the risk evaluation carried out in relation to Mrs. Rey produced the result of "extraordinary risk." At the hearing, the State indicated that the beneficiary has permanent police security at her residence, which is provided using 8 hours' shifts. Furthermore, she was granted a protection scheme that consists of an armored vehicle and three bodyguards, means of communication and a permanent order from the Police Commander to provide police patrols and reviews, around her home and her office. The State indicated that the beneficiaries have expressed that said protection "is satisfactorily provided." Moreover, it indicated that Mrs. Rey participates in "dialogue meetings organized by the police with all the Human Rights NGOs and trade unions of the area", which are "conducted every 45 days."

20. Moreover, the State emphasized that according to a decree issued in 2006 "it is not a mission of the [Department of Administrative Security (DAS)] to provide security services", which is why said body could provide such services only up to December 31, 2008. However, the State informed that a decree was issued in December 2009, by which "the DAS' responsibility to manage the protection schemes was extended to March 31, 2010." Furthermore, the State has ordered the dissolution of the DAS.

21. The State expressed that the Police cannot take on, suddenly, "the protection services that are being provided by means of the protection [program of the DAS] which involves "2.000 bodyguards" and "which administers 600 hard security schemes", which includes the protection of public officials and political leaders. It mentioned that "these protection schemes are implemented not by state agents, but by contractors hired by the beneficiaries who are, in turn, contractors controlled", currently, by the DAS, which has also caused problems related to "the employment benefits of these contractors." It pointed out, in this respect, that "the formation of a police officer takes more than one year", therefore, the following difficulties arise:

- a) Availability of police agents;
- b) Colombia is facing "electoral processes which entail a greater demand of the National Police" to provide "the candidates of the different organizations" with all the guarantees.

- c) The Police "have other demands in relation to citizens protection" and
- d) The National Police cannot include on its payroll people who do not meet the requirements or the selection process of said institution, which is why it is not possible to satisfy the demand of the beneficiaries in the sense of appointing bodyguards, of their trust, to provide the service.

22. Based on the foregoing, the State alleges it had informed the beneficiaries of two protection proposals: one, "with agents selected by the Police (without bodyguards of trust) [or, the other one, by means of personnel] hired by a private security company where bodyguards of trust are able to participate." In case of accepting "that a private company [with experience in use of weapons, duly regulated and controlled by the Superintendency of Surveillance and Private Security] provides the services, the State indicated, as follows: a) that "it [would] keep being responsible according to its obligation" in "all the activities carried out during said delegated operation which, also, is jointly administered in coordination with security bodies"; b) that it would implement "mechanisms to supervise the operation of these schemes with the participation of the beneficiaries", and c) that the Attorney General's Office [would] participate in such supervisory mechanism "to provide the beneficiaries with full guarantees." The State expressed that "if the beneficiaries request for bodyguards of their trust", the respective resumes "could be considered in a private company", which is not possible for the police body.

23. The State specified that this scheme "must be complemented" with "the Police and the Army whenever necessary" to "coordinate [the] services." It also alleged that, in the last year, "it has subcontracted the implementation of 210 schemes with private companies", in those cases where the beneficiaries have voluntarily requested so. It argued that "it is totally inaccurate" to indicate that the demobilized paramilitary groups are somehow related to these private security companies, taking into account that the proposal would refer to "bodyguards of trust suggested by the beneficiaries" and that in Colombia, the law "does not allow the demobilized people to carry weapons."

24. The representatives pointed out that, "there are certain doubts" about this proposal and that the beneficiary Islena Rey "has not been consulted about these options." They further alleged that the proposal made could mean that "the State responsibility has diminished due to the delegation" and that there are complaints according to which the demobilized people have been offered the possibility of joining these private security companies. For this reason, they requested information on this aspect "which affects the protection offered" and the guarantee for the people who are at risk.

25. Taking into account that the representatives have been informed, at the hearing, on the proposals and arguments presented by the State as to the new security scheme, the Court requests them to present observations in the term established in the corresponding operative paragraph of this Order and, in case of not accepting said proposals, present another choice.

2.2. On the protective measures in favor of the beneficiary Mariela Duarte de Giraldo

26. The State informed that police patrols have been properly performed around her residence. It further alleged that, before the request to extend the patrols

around her office, "the Police Commander of Meta has expressed that there is no inconvenience to do that." The representatives ratified that "the beneficiaries have accepted, as protective measure, the police patrols mentioned by the State."

27. The Commission expressed its great pleasure for the agreement between the parties regarding the patrols in favor of the beneficiary Mariela Duarte. However, it alleged that "there is lack of information" about the proposal for protection made by the State and that it is necessary to clarify what may correspond, taking into account "the accusations of an intelligence strategy by the DAS, which would be the body that is providing the protection so far."

28. The Court takes note of the agreement between the parties regarding the adjustments made in the protective measures in favor of the beneficiary Mariela Duarte de Giraldo and it is looking for further information on their implementation.

*
* *
*

29. The Tribunal considers that the implementation of periodic meetings with the representatives of the beneficiaries tends to guarantee their participation in planning and implementing the protective measures ordered in their favor. Therefore, the Court urges the State to adopt the take the pertinent steps to maintain the beneficiaries or their representatives informed on the progress of the measures ordered by the Tribunal and facilitate their collaboration in the planning and implementation thereof.

3. On the investigation of the facts that gave rise to the provisional measures

30. The State acknowledged that "there are no" new facts to report that would "allow making progress in the clarification" of the facts that gave rise to the provisional measures. The State expressed its willingness to "undertake a commitment" before the Court to the effect of "requesting the Justice and Peace Unit [Unidad de Justicia y Paz] so that the Justice and Peace group in charge of investigating the facts in which the members of the self-defense groups [Autodefensas] that operated in the Meta area were involved, be specifically asked as to their possible participation in those events." The State pointed out that it is necessary to bear in mind the corresponding stages before the Justice and Peace Unit, which "has a mandate from the Constitutional Court so as not to conduct investigations on a priority basis." Furthermore, the State stressed that the beneficiaries "have a good relationship with the DAS", which is why the investigations in that respect are not applicable. Finally, in relation to the investigation into a suspicious electronic mail received by Mrs. Rey, the State pointed out that it has already informed that it was about an electronic phenomenon called "fishing"; therefore, "the Police took no action in relation to the interception of these communications."

31. The representatives alleged that based on the reference made to the Justice and Peace Unit, "they do not know to what facts the State is referring", that is, "whether the State refers to the murder of Josué Giraldo or whether it is making a reference to the attacks to which the members of the Meta Committee have been subject." Moreover, they pointed out that "the Justice and Peace process" requires "6

years in order to be implemented" which is "a little late that, up to the present, the State has not been able to determine who had participated, if these groups participated in fact, in the attacks against the members of the Meta Committee."

32. The Commission pointed out that it is unknown "which is the situation" of the investigations conducted in the instant case. It indicated that "there are files", "there are proceedings in which no step has been taken" and requested "information proving some progress." It further alleged that "there are, at least, three more elements which have not been informed": "the improper use of the electronic mail of the Police in a message sent to Mrs. Rey", "the intelligence strategy, referred to in this case, in relation to the DAS activities" and the "incident against Islena Rey."

33. Regarding the obligation to investigate the facts reported that gave rise to these measures, Article 1(1) of the Convention embodies the general duty of States Parties to respect the rights and liberties recognized in said treaty and to ensure to all persons subject to its jurisdiction the free and full exercise of those rights and freedoms. In consequence, regardless of the existence of specific provisional measures, the State is specially obliged to guarantee the rights of the people in situation of risk and must expedite the investigation necessary to shed light on the facts and, if applicable, punish the responsible.⁷ For such investigation, the State in question must make its best efforts to determine all the facts surrounded the threat and how they were expressed; to determine whether there exist a pattern of threats against the beneficiary or the group or entity to which he belong; to determine the purpose or end of the threat and to determine who are responsible for the threat and, if applicable, punish them.

34. The Court takes note of the commitment made by the State at the public hearing and request the forwarding of information in that respect, in the next report on the implementation of these provisional measures. Moreover, the Tribunal recalls⁸ that an alleged lack of investigation from the State does not constitute, *per se*, circumstances of extreme gravity and urgency that calls for the continuance of provisional measures. In addition, the duty to investigate, sometimes, may extend in time, during which the threat or risk may not necessarily be extreme or urgent. Finally, this Court has stated that the analysis of effectiveness of the investigations and proceedings in relation to the facts that lead to the provisional measures, correspond to the examination of the merits of the case.⁹ In sum, the non-compliance with the duty to investigate is not *per se* a sufficient reason to maintain the provisional measures.

⁷ Cf. *Case of Velásquez Rodríguez*. Provisional Measures Regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, considering clause three and Matter of "*El Nacional*" and "*Así es la Noticia*" Newspapers. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of November 25, 2008, Considering Clause thirty-nine.

⁸ Cf. *Case of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights, of July 6, 2009; Considering clause twenty-four.

⁹ Cf. *Matter of Pilar Noriega García et al.* Provisional Measures regarding Mexico. Order of the Inter-American Court of Human Rights of February 6, 2008, considering clause fourteen; and *Case of the Members of the Community Studies and Psychological Action (ECAP), Case of Plan of Sánchez Massacre*. Provisional Measures regarding Guatemala. Order of the President of the Inter-American Court of Human Rights of July 8, 2009; considering clause sixteen and *Case of Carpio Nicolle et al.*, supra note 8, considering clause twenty-four.

4. On the efforts made to reopen the Human Rights Civic Committee of Meta

35. The State pointed out that, since September 2008, the Human Rights Civic Committee of Meta has an office in the city of Villavicencio, "all its members [carry out] the activities in there" and it maintains dialogue and provides cooperation with the Law Enforcement Agency in order to [carry out] these activities." It expressed being "willing" to organize an act "to complement the entire process of guarantees the Committee had had to implement its activities." The State proposed, at the hearing, to organize "an act of political support" in the "presence of the central Government authorities" by February 26, 2010 in the city of Villavicencio, with the "participation of the Delegates of the Municipalities who are mentioned in the proposals of the petitioners and beneficiaries and in the presence of all the local authorities that they also proposed."

36. The representatives pointed out that the act they propose "is a public and political act, which reaffirms the serious commitment made by the highest-ranking authorities of the Colombian State to respect and legitimate the work done by the Committee in Meta, to avoid the repetition of similar acts, "to prevent people saying that the members of the Committee are members of the *guerrilla* or that they collaborate with them" and "therefore, to avoid jeopardizing their work."

37. The Commission mentioned that the obligation to reopen the Meta Committee requires minimum guarantees from the State proposal, "precisely, due to the attack" to Mrs. Rey, "for the intimidating effects" such fact had and to "avoid the stigmatization to which they were subject", which caused the closure of the Committee for a while.

*
* *

38. The representatives indicated that Mrs. Rey was convened by the Army members to inform her "that the law enforcement personnel would have, apparently, intelligence information according to which the lawyer that works for the [Human Rights Civic] Committee in Meta is linked to the *guerrilla*." The representatives considered that this "reaffirms the facts" that gave rise to the adoption of these provisional measures five years ago, when "the President of the Committee was murdered by people who did intelligence jobs for the law enforcement agency" within a context "in which the members of the Committee" were "related to the *guerrilla*." They considered that "this is very serious, since it is common in Colombia for the people who work in areas where there are presence, in fact, of guerrilla groups to be associated with those groups" though what they really do is to represent and speak on behalf of the communities that are affected by the presence of guerrilla groups." Finally, they indicated that "they are afraid that this information will increase, even more, the risk of the members of the Committee and that they will not be allowed to do their work."

39. Regarding the meeting of Mrs. Rey with the Army members, the State considered that it was not admissible to interpret the foregoing as "evidence that the State is suggesting that human rights defenders are *guerrilleros*, or that they are involved in the rebellion." The State indicated that it would be "a transparent act" "to trust her", inasmuch as "she is being warned of a piece of information according to a State's agency and that it could be wrong, but that it will have to be verified."

*
* *

40. The Court takes note of the offering made by the State regarding the public act to be carried out on February 26, 2010 and urges the parties to consolidate the agreement in that respect. The Tribunal emphasizes the commitment made by the State in order to “guarantee the best conditions for [the] work” of the Civic Committee “on good faith.” Moreover, the Court recalls that States have the specific duty to protect all people working in non-governmental organizations and give effective and adequate guarantees to human rights defenders so that they may perform their tasks freely, and to deplore acts that prevent or hamper their work since such work constitutes a positive contribution and supplements the efforts made by the State in its capacity of guarantor of the rights of individual under its jurisdiction.¹⁰

Therefore:

The Inter-American Court of Human Rights,

By virtue of the authority granted by Article 63(2) of the American Convention on Human Rights and Articles 27 and 31 of the Court’s Rules of Procedure,¹¹

Decides:

1. To require the State to maintain and adopt the measures that are necessary to continue protecting the life and physical integrity of Mrs. Islena Rey and Mariela de Giraldo and her two minor daughters, Sara and Natalia Giraldo, and to inform this Tribunal in that respect.
2. To require the State to inform on the commitment made according to the terms of Considering clauses 30 and 34 of this Order.

¹⁰ Cf. *Case of Monagas Judicial Confinement Center (“La Pica”)*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 9, 2006, considering clause fourteen. *Case of Plan de Sanchez Massacre*. Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of November 25, 2006, Considering Clause twelve. *Case of Gloria Giraldo de García Prieto et al.* Provisional Measures regarding El Salvador Order of the Inter-American Court of Human Rights of September 26, 2006, Considering Clause eight. Furthermore, see Organization of American States, “Human Rights Defenders in the Americas”: *Support for the individuals, groups, and organizations of civil society working to promote and protect human rights in the Americas*, AG/Res. 1671 (XXIX-O/99) of June 7, 1999; AG/Res. 1711 (XXX-O/00) of June 5, 2000, and AG/Res. 2412 (XXXVIII-O/08) of June 3, 2008.

¹¹ Rules of Procedure of the Court approved during its LXXXV Regular Period of Sessions, held from November 16 to 28, 2009.

3. To repeat to the State that it must allow participation of the beneficiaries or their representatives in the planning and implementation of the protection measures and that, in general, it must keep them informed of the progress made in relation to the measures ordered by the Inter-American Court of Human Rights.
4. To rescind the measures adopted in favor of Sister Noemy Palencia, according to the terms of Considering clause 18 of this Order.
5. To require the parties to forward information on the public act to be carried out on February 26, 2010, in relation to the reopening of the Human Rights Civic Committee of Meta.
6. To require the State to forward its next report on implementation of the measures ordered, no later than April 5, 2010.
7. To order the State to continue informing the Inter-American Court of Human Rights, every two months, as of the presentation of the report required in the preceding operative paragraph, and to order the Inter-American Commission on Human Rights and the beneficiaries of these measures, or their representatives, to submit their observations to the State's report required in the preceding operative paragraph, as well as to the State's bi-monthly reports, within the period of six and four weeks, respectively, as of receipt of the State's report. The observations of the parties are independent from one another.
8. To require the Secretariat of the Court to notify this Order to the State, the Inter-American Commission on Human Rights and the beneficiaries of these measures and their representatives.

Diego García-Sayán
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary