

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

NOVEMBER 25, 2010

**PROVISIONAL MEASURES
REGARDING VENEZUELA**

CASE OF ELOISA BARRIOS *ET AL.*

Having Seen:

1. The Orders issued by the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court," or "the Tribunal") on November 23, 2004, June 29 and September 22, 2005, and February 4, 2010. In the latter, the Court ruled:

1. That the death of beneficiary Oscar Barrios shows the State's failure to comply with the effective implementation of the provisional measures ordered by this Court.

2. To maintain the provisional measures ordered by the Inter-American Court of Human Rights through its orders dated November 23, 2004, and June 29 and September 29, 2005.

3. To reiterate that the State must maintain the measures it may have adopted and immediately order any other measures that may be necessary to effectively protect the lives and personal integrity of the beneficiaries of the [...] provisional measures.

4. To reiterate that the State must provide the necessary permanent guard measures to provide security to the homes of Maritza Barrios, Juan Barrios, and Orismar Carolina Alzul García, without prejudice to the fact the parties can reach an agreement on more complete provisional measures in the framework of a dialogue between the beneficiaries and the State.

5. To require the State to ensure and effectively implement the conditions necessary for the members of the Barrios family who have been forced to move to other regions of the country to return to their homes.

6. To require the State to report to the Inter-American Court of Human Rights on the measures it has adopted toward complying with this order by March 18, 2010, at the latest. At that time it shall provide details on the incidents that took place with regard to Mr. Oscar Barrios, as well as on the measures that it is taking in order to prevent similar actions against the life or personal integrity of the beneficiaries of the provisional measures.

7. To require the representatives of the beneficiaries of the measures to submit any comments they deem pertinent to the Inter-American Court of Human Rights within two weeks of the date on which they are notified of the State's report.

8. To require the Inter-American Commission on Human Rights to submit any comments it deems pertinent to the Inter-American Court of Human Rights within four weeks of the date on which it is notified of the State's report.

9. To reiterate that the State must continue reporting to the Inter-American Court of Human Rights every two months on the provisional measures taken, and to require the beneficiaries of these measures or their representatives to present their comments within four weeks counting from the date on which they are notified of the State's reports, as well as to

require the Inter-American Commission on Human Rights to present its comments on those State reports within six weeks, counting from their receipt.

[...]

2. The briefs of the Republic of Venezuela (hereinafter "the State" or "Venezuela") received on May 11 and June 21, 2010, through which it submitted information on the implementation of the measures.

3. The brief of the application of the Inter-American Commission on Human Rights (hereinafter the "Inter-American Commission" or "the Commission") submitted on July 26, 2010, which which it brought the case of *The Barrios Family et al. v. Venezuela* (No. 12.488) before the Tribunal.

4. The brief of the representatives of the beneficiaries (hereinafter "the representatives") dated September 3, 2010, through which they submitted their comments on the implementation of the provisional measures.

5. The communication of the Inter-American Commission dated September 24, 2010, submitting its comments on the implementation of the provisional measures.

6. The communication of the Secretariat of the Court (hereinafter "the Secretariat") dated September 28, 2010, which, following the instructions of the President of the Court (hereinafter "the President"), reiterated that the State is required to submit information related to the fourth, fifth, and six operative paragraphs of the Order of the Tribunal dated February 4, 2010.

7. The communication of the Inter-American Commission dated October 6, 2010, reporting that on September 1, 2010, "Wilmer José Flores Barrios, a beneficiary of the provisional measures in question, was murdered [...] by two individuals who intercepted him and shot him at least twice." The communication of the Commission dated October 18, 2010, submitting additional information on the facts of the death of Wilmer José Flores Barrios (hereinafter "Wilmer José Flores Barrios" or "Wilmer José").

8. The representative's brief dated October 8, 2010, reporting on "the recent murder of Wilmer José Flores Barrios that took place on September 1, 2010. [He] was only 19 years old and was a beneficiary of the provisional measures granted by the Court starting in 2005."

9. The communication of the Secretariat dated October 7 and 11, 2010, which, following the instructions of the President, asked the State to submit a report by October 15, 2010, on the allegations of new facts to the detriment of Wilmer José Flores Barrios and on the steps taken in response in light of the information presented by the Commission and the representatives. The communication of the Secretariat dated October 20, 2010, in which it repeated its request to the State for the submission of the aforementioned report and requested that the report make reference to the new information submitted by the Commission on October 18, 2010.

10. The brief from the State received on October 22, 2010, in which it made reference to various investigations and indicated that the 14th Office of the Public Prosecutor of the Office of the Attorney General of the Aragua State Judicial Circuit launched an investigation into the incidents that took place to the detriment of Wilmer José Flores Barrios.

11. The communication of the Secretariat dated October 25, 2010, granting the representatives a deadline of October 29, 2010, and the Commission a deadline of November 3, 2010, to submit their comments on the State report. The communication of the Commission dated November 3, 2010, asking for its deadline for the submission of the aforementioned comments to be extended until November 5, 2010. Communication of the Secretariat dated November 5, 2010, granting the deadline extension and repeating its request to the representatives for the submission of their comments.

12. The brief of the Commission dated November 5, 2010, in which it stated that "the State reported on some of the investigations into the various incidents that took place of the detriment of the Barrios family, including the recent death of Wilmer José Flores Barrios[. With regard to this incident,] the State reported that the investigation has been launched and certain steps have been ordered to be taken." Likewise, it indicated that the State has not given any response to the situation of vulnerability that continues to be faced by the beneficiaries of the provisional measures and that has contributed to the deaths of three of them. It expressed its deep concern over the limited information provided by the State.

13. The Communication of the Secretariat dated November 19, 2010, repeating its request to the representatives for the submission of their comments. As of the date of this Order, those comments have not yet been received.

CONSIDERING THAT:

1. Venezuela has been a State Party to the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") since August 9, 1977, and recognized the contentious jurisdiction of the Court on June 24, 1981.

2. The Tribunal has indicated that provisional measures are not solely precautionary, in the sense that they preserve the legal situation. Rather they are fundamentally tutelary, in that they protect human rights by seeking to prevent irreparable damage to persons.¹In that sense, the purpose of these measures is to preserve the rights potentially at risk for as long as the dispute remains unresolved. Their goal is to ensure the integrity and effectiveness of the decision on the merits and to thereby avoid infringement of the rights under consideration, which could render innocuous or have an effect on the *effet utile* of the final decision. Provisional measures, therefore, allow for the State in question to comply with the final decision, and, if applicable, to implement the reparations ordered²

¹ Cf. *Case of the Newspaper "La Nación."* Provisional Measures regarding Costa Rica. Order of the Court of September 7, 2001, Considering 4; *Matter of Natera Balboa*. Request for Provisional Measures presented by the Inter-American Commission on Human Rights with regard to Venezuela. Order of the Court of February 1, 2010, Considering Clause 7, and *Case of de la Cruz Flores v. Peru*. Monitoring Compliance with Judgment and Request for Adoption of Provisional Measures. Order of the Court of September 1, 2010, Considering 74.

² Cf. *Matter of Capital El Rodeo I & El Rodeo II Judicial Confinement Center*. Request for Provisional Measures presented by the Inter-American Commission on Human Rights with regard to Venezuela. Order of the Court of February 8, 2008, Considering 7; *Matter of Four Ngöbe Indigenous Communities and their Members*. Reparations requested by the Commission regarding Panama. Order of the Court of November 28, 2010, Considering 3, and *Case of the Caracazo (COFAVIC Matter)*. Request for Provisional Measures regarding Venezuela. Order of the Court of May 28, 2010, Considering 4.

3. Likewise, the provisions established in Article 63(2) of the Convention make the provisional measures ordered by this Tribunal obligatory for States, as the basic legal principles of international State responsibility, based on international case law, have indicated that States must comply with their obligations under the Convention in good faith (*pacta sunt servanda*). The failure to comply with an order to adopt provisional measures handed down by the Tribunal during the proceeding before the Commission and before the Court can result in international responsibility for the State.³

4. Based on its jurisdiction, in the context of provisional measures the Court can only consider those arguments that are directly related to extreme gravity, urgency and the need to avoid irreparable damages to persons. Thus in order to decide whether the provisional measures should remain in force, the Tribunal must analyze whether the situation of extreme gravity and urgency that led to their adoption still persists, or if, rather, new circumstances that are equally grave and urgent merit that the measures be maintained. This should not constitute a prejudgment of the case or of the merits of the problem. Any other matter can only be brought before the Court as an adversarial case.⁴

5. In keeping with the orders of the Inter-American Court dated November 23, 2004, June 29⁵ and September 22, 2005, and February 4, 2010, (*supra* Having Seen 1) the State must, *inter alia*, adopt provisional measures with the purpose of: a) protecting the lives and personal integrity of the beneficiaries;⁶ b) provide the permanent security measures necessary to secure the homes of Maritza Barrios, Juan Barrios and Orismar Carolina Alzul García, and c) ensure and effectively implement the conditions necessary for the members of the Barrios family who have been forced to move to other regions of the country to return to their homes.

6. On July 26, 2010, the Inter-American Commission brought the case of *The Barrios Family et al. v. Venezuela* (No. 12.488) before the Tribunal. According to the application, the case is related to the alleged persecution of the members of the Barrios family by the Aragua Police. The persecution has caused the death of five of the family's members,⁷ illegal and arbitrary detentions and searches, threats against lives and personal integrity, and displacements from places of residence. Many of the members of the family who have suffered from these acts are children. All the alleged violations remain in

³ Cf. *Case of the Mendoza Penitentiaries*. Provisional Measures regarding Argentina. Order of the Court of March 30, 2006, Considering 10; *Case of the 19 Tradesmen*. Monitoring Compliance with Judgment and Provisional Measures regarding Colombia. Order of the Court of June 8, 2009, Considering 90, and *Case of the 19 Tradesmen v. Colombia*. Provisional Measures regarding Colombia. Order of the Court of August 26, 2010, Considering 3.

⁴ Cf. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Inter-American Court of August 29, 1998, Considering six; *Matter of Adrián Meléndez Quijano et al.* Provisional Measures regarding El Salvador. Order of the Court of February 2, 2010, Considering 3, and *Case of García Prieto v. El Salvador*. Provisional Measures regarding El Salvador. Order of the Court of February 3, 2010, Considering 3.

⁵ In the orders of the Court dated November 23, 2004, and June 29, 2005, the State was ordered to investigate the facts motivating the decisions to adopt and maintain these provisional measures.

⁶ Eloisa Barrios, Inés Barrios, Beatriz Barrios, Orismar Carolina Alzul García, Pablo Solórzano, Caudy Barrios, Oscar Barrios, Jorge Barrios, Juan Barrios, Maritza Barrios, Roni Barrios, Roniex Barrios, Luis Alberto Barrios, Yelitza Lugo Pelaes, Arianna Nazaret Barrios, Oriana Zabaret Barrios, Víctor Cabrera Barrios, Beatriz Cabrera Barrios, Luimari Guzmán Barrios, Luiseydi Guzmán Barrios, Wilmer José Barrios, Génesis Andreina Barrios, Víctor Tomas Barrios, Geilin Alexandra Barrios, Elvira Barrios, Darelvis Barrios, Elvis Sarais Barrios, Cirilo Robert Barrios and Lorena Barrios.

⁷ As of the filing of the application, the death of Wilmer José Florez Barrios had not taken place.

impunity as of the present time. According to the application, one of the alleged victims of the case was Wilmer José Florez Barrios.

A) On the alleged "extrajudicial execution" of Wilmer José Flores Barrios and the steps that the State has taken in regard to it

7. The Commission reported that "Wilmer José Florez Barrios, beneficiary of the provisional measures in question, [was murdered on September 1, 2010] by two individuals who intercepted him and shot him at least twice." It also reiterated "what has been indicated on multiple occasions with regard to the lack of compliance with provisional measures on the part of the State" and that "although the information on the circumstances of the death of Wilmer José Flores Barrios is incipient[...] the State has not taken any protective action." He added that Wilmer José is the sixth member of the Barrios family to be murdered in the third murdered with the provisional measures in force. Finally, it asked the Court to order the State to provide a report and, given the gravity of situation, consider the possibility of calling a public hearing on the measures. Later, on October 18, 2010, the Commission submitted additional information and recalled that "in its report on the merits 11/10 it found that young Flores Barrios was the victim of a series of violations of his human rights" and found "that his murder in the context of the lack of protection faced by the family constitutes a supervening fact that should be evaluated by the Court upon issuing a judgment in the case."

8. The representatives also reported that on September 1, 2010, Wilmer José Flores Barrios, son of Martiza Barrios and brother of Rigoberto and Caudy Barrios, "lost his life violently upon being attacked [allegedly] at 3:30 in the afternoon by two individuals who have not been identified." He was only 19 years old and had been a beneficiary of the provisional measures since 2005. The alleged execution of another member of the Barrios family raises to six the number of dead family members allegedly executed by police officers. The State has not investigated nor has it diligently processed those responsible for the facts committed against the various members of the family. The situation is even worse taking into account that one of the deaths, that of Luis Alberto Barrios in September of 2004, took place while he was protected by precautionary measures granted by the Commission, while three of the deaths - those of Rigoberto Barrios in January 2005, Oscar Barrios in November of 2009, as well as this one - took place while the victims were covered by provisional measures granted by the Court. According to the representatives, this demonstrates the State's grave failure to comply and lack of effectiveness in the adoption of the measures ordered by the bodies of the inter-American human rights protection system.

9. According to statements from the family members, the representatives indicated that Wilmer José Flores Barrios was traveling toward the national highway when he was intercepted near the Guayabito River, located at the entrance to the village of Guanayen, by two men dressed as civilians and with their faces covered. They emerge from the underbrush where they had been hiding. Upon intercepting him, they forced him to dismount the motorcycle he was riding, they ordered him to get on his knees, and they immediately fired two shots, one in his back and the other in his neck. Upon hearing the shots, Caudy Barrios went running towards the place and saw the attackers fleeing into the underbrush. Later, Wilmer José was transported to the Camatagua hospital where he was admitted with no vital signs. At the time the facts took place, a police unit from Guarico state was passing by, but the police officers refused to transport Wilmer José and did not pursue the attackers. However, they escorted the vehicle transporting the victim from the place of the incidents to the hospital and remained there until his death was confirmed. Based on the facts, the representatives asked the Court to: a) maintain

the provisional measures to the benefit of the beneficiaries; b) reiterate to the State its obligation to comply with the provisional measures and take all urgent and effective measures in this regard; c) request immediate information from the State on the death of Wilmer José Flores Barrios, and d) to investigate fully, impartially, and effectively the alleged extrajudicial execution of the beneficiary and punish those responsible.

10. Additionally, the State made reference in its report to various investigations connected with other members of the Barrios family and indicated that with regard to "the event that took place on August 31 [(sic)], 2010, in which the victim was the individual who in the life answered to the name of Wilmer José Flores Barrios, the 14th Office of the Public Prosecutor of the Office of the Attorney General of the Aragua State Judicial Circuit [...] launched the corresponding investigation on learning [...] that on the day in question, in the town of Guanayen, in Guayabito sector [...] individuals still not yet identified fired upon the victim, who died upon being transferred to the Hospital del Sur, located in Camatagua." It added that the case is still in the investigative phase.

B) On the general situation of the beneficiaries and the implementation of the measures ordered by the Court

11. Its report dated May 11, 2010, the State made general reference to the investigation into the death of Narciso Barrios, in which the Office of the Attorney General is waiting to be notified of the beginning of the oral trial, which has been delayed due to various circumstances. With regard to the facts that took place on November 25, 2008, to the detriment of Jorge and Elvira Barrios, among others, over the alleged illegitimate deprivation of liberty, injuries, and improper use of a firearm by supposed officials of the Aragua State Police, the tribunal with jurisdiction granted the dismissal requested by the Public Prosecutor of the Office of the Attorney General on finding that there was not enough incriminating evidence for singling out the perpetrators of the offenses. Likewise, it made reference to the investigation launched into the death of Oscar José Barrios. With regard to the alleged illegitimate deprivation of liberty to the detriment of Víctor Daniel Cabrera Barrios by the Scientific, Criminal, and Forensic Investigation Corps of the Aragua Police, the State mention that an investigation has been launched into those facts.

12. Additionally, the State referred to certain steps taken by the Office of the Attorney General with regard to compliance with the provisional measures granted to the benefit of the Barrios family, mentioning, on one hand, the meeting held on January 12, 2010, in the headquarters of the Victims Aid Unit of the Judicial Circuit of Aragua State, which included the participation of, among others, the senior public prosecutor, Ms. Alisa Barrios, and her representative Luis Aguilera "toward complying with the extension of the protective measure [...] in the name of citizen Victor Daniel Barrios and his family." On the other hand, the State mentioned in its June 21, 2010, report that officials of the psychosocial area of the Victims Aid Unit visited the residence of Pablo Solórzano Barrios in order to interview him, but he was not home and his nephew Wilmer José Flores Barrios cooperated little with the officials upon being interviewed. It added that by virtue of the provisions of the Law for the Protection of Victims, Witnesses, and Other Procedural Subjects, the officials visited the members of the Barrios family "placing in the report a series of considerations regarding the facts concerning them." According to the State, it is using this to carry out the corresponding follow-up to the protective measures benefiting Eloísa Barrios and her family.

13. According to the representatives, the State did not report on the effectiveness of the measures that it is putting in place to comply with the court order, and has once again submitted police documents and reports from the psychosocial area evidencing a lack of coordination with the beneficiaries toward complying with the measures. They added that the State has taken no action with regard to the impunity that prevails in the human rights violations committed against members of the Barrios family. In particular, they indicated that the authorities in charge of the investigation into the execution of Oscar Barrios had not arrived at results that would allow for the identification, capture, trial, and conviction of those allegedly responsible, for which reason this crime could remain in impunity as has happened in the majority of the cases that have taken place to the detriment of the members of his family.

14. Likewise, the representatives made reference to the case of Víctor Daniel Cabrera Barrios, who was deprived of liberty over the supposed seizure of 10 bundles of drugs without any examination having been made to determine the type and purity of the drugs. On June 22, 2010, the presiding judge ordered Mr. Cabrera Barrios released during the preliminary hearing in the case, by virtue of the fact that the accusation brought by the prosecutor lacked incriminating evidence that would allow for full charges to be admitted. However, Víctor Daniel Cabrera Barrios remained under detention in the Tocarón Judicial Jail until August 6, 2009. According to the representatives, the authorities' actions follow the same pattern that led to the deaths of the other members of the Barrios family. They therefore requested that the protective measures to their benefit be maintain and that the State be ordered to exclude the personal information of that beneficiary from all police logs and the Directorate of Criminal Records. They added that officials of the Victims Aid Unit of the Aragua State Judicial Circuit went to the village of Guanayen in order to investigate the behavior of the members of the Barrios family. According to them, this method of implementing the measures is not effective. The State continues to argue in its reports that it has supposedly "carried out interviews with neighbors in that area who asked not to be identified for fear of reprisals and who consider it a fact that the members of the Barrios family got into trouble because they participated in thefts."

15. Finally, in consideration of the fact that the adversarial case of the Barrios family is before the Court and that provisional measures serve a precautionary role in the inter-American proceeding, representatives asked that the Court maintain them until the conclusion of the trial before the Tribunal in order to avoid further damage to the members of the family.

16. In comments dated September 24, 2010, the Commission expressed that the State reported on some of the investigations into the various facts that took place to the detriment of the Barrios family, and more recently on the formation of the group made up of employees of the psychosocial area of the Victims Aid Unit of the Aragua State Judicial Circuit who went to the homes of Pablo Solórzano Barrios and Orismar Carolina Azul García. However, it noted the lack of information from the State on these provisional measures. The State limited itself to making incomplete reference to the situation of Víctor Daniel Cabrera Barrios. In addition, it recalled that more than a year ago, the State abstained from submitting detailed information on the protective measures to the benefit of all the beneficiaries. The Commission found that the lack of information makes it evident that the State has not complied with these provisional measures. Finally, the Commission made several comments on information provided by the State with regard to the measures to the benefit of Víctor Daniel Cabrera Barrios, as well as with regard to the visits made to the homes of Pablo Solórzano Barrios and Orismar Carolina Azul García.

C) Considerations regarding the death of the beneficiaries of the provisional measures and the acts of harassment and intimidation and other situations that put at risk the life and personal integrity of the beneficiaries

17. This Tribunal finds that the deaths of Rigoberto Barrios, which took place on January 19, 2005; Oscar Barrios, which took place on November 28, 2009; and the recent death of Wilmer José Flores Barrios, which took place on September 1, 2010; have caused the irreparable damage that the provisional measures sought to prevent, for which reason they represent a grave failure on the part of the State to comply with the provisions of Article 63(2) of the American Convention. That situation demonstrates the ineffectiveness of the measures put in place by the State to eliminate the source of risk and adequately protect the beneficiaries of these provisional measures.

18. Additionally, according to information provided by the parties, the members of the Barrios family continue to be subjected to harassment, intimidation, and other situations that put their lives and personal integrity at risk. Consequently, this Court finds that a situation of extreme gravity and urgency prevails that puts the lives and personal integrity of the beneficiaries of these measures in grave risk.

19. Given the gravity of the situation facing the members of the Barrios family, it is necessary to reiterate the requirement that the State immediately and effectively take all necessary and special measures to ensure the full exercise of the rights to life and humane treatment of the beneficiaries of these measures, such that the measures be effective at preventing the threats and harassment and causing them to cease, as well as so the beneficiaries can live their lives in the way in which they are accustomed and without fear.

20. Considering the foregoing, the Court deems it crucial for the State and the representatives to submit to the Tribunal, within the time period established in the operative paragraphs of this order, specific and detailed information on the situation of the beneficiaries of these provisional measures, to wit: Eloisa Barrios, Inés Barrios, Beatriz Barrios, Orismar Carolina Alzul García, Pablo Solórzano, Caudy Barrios, Jorge Barrios, Juan Barrios, Maritza Barrios, Roni Barrios, Roniex Barrios, Luis Alberto Barrios, Yelitza Lugo Pelaes, Arianna Nazaret Barrios, Oriana Zabaret Barrios, Víctor Cabrera Barrios, Beatriz Cabrera Barrios, Luimari Guzmán Barrios, Luiseydi Guzmán Barrios, Génesis Andreina Barrios, Víctor Tomas Barrios, Geilin Alexandra Barrios, Elvira Barrios, Darelvis Barrios, Elvis Sarais Barrios, Cirilo Robert Barrios and Lorena Barrios. That information shall contain an evaluation of the situations of risk. It also must define specific, adequate and sufficient protective measures. Toward doing so, the beneficiaries and their representatives shall offer their complete cooperation to the State and facilitate the carrying out of the evaluation.

D) Submission of information

21. The Court notes that not only has the State not complied with the provisional measures ordered by this Tribunal, but neither has it duly reported on their implementation. In this regard, the State did not respond in a timely fashion to the request for information indicated in operative paragraphs four, five, and six of the order of the Court dated February 4, 2010, a request that was reiterated by this Tribunal on June 28 and September 28, 2010, with regard to: a) the measures on guarding the homes of Maritza Barrios, Juan Barrios, and Orismar Carolina Alzul García; b) the conditions that would allow the family members who have been forced to move to other

regions of the country to return to their homes, and c) the status of all the beneficiaries of the measures. In addition, the State has not reported on the measures taken to allow the representatives to participate in the implementation of the provisional measures.

22. Regarding this, the States Party to the Convention that have recognized the binding jurisdiction of the Court have the duty to comply with their obligations as established by the Tribunal. This includes the duty of the State to inform the Court on the measures adopted to comply with the order of the Tribunal in said decisions.⁸ The duty to report constitutes an obligation that, for effective compliance with it, requires the formal submission of a document within a certain period of time and containing specific, true, current, and detailed references to the subjects with which the obligation is concerned.⁹ The timely observance of the State obligation to inform the Tribunal on how it is complying with each of its orders is critical for evaluating overall compliance with the Judgment.¹⁰ Likewise, the Tribunal highlights that the Secretariat of the Court has addressed the representatives on two occasions (*supra* Having Seen 11 and 13) to asked them to submit their comments on the State's brief submitted on October 22, 2010. As of the date of the issuance of this order, those comments had not been submitted by the deadline set for doing so, for which reason the Court finds that they have not complied with the duty to report in a timely fashion to the Tribunal.¹¹

E) Regarding the investigations launched with regard to the alleged extrajudicial executions

23. With regard to the pleadings related to the judicial investigations carried out by the State into the alleged extrajudicial executions committed against the beneficiaries of these measures, as with any other action to investigate acts of harassment, threats, or the situations that put the lives or personal integrity of the beneficiaries at risk, particularly with regard to the alleged absence of results and the type of investigations the State is carrying out, the Court finds it pertinent to clarify that before, during the processing of these provisional measures, the Court had been maintaining the standard of requesting the State to investigate the facts that gave rise to the provisional measures and to report to the Tribunal on the investigation. However, taking into account the characteristics of these provisional measures and that the adversarial case was brought before the Tribunal, the Court finds that the issue of the investigations implies an analysis of the merits that is beyond the scope of the provisional measures.

⁸ *Case of Barrios Altos v. Peru*. Monitoring Compliance with Judgment. Order of the Court of November 17, 2004, Considering 7; *Matter of Eloisa Barrios et al.* Provisional Measures regarding Venezuela. Order of the Court of February 4, 2010, Considering 21, and *Case of Ximenes Lopes v. Brazil*. Monitoring Compliance with Judgment. Order of the Court of May 17, 2010, Considering 7.

⁹ *Cf. Asunto Liliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of December 2, 2003, Considering 12; *Matter of Eloisa Barrios et al.*, *supra* footnote 9, Considering 21, and *Case of the Amparo v. Venezuela*. Monitoring Compliance with Judgment. Order of the Court of February 4, 2010, Considering 21.

¹⁰ *Case of "Five Pensioners" v. Peru*. Monitoring Compliance with Judgment. Order of the Court of November 17, 2004, Considering 5; *Matter of Eloisa Barrios et al.*, *supra* footnote 9, Considering 21, and *Case of Ximenes Lopes v. Brasil*, *supra* footnote 9, Considering 7.

¹¹ *Cf. and Case of 19 Tradesmen v. Colombia*. Monitoring Compliance and Provisional Measures. Order of the Court of November 26, 2008, Considering 30; *Case of 19 Tradesmen v. Colombia*. *supra* footnote 3, Considering 6, and *Case of Goiburú et al. v. Paraguay*. Monitoring Compliance with Judgment. Order of the Court of August 7, 2009, Considering 26.

24. In this regard, the Court reiterates that Article 1(1) of the American Convention sets forth the general obligations of States Parties to respect the rights and liberties enshrined in the Convention and to guarantee the free and full exercise of these rights for all individuals subject to their jurisdiction. Consequently, and independent of the existence of specific provisional measures, the State is particularly obliged to guarantee the rights of individuals in a situation of risk and must move forward with the investigations necessary to clear up the facts, followed by the consequences established in the pertinent legislation.¹²

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by way of the authority conferred by Article 63(2) of the American Convention on Human Rights and articles 27 and 31 of the Rules of Procedure of the Court,

DECLARES THAT:

1. The deaths of Rigoberto Barrios, which took place on January 19, 2005; Oscar Barrios, which took place on November 28, 2009; and the recent death of Wilmer José Flores Barrios, which took place on September 1, 2010; make manifest the ineffectiveness of the provisional measures and therefore represent a grave failure on the part of the State to comply with the provisions of Article 63(2) of the American Convention on Human Rights.

AND DECIDES TO:

2. Maintain the provisional measures ordered by the Inter-American Court of Human Rights through its orders dated November 23, 2004, and June 29 and September 22, 2005, and February 4, 2010.

3. Require the State to immediately and effectively adopt all necessary and special measures to protect and guarantee the lives and personal integrity of the beneficiaries of these measures.

4. Require the State, among other measures necessary, to provide security to the homes of Maritza Barrios, Juan Barrios, and Orismar Carolina Alzul García with permanent security guards, without prejudice to the fact the parties can reach an agreement on more complete provisional measures in the framework of a dialogue between the beneficiaries and the State. Likewise, require the State to ensure and effectively implement the conditions necessary for the members of the Barrios family who have been forced to move to other regions of the country to return to their homes.

¹² Cf. *Case of Velásquez Rodríguez*. Provisional Measures regarding Venezuela. Order of the Court of August 15, 1988, Considering 3; *Matter of Giraldo Cardona et al.* Provisional Measures regarding Colombia. Order of the Court of February 2, 2010, Considering 33, and *Matter of Ramírez Hinojosa et al.* Provisional Measures regarding Peru. Order of the Court of February 3, 2010, Considering 27.

5. Require the State to report to the Inter-American Court of Human Rights on the necessary and special measures it has adopted to prevent attacks on the lives and personal integrity of the other beneficiaries of these provisional measures and to do so by December 10, 2010, at the latest. Additionally, that information shall contain an evaluation of the situations of risk faced by each of the beneficiaries. It also must define specific, adequate, and sufficient protective measures for each of them, in keeping with Considering 20.

6. Reiterate that the State must continue reporting to the Inter-American Court of Human Rights every two months on the provisional measures taken, and to require the beneficiaries of these measures or their representatives to present their comments within four weeks counting from the date on which they are notified of the State's reports, as well as require the Inter-American Commission on Human Rights to present its comments on those State reports within six weeks, counting from their receipt.

7. Request that the Secretariat of the Court notify the State, the Inter-American Commission on Human Rights and the representatives of the beneficiaries of this Order.

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