

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
NOVEMBER 25, 2010**

**PROVISIONAL MEASURES  
REGARDING THE REPUBLIC OF COLOMBIA**

**MATTER OF MERY NARANJO *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 July 5, 2006, September 22, 2006, and January 31, 2008, in which the Court ordered provisional measures in this matter. In the latter, the Court ordered, *inter alia*:

1. To reiterate to the State the stipulation to immediately adopt the measures necessary and to maintain those already adopted, in order to protect effectively the life and personal integrity of the following persons: Mery Naranjo Jiménez and her next of kin: Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, Sebastián Naranjo Jiménez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo, and the minor Luisa María Escudero Jiménez.

2. To reiterate to the State that it should adopt the measures necessary to protect effectively the life and personal integrity of the child of Mrs. María del Socorro Mosquera Londoño, pursuant to Considering Paragraph number 14 of the present Order.

3. To reiterate to the State that it should ensure that the measures of protection are not provided by the "security units" which, according to the beneficiaries, were involved in the reported facts, in a manner such that the designation of the same must be made with the participation of the beneficiaries or their representative.

4. To reiterate to the State that it should maintain the necessary measures of permanent protection to ensure the safety of the place of residence of Mery Naranjo Jiménez and her family.

5. To require that the State of Colombia inform the Inter-American Court of Human Rights, no later than April 25, 2008, of the measures adopted in compliance of this Order. In said report, the State must refer to the alleged murder of Javier Augusto Torres Durán and the alleged arrest of Juan David Naranjo, pursuant to Considering Paragraph number 26 of the present Order.

[...]

7. To reiterate to the State that it should allow the beneficiaries of these measures to take part in their planning and implementation and, in general, keep them informed about progress in implementation of the measures ordered by the Inter-American Court of Human Rights.

[...]

2. The briefs of July 30, October 16, March 6, August 12, and December 15, 2009, and February 19, May 3, July 5, August 27, and October 8, 2010, whereby the Republic of Colombia (hereinafter "the State" or "Colombia") reported on its implementation of the provisional measures in this matter.

3. The communication dated July 29, August 21, and December 5, 2008; April 27 and October 20, 2009; and May 6, July 7, August 25 and 31, and October 7, 2010, whereby the representatives of the beneficiaries (hereinafter "the representatives") submitted their comments on the State's reports along with additional information regarding the implementation of these provisional measures, as well as allegations of new facts of threats against the beneficiaries.

4. The communication dated October 2 and December 31, 2008; June 16 and October 27, 2009; January 20, May 7, June 28, August 27, and September 1, 2010, through which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted its comments on the information presented by the State and on the corresponding comments of the representatives with regard to the implementation of these provisional measures and the allegations of new facts of threats against the beneficiaries.

5. The communication dated October 7, 2010, whereby the representatives reported to the Tribunal on the alleged murder of beneficiary Sebastián Naranjo Jiménez.

6. The note of the Secretariat of the Court (hereinafter "the Secretariat") dated October 8, 2010, which, following the instructions of the President of the Court (hereinafter "the President"), asked the State to submit information on the alleged murder of beneficiary Sebastián Naranjo Jiménez.

7. The brief dated October 25, 2010, in which the State submitted the information requested by the President on the alleged murder of beneficiary Sebastián Naranjo Jiménez (*supra* Having Seen 6).

8. The note of the Secretariat dated October 27, 2010, asking the representatives of the Inter-American Commission to submit any comments they deem pertinent on the information submitted by the State on the alleged murder of Sebastián Naranjo Jiménez; as well as the notes from the Secretariat dated November 11 and 19, 2010, reiterating that request to the representatives and the Commission given that the deadline for submitting comments expired without any comments having been received by the Tribunal.

9. The communications dated November 24, 2010, through which the representatives and the Inter-American Commission separately submitted their comments on the information submitted by the State with regard to the alleged murder of Sebastián Naranjo Jiménez.

#### **CONSIDERING THAT:**

1. Colombia has been a State Party to the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") since July 31, 1973, and accepted the jurisdiction of the Inter-American Court on June 21, 1985, in keeping with Article 62 of the Convention.

2. Article 63(2) of the Convention requires that in order for the Court to issue provisional measures, three conditions must be met: i) "extreme gravity;" ii) "urgency," and iii) "avoiding irreparable damage to persons." These three conditions coexist and must be present in every situation in which the Tribunal's intervention is requested. In the same way, the three conditions described must persist in order for the Court to maintain the protection it has ordered. If one of those conditions has ceased to be

relevant, it will be up to the Tribunal to weigh the pertinence of continuing with the protective measures ordered.<sup>1</sup>

3. On this subject, Article 27 of the Rules of Procedure of the Court<sup>2</sup> (hereinafter "the Rules of Procedure") establishes in its pertinent part that:

1. At any stage of proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, on its own motion, order such provisional measures as it deems appropriate, pursuant to Article 63(2) of the Convention.

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

[...]

7. The monitoring of urgent or provisional measures ordered shall be carried out through the submission of reports by the State and the filing of observations to those reports by the beneficiaries of the measures or their representatives. The Commission shall submit observations to the State's reports and to the observations of the beneficiaries of the measures or their representatives.

[...]

4. The provision established in Article 63(2) of the Convention make the provisional measures ordered by this Tribunal obligatory for the State, as the basic principles of international law, based on international case law, have indicated that States must comply with their obligations under the Convention in good faith (*pacta sunt servanda*).<sup>3</sup>

5. In International Human Rights Law, 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. The measures are applicable as long as they meet the basic requirements of extreme gravity and urgency and prevention of irreparable damage to persons. In this way, provisional measures become a true jurisdictional guarantee of a preventative nature.<sup>4</sup>

6. 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 persists, or if, rather, new circumstances that are equally grave and urgent merit that the measures be

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<sup>1</sup> Cf. *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering 14; *Matter of Eloisa Barrios et al.* Provisional Measures regarding Venezuela. Order of the Court of February 4, 2010, Considering 2, and *Case of the 19 Tradesmen*. Provisional Measures regarding Colombia. Order of the Court of August 26, 2010, Considering 2

<sup>2</sup> Rules of Procedure approved by the Court in the LXXXV Regular Session held from November 16-28, 2009.

<sup>3</sup> Cf. *Case of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of July 14, 1998, Considering 6, and *Matter of Gladys Lanza Ochoa*. Provisional Measures regarding Venezuela. Order of the Court of September 2, 2010, Considering 3, and *Matter of Centro Penitenciario de Aragua "Cárcel de Tocarón."* Provisional Measures regarding Venezuela. Order of the Court of November 1, 2010, Considering 4.

<sup>4</sup> Cf. *Case of the Newspaper "La Nación."* Provisional Measures regarding Costa Rica. Order of the Court of September 7, 2001, Considering 4; *Matter of Gladys Lanza Ochoa*, *supra* footnote 3, Considering 6, and *Matter of Centro Penitenciario de Aragua "Cárcel de Tocarón," supra* footnote 3, Considering 6.

maintained. Any other matter can only be brought before the Court as an adversarial case.<sup>5</sup>

7. Pursuant to the Orders of the Court dated July 5, 2006, September 22, 2006, and January 31, 2008, the State must, *inter alia*, adopt provisional measures with the purpose of protecting the lives and personal integrity of: (i) Mery Naranjo Jiménez and her next of kin, to wit, Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, Sebastián Naranjo Jiménez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo, and Luisa María Escudero Jiménez, as well as (ii) María del Socorro Mosquera Londoño.

### **1. On the situation of Ms. Mery Naranjo and her relatives**

#### *1.1 On the protective measures implemented to the benefit of the aforementioned beneficiaries*

8. The State indicated that the protection and security measures agreed upon to the benefit of Ms. Mery Naranjo and her relatives "continue to be implemented in an effective, timely, and continuous fashion." In particular, in October of 2010, the State reported that those measures consist of the following: i) the residence where the beneficiary and her immediate family live is guarded by a police detail 24 hours a day; ii) the beneficiary is connected to the National Police's "Plan Godfather," through which a trusted agent is available in the city of Medellín to whom she or her relatives can turn to should problems arise with the implementation of the measures or if new facts involving threats or risk arise; iii) the beneficiaries have the opportunity to ask the National Police in a timely fashion to provide police escorts when desired or needed;<sup>6</sup> and iv) two "Avantel" radios have been assigned, one for Ms. Mery Naranjo and the other for the chief of the "El Corazón" Police Station, which has jurisdiction in the area where the beneficiaries live. Likewise, the State made reference in several of its reports to different terrestrial transportation assistance granted to the beneficiaries, with the last of these reported to the Court by Colombia as having been "approved through August 23, 2010." Likewise, the State emphasized in its reports that "the security and protective measures that have been implemented and granted to the benefit of Ms. Mery Naranjo are collective in nature and therefore cover her immediate family" on their having been agreed upon in this form with the beneficiaries and the representatives in the follow-up meetings held and agreements reached (*infra* Considering 20).

9. In addition to the aforementioned protective measures, the State indicated in its report dated October 8, 2010, that on September 2, 2010, funds for two temporary relocations were approved to be "turned over [...] in a single outlay" to the benefit of beneficiary Mery Naranjo given her urgent need to leave the area of risk. Colombia explained that, in the context of the follow-up and coordination meeting held with the beneficiaries, on June 25, 2010, Ms. Mery Naranjo expressed her concern over the disturbances that had taken place in Medellín's Comuna 13, where she lives (*infra* Considering 65(f), 65(g) and 6610(c)). As a result this, they offered her support for a temporary relocation the Protection Program of the Interior and Justice Ministry, for which consent had to be granted. According to the State, Ms. Mery Naranjo expressed her wish for and acceptance of the corresponding relocations, which resulted in the approval of the corresponding funding for the temporary relocation in September of this

<sup>5</sup> Cf. *Case of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of August 29, 1998, Considering 6; *Case of the Caracazo*. Provisional Measures regarding Venezuela. Order of the Court of May 28, 2010, Considering 7, and *Case of the 19 Tradesmen*, *supra* footnote 1, Considering 5.

<sup>6</sup> In its report dated July 5, 2010 (*supra* Having Seen 2), the State reported that "the Medellín Metropolitan Police have carried out the corresponding police escorts to the benefit of Ms. Mery Naranjo when they have been requested and in a timely fashion."

year. The State added that on September 29, 2010, the beneficiary had been contacted. She confirmed the receipt of the corresponding money and reported that "she would soon be moving to a city close to Medellín with her relatives: Alba Mery Naranjo Jiménez, Heidy Tatiana Naranjo Gómez, Esteban Torres Naranjo, Alejandro Naranjo Jiménez and Erika Johana Gómez". The remaining beneficiaries "are still for the moment in Medellín's Comuna 13," because of which the State indicated that it will continue to implement "the measures for security and protection such as the permanent post, the communication measures, and the escorts."

10. As far as the protective measures implemented by the State, the representatives confirmed that the National Police check point continued to be permanent at the home of Ms. Mery Naranjo. However, they observed that the operation of that post continues to be irregular despite the complaints submitted over the poor performance of the police officers, who act in an arbitrary fashion, ignore their guard duty, and commit disciplinary infractions, putting at risk the lives of the beneficiaries. Because of this, "changes in personnel and in the instructions given to police officers in charge of guarding [them] are needed urgently." Likewise, they indicated that Ms. Mery Naranjo is being tasked with the maintenance of the permanent post, including carrying out urgent on-sight repairs and supervising the performance of the police officers, things that "are sole and exclusive obligations of the State and [...] should in no way be placed on the beneficiaries [...], given that this distorts the purpose of the [measures]." In May of 2010, they indicated with regard to the Avantel radios for communication with the National Police and the permanent post at the residence of the beneficiary that the State had not put them in operation. For this reason, the police officer designated as the "link" for guarding Ms. Mery Naranjo and the officer at the permanent post at her residence have not been provided with that means of communication.<sup>7</sup> In general, they expressed that "the material measures for protection at the hands of the National Police have been insufficient and have from the moment of their implementation suffered serious problems that have put the lives and integrity of Ms. Mery Naranjo and her family in danger.

11. Regarding the police contact or agent provided to the aforementioned beneficiary under "Plan Godfather," the representatives have expressed repeatedly since October of 2009 that "the person in charge of guarding Ms. Mery Naranjo does not have a fluid and permanent relationship with [her]." Additionally, they indicated that the transportation support that was being provided to the beneficiaries as a protective measure was unilaterally suspended starting in the month of June of this year by virtue of Decree 1740 of 2010, placing the life and integrity of Ms. Mery Naranjo at grave risk given that movement and travel from her home via public transportation is difficult and she is forced to travel through the neighborhood, causing grave danger. This, according to the representatives, violates Colombia's commitments and obligations to guarantee her protection and that of her relatives while they are traveling. They indicated that on the occasions when they have needed the escort offered by the State for their trips (*supra* Considering 8), "the contact official does not respond or the station commander is not there or there are no officers available," for which reason they do not understand why the State needs that information (*infra* Considering 12). Consequently, they insisted that "as of this date there is no permanent measure guaranteeing their mobility and therefore their security." Finally, in communication dated November 24, 2010 (*supra* Having Seen 9), they indicated that with regard to the measure providing aid for temporary relocation indicated by Colombia, it had proved insufficient because the State had not applied the law to its full extent and had limited itself to handing over "economic aid worth two legal

<sup>7</sup> The representatives indicated in communication sent in October of 2009 (*supra* Having Seen 3) that, given technical difficulties with the Avantel indication equipment, on July 29, 2009, the State had replaced them for beneficiaries Mery Naranjo Jiménez and María del Socorro Mosquera (*infra* footnote 8). However, they indicated that under the commitments made by the State in the follow-up and coordination meetings on these measures (*infra* considering 20), Colombia must hand over two additional Avantel radios, one for the connection with the national police and the other two remaining in the permanent post located at the residence of Ms. Mery Naranjo Jiménez in order to guarantee communication between the beneficiaries and police officials.

minimum monthly salaries," which was not enough for Mery Naranjo and her family to be able to relocate and leave Comuna 13 for an amount of time considerable enough to allow them to diminish the risk they face. They reported that once beneficiary Mery Naranjo received the aforementioned financial aid, "she moved to a nearby municipality [...]. However, given the unstable conditions she faced and the lack of financial resources allowing for dignified living conditions, she had to return to her house."

12. With regard to some of the comments of the representatives, the State indicated in its report of July 2010 (*supra* Having Seen 2) that during the follow-up and coordination meeting held with the beneficiaries on June 25, 2010, in response to Ms. Mery Naranjo's expression of dissatisfaction with her connection to the police, the State had proposed exchanging the connection for "a police officer in the position of deputy chief, an individual with whom the beneficiary had stated she was in constant communication and whom she trusted." Likewise, at that same time the State recognized that there had been "some difficulties" in providing two Avantel communication devices due to problems with the mail company. For this reason, a representative of the Ministry of the Interior and Justice had given "the two Avantel radios to Ms. Mery Naranjo on June 25, 2010."<sup>8</sup> It added that the beneficiary has repeatedly ignored the recommendations and security measures provided by the National Police upon not informing them of her movements and not accepting the police escorts that have been offered to her.

13. The Commission took note of the information submitted by the State with regard to the continuous nature of the implementation of the protective measures and expressed its appreciation for "the steps taken by the State" toward complying with them; however, it observed that "the protection has not been enough." It argued that "although there has been progress in the implementation of the provisional measures for some beneficiaries, it [was] worrying that there was no specific information on the protection provided to all the beneficiaries of the measures." However, it later took note of the information provided by the State to the effect that the measures in this matter are collective in nature and therefore would cover the immediate family of beneficiary Mery Naranjo. Likewise, it recognized the importance of resolving the possible difficulties that could arise in the development of these measures "through dialogue between the parties, without neglecting the need for eliminating risk factors," and took note of the commitment expressed by the State to manage, move forward, and follow-up on the corrective actions necessary to guarantee adequate and effective security service for the beneficiaries. It recalled that the State has the duty to "ensure the proper functioning of each of the State bodies" in order to guarantee the exercise of the rights of persons under its jurisdiction and prevent future human rights violations.

*a. With regard to the protective measures implemented to provide security at the residence of Ms. Mery Naranjo*

14. The State reported that "the residence inhabited by the beneficiary and her immediate family continues to be guarded by one (1) permanent police post that provides security services 24 hours per day."<sup>9</sup> In August 2010, it indicated that the motorized patrols from San Javier police station "have a permanent order to pass by and

<sup>8</sup> In its report dated August 12, 2009 (*supra* Having Seen 2), The State reported that due to technical difficulties in the operation of the Avantel communication equipment, the beneficiaries had officially returned them, stating that the technical difficulties have been taking place "for some time, but [that] they had not reported this to State officials in a timely fashion given that the problems were sporadic." In response to this, the Human Rights Directorate of the Ministry of Interior and Justice committed to "replacing them and sending [...] the new communication equipment by certified mail," which had been done on August 3, 2009.

<sup>9</sup> In its report dated February 19, 2010, the State reported that this permanent post "comprises two (2) officers in three (3) daily shifts." More recently, in a brief from August 2010, it indicated that the permanent post has "two police units covering four security shifts."

check the residence of Ms. Naranjo," which they have done since the year 2004.<sup>10</sup> It highlighted that "police service has never been withdrawn." In March 2009, it indicated that it was studying the possibility of carrying out training in order to inform the police personnel in charge of the security of the beneficiaries on the content and scope of their obligations under these provisional measures, as well to train all police personnel in the Comuna on the Inter-American System for the Protection of Human Rights. Regarding this latter measure, the State later reported that "the police had submitted specific directives and instructions on how protective measures function." Likewise, in February of 2010, it stated that "the [police officers] about whom beneficiary Mery Naranjo had submitted complaints have been pulled from security service," which is to say, those "police officers who had committed alleged disciplinary infractions while carrying out their duties." At that time, it added that a logbook for new developments has been given to the officer at the permanent post "in which the beneficiary can record notes and observations on the provision of [that] service."<sup>11</sup> It highlighted that "personnel with more than 15 years of experience and who are aware of the importance of the due performance of and full compliance with their duty" have been assigned to provide security service for Ms. Mery Naranjo."

15. The representatives indicated that although the post in the residence of Ms. Mery Naranjo is functioning, its operation is irregular, for which reason there has been a need for filing complaints over the poor performance of the police officers. In particular, they indicated that the officials in charge of security at the permanent post "have disobeyed their orders and been repeatedly absent, leaving the residence of Ms. Mery Naranjo without protection." In July 2010, they recognized that in response to the complaints and requests, "the authorities took some corrective action and made certain changes in the operation of the permanent post." The beneficiaries have expressed their agreement with the changes made. However, they felt that the changes and corrective action were not "sufficient or effective for eliminating the risk faced by the victims." In particular, they indicated the following problems with the implementation of this protective measure: The officers at the permanent post do not have a mechanism for directly communicating with the Police Station or with Ms. Mery Naranjo; there should be two officers in the permanent post, but the majority of the time there is only one; the repeated lack of discipline of several of the officers assigned; and the fact that the officer in the permanent post is not authorized to leave the location, and when he does it is to carry out "personal and not work activities." In August of 2010, they highlighted that the lack of discipline and the irregularities in the performance of the officers in charge of the security of the residence of beneficiary Mery Naranjo have been expressed to the State "repeatedly" in the follow-up and coordination meetings on these measures. During those meetings, they have requested "urgent changes in the personnel and the orders given to the police officers in charge of the security" of that beneficiary.

16. The Commission expressed its appreciation for the steps taken by the State toward providing training to the security personnel in charge of providing protection to the beneficiaries. However, it observed that although the security at the residence of Ms. Mery Naranjo had improved, it was necessary to ask the State to ensure the permanent protection was "completely effective."

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<sup>10</sup> In March 2009, the State reported that the Corazón Police Station "carries out permanent and uninterrupted checks" of the residence of beneficiary Mery Naranjo. Previously, in its report dated October 16, 2008, the State reported that the beneficiary had been provided with "a reaction group stationed on the perimeter of her domicile." However, it did not report further on the availability of that "reaction group" in its later and more recent reports.

<sup>11</sup> Previously, and its report in March of 2009, Colombia indicated that since it started the permanent post service, a logbook had been kept in the residence of Ms. Mery Naranjo as one of the permanent mechanisms for oversight of that permanent guard post. At the same time, it indicated that the Chief of the Police Station had opened a logbook "specifically to implement oversight and keep a registry for police personnel."

*b. Regarding the duty to guarantee that the protective measures are not provided by the security forces who, according to the beneficiaries, were involved in the facts denounced*

17. Colombia reported that "the National Police have done positive work towards implementing the security measures." It recognized that "certain difficulties in the implementation of the measures" have arisen. However, it indicated that the National Police had taken charge of "taking [...] the necessary corrective action for improving communication between the police officers and the beneficiaries." It also pointed to "that body's willingness to adopt the corrective action necessary in the event that difficulties arise in the implementation of the security measures." It insisted that "as a consequence of the comments of the beneficiaries," the Police had taken charge of making the necessary changes in order for the beneficiaries to feel comfortable with the officials in charge of their security. In this regard, the State indicated that in follow-up and coordination meetings on the measures, held in September 2009 and February of 2010, beneficiaries Mery Naranjo and María del Socorro Mosquera had expressed satisfaction with the work done by the National Police and had recognized "an improvement in the security work" provided by that body. In addition, it reported on several disciplinary investigations opened against members of the national police who allegedly committed infractions while carrying out their duties. Likewise, it indicated that the Office of the Attorney General of the Nation had asked the beneficiaries to submit the corresponding complaints "in a complete and precise manner before the disciplinary instances of the National Police" when conduct infractions are committed by the officials assigned to their protection.

18. For their part, the representatives indicated that although the beneficiaries had expressed their satisfaction with regard to the changes made during the follow-up meeting held in February of 2010, the changes that the State had made were neither sufficient nor effective for eliminating the risk faced by the victims. In this regard, they made reference to the problems that the beneficiaries have been experiencing with the police officers in charge of their security, such as "inebriation, poor behavior, and failure to man the permanent guard post," as well as "grave actions, [...] crimes and [...] infractions committed by police officers." In this sense, as an example they recounted that in the initial days of the month of April of 2010, a police officer assigned to the permanent post in front of the residence of Ms. Mery Naranjo "fired several times into the air solely so that the members of the gangs or 'combos' would respond to the shots," putting the lives and integrity of the beneficiary and her family in danger. They said that officer had behaved that way "for several days." They indicated that the beneficiary submitted several complaints to his superiors but that "only a week later" was the police officer removed from the location. They insisted that because of these situations, Ms. Mery Naranjo has had to submit several complaints to the corresponding authorities, giving rise to harassment and threats "from the police themselves." They highlighted that she has "repeatedly and with great concern" expressed in follow-up and coordination meetings with the State on these measures that "the poor performance and excesses of the police force in the permanent post put the beneficiary Mery Naranjo and her relatives at great risk."

19. The Commission commented that the State has not submitted information "regarding which State security bodies are providing protection to the beneficiaries."

*c. Regarding the participation of the beneficiaries in the planning and implementation of the measures and the State's duty to keep them informed on the progress made in the execution of the measures*

20. Colombia reported that follow-up and coordination meetings on these measures had been held on April 18 and October 2, 2008; July 29 and September 23, 2009; and February 24 in June 25, 2010. The meetings included the participation of delegates from

different bodies in charge of implementing the security and protective measures, as well as of the beneficiaries and petitioners, with the purpose of evaluating the effectiveness of the measures. Likewise, it expressed that "the different State bodies in charge of the protection and security of the beneficiaries have been in constant communication with the beneficiaries in order to allow them to express their opinions on the implementation of the provisional measures."

21. The representatives confirmed that the meetings indicated by the State were held and that the beneficiaries participated in them.

22. The Commission expressed its appreciation for the information provided by the State with regard to the meetings held with the beneficiaries, finding that the participation of the beneficiaries "is fundamental [...] for the measures adopted to their benefit to be effective." At the same time, it asked the Court to request information from the State on the periodicity of those meetings.

*d. Considerations of the Court on the protective measures implemented by the State to the benefit of Ms. Mery Naranjo and her relatives (supra subparagraphs 1(1), 1(1)(a), 1(1)(b), and 1(1)(c))*

23. The Court views positively the measures taken by the State to protect beneficiary Mery Naranjo and her relatives. Likewise, it takes note of the information submitted by the State with regard to the beneficiaries' participation in the meetings for coordinating and planning the measures.

24. The Tribunal recalls that in its Order dated January 31, 2008, it specifically asked the State to maintain the permanent guard at the residence of Ms. Mery Naranjo and her family, as well as to ensure that the security forces providing protection to the beneficiaries were not the ones that "according to the beneficiaries, were involved in the facts denounced," such that their designation be made with the participation of the beneficiaries or their representatives.

25. In this regard, the Court observes with satisfaction that the State has continually reported on the permanence of the guard post at the residence of Ms. Mery Naranjo and her family. However, it takes note of what the representatives have indicated with regard to the difficulties that have arisen in the implementation of that protective measure, in particular with regard to specific behaviors of security officials in charge of that guard post. Likewise, it observes that the State itself has recognized certain difficulties in the implementation of guard services at the residence of the Naranjo Jiménez family (*supra* Considering 14 and 17) In this sense, it notes with concern that the beneficiaries have denounced grave incidents allegedly committed by the officials supposedly assigned for their protection, who instead of protecting them exposed them to greater risk. Likewise, it takes note from the information provided by the State and the representatives on the aid provided for temporary relocation to the benefit of beneficiary Mery Naranjo and some of her relatives (*supra* Considering 9 and 11).

26. In addition, with regard to the State's obligation to ensure that the officials providing security to the beneficiaries are not the ones allegedly involved with the facts denounced by them, the Tribunal takes note that the beneficiaries have not expressed any general discontent with the State security team providing protective services in the sense of demanding that a different security body provide those services. Rather, they have expressed their discontent with specific police officers who have been assigned to protect them and provide security due to alleged inappropriate behavior on their part. In this regard, the Court observes with satisfaction that the State has made efforts to remove those officers from the protective services provided to the beneficiaries and has tried to implement oversight mechanisms such as the logbook and the registry of new incidents that were presumably made available to beneficiary Mery Naranjo (*supra*

Considering 14 and 17). However, it notes that despite the fact that the beneficiaries are apparently initially in agreement with those corrective measures (*supra* Considering 17 and 18), they continue to report problems with their implementation and effectiveness, in particular with regard to "actions taken by the police officers in charge of their security." Likewise, it takes note that the representatives expressed their disagreement over what they consider to be a unilateral suspension of the measure to provide transportation support that had previously been granted to beneficiary Mery Naranjo, as well as of the problems indicated by the beneficiaries with regard to the police escort measure during travel offered by the State (*supra* Considering 11). At the same time, it observes that the State indicated that the beneficiary did not report on her movements and did not accept the police escort that had been offered (*supra* Considering 12).

27. The Tribunal recalls that the State's adoption of particular measures of protection is not enough. Rather, these measures and their implementation must be effective such that the threats toward and harassment of the individuals whose protection is sought cease.<sup>12</sup> In addition, it highlights that the beneficiaries and their representatives are required to offer whatever cooperation is necessary to bring about the effective implementation of the measures.<sup>13</sup>

28. The State must take the pertinent steps for the provisional measures set forth in this order to be planned and applied with the participation of the beneficiaries of the measures or their representatives such that the measures be provided in a diligent and effective manner. Likewise, the Court highlights the importance of the duty to cooperate with the beneficiaries and their representatives for adequate implementation of the security measures, as well as the need for State authorities to establish clear and direct means of communication with the beneficiaries in order to establish the necessary trust for their adequate protection. The Court highlights that the positive participation of the State and, particularly, the representatives is crucial for the coordination and implementation of the provisional measures in this matter. In this sense, it reiterates what was set forth in its order of January 31, 2008, where it indicated that "all the parties must propose and agree on the measures if any of them considers that the existing ones are not adequate."<sup>14</sup>

29. By virtue of the foregoing considerations, the Tribunal finds it necessary for the State to report in a detailed and complete manner on the measures it may have adopted to improve the effectiveness of the protective measures implemented, such that they be adequate for the situation of Ms. Mery Naranjo Jiménez and her relatives, as well as to report on the measures it is implementing to offer those beneficiaries participation in the planning of the above-mentioned measures.

### 1.2 *On the measures adopted to protect the life and personal integrity of Luisa María Escudero Jiménez*

30. Colombia reported in February of 2010 that, at the request of the beneficiaries, it had started the proceedings to include the minor Luisa María Escudero Jiménez in the Social Security contribution regimen through the Health Promotion Body (EPS SURA in its Spanish acronym).<sup>15</sup> In July 2010, the State confirmed that as of that date, the

<sup>12</sup> Cf. *Matter of Juan Almonte Herrera et al.* Provisional Measures regarding the Dominican Republic. Order of the Court of March 24, 2010, Considering 16.

<sup>13</sup> Cf. *Case of the "Mapiripán Massacre"*. Provisional Measures regarding Colombia. Order of the Court of September 2, 2010, Considering 20.

<sup>14</sup> Cf. *Matter of Mery Naranjo et al.* Provisional Measures regarding Colombia. Order of the Court of January 31, 2008, Considering 12.

<sup>15</sup> The State indicated that the representatives had requested the inclusion of the beneficiary in the Social Security contribution regime "as they were not in agreement with the service offered by the subsidiary social

beneficiary had been provided with full health coverage by the EPS SURA. The required medical care was being provided even though the "corresponding studies certification necessary to formalize [her] relationship" had not been submitted. It indicated that the beneficiary has received, *inter alia*, the following medical care: psychological consultations,<sup>16</sup> general practitioner consultation, nutrition and dietitian consultation, and the carrying out of various medical examinations, whose results, according to the latest information provided by the State, remain pending analysis.

31. With regard to the situation of the aforementioned beneficiary, the representatives indicated that the State has committed to finding specialized medical care for her, as her health is fragile due to the gunshot wound she suffered during the incident that took place on February 13, 2006, that, among other things, led to the adoption of these measures. Likewise, in July of 2010, they confirmed that the beneficiary had been included in the national health system through the EPS SURA; that she was attended to by a general practitioner; and that, two months after certain medical exams were carried out, she had been attended to once more when the results were received. They argued that four years after the facts took place, "The medical care provided by the State as a measure for reparation of the violations of which Luisa María was a victim has been neither fast nor efficient toward counteracting the grave damage she suffered to her health [and] quality of life," for which reason her rights to a dignified life and health are being violated.

32. Additionally, the representatives indicated in December of 2008 that because the State did not have any program to protect citizens at risk who were not in leadership positions, the transportation support provided in the name of Ms. Mery Naranjo (*supra* Considering 8) had been granted to beneficiary Luisa María Escudero Jiménez so that the minor could be transported on a daily basis to her place of study due to her health. At the same time, they indicated that the minor had gone to live at the home of her grandparents and that she was no longer residing in the home of Ms. Mery Naranjo due to the alleged incidents of threats that took place at the residence of that beneficiary.

33. In this regard, in March 2009, the State indicated that the transportation support provided to the benefit of Ms. Mery Naranjo was of a collective nature, for which reason her niece Luisa María Escudero Jiménez also benefited. The State also indicated that this beneficiary and her father expressed that they did not want police to carry out patrols in the area of their residence.

34. For its part, the Commission expressed appreciation for the State's willingness to provide medical care for beneficiary Luisa María Escudero Jiménez and found it "necessary for [Colombia] to take whatever measures are available toward guaranteeing effective provision of health services for the beneficiary." However, it expressed concern because "the State continu[ed] without providing information on the protection provided to Luisa María Escudero Jiménez, solely making reference to the provision of health services." It therefore asked the Court to order the State to provide information on this.

35. The Tribunal takes note of the information submitted by the State with regard to beneficiary Luisa María Escudero Jiménez, who had been injured as a consequence of the incidents leading to the presentation of these provisional measures.<sup>17</sup> The Court views

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security regime." In its brief with comments dated May 6, 2010 (*supra* Having Seen 3), the representatives indicated that contrary to what the State indicated, what they had requested was "its intervention so that the EPS would provide the necessary medical attention in an immediate and urgent manner," because although Luisa María has been a beneficiary of the contribution regime since the facts took place, "POS and the EPS SURA had not offered adequate medical care."

<sup>16</sup> In October of 2008, the State reported on the provision of psychological care through the Colombian Institute of Family Well-Being (ICBF).

<sup>17</sup> Cf. *Matter of Mery Naranjo et al.* Provisional Measures regarding Colombia. Order of the Court of July 5, 2006, Having Seen 3(c).

positively the State's commitment to provide medical and psychological care to the beneficiary due to the effects she has suffered as a consequence of the aforementioned incidents.

36. The Court recalls that in its Order of January 31, 2008, it asked the parties to provide detailed and current information on the measures that have been adopted and put in place by the State to effectively protect the life and personal integrity of Luisa María Escudero Jiménez.<sup>18</sup> In this regard, it notes that as of March of 2009, it had not received detailed information - apart from information on the medical care provided - on the specific situation of this beneficiary or the protective and security measures implemented to her benefit. The Tribunal observes that the State reported that the protective measures implemented in this case are collective and therefore cover the relatives of beneficiary Mery Naranjo. However at the same time, it notes that those measures are designed in such a way as to protect the relatives of that beneficiary who live with her. In that sense, the Court takes note that according to the latest information submitted by the parties on this, beneficiary Luisa María Escudero does not live in the home of Ms. Mery Naranjo, for which reason she is not covered by the protective and security measures implemented to Ms. Naranjo's benefit. Likewise, it observes that the only effective measure which has benefited Luisa María Escudero Jiménez is the transportation support, which has been suspended by the State since June of 2010 (*supra* Considering 11). Consequently, the Tribunal finds it necessary for the State and the representatives to submit detailed and current information on the present situation, particularly on her place of residence and the protective measures implemented by the State to the benefit of beneficiary Luisa María Escudero Jiménez.

### 1.3 On the alleged attention of Juan David Naranjo Jiménez

37. Colombia reported that beneficiary Juan David Naranjo Jiménez had been convicted through a judgment dated August 2, 2006, for drug trafficking and narcotics fabrication. The execution of that sentence had been suspended and he was placed on probation. However, on January 25, 2008, he was caught *in flagrante delicto* committing the crime of theft. The beneficiary pled guilty to the charges brought against him by the Office of the Public Prosecutor for the crimes of grand and aggravated larceny with possession and trafficking of firearms, for which reason he was assigned a measure of "interinstitutional supervision" in the Bellavista penitentiary. Later, the State reported that upon request from the beneficiaries, in November of 2008 Mr. Juan David Naranjo Jiménez was transferred to the "La Ceja Medium Security Penitentiary Facility (Antioquia)," as he had been subjected to harassment by one of those allegedly responsible for the facts leading to these provisional measures, who was interned in the Bellavista Prison.<sup>19</sup> Regarding the measures implemented for his protection, Colombia indicated that, as he was an inmate, the measures were aimed at other needs and the La Ceja penitentiary "implemented all the protective measures necessary to protect the life and personal integrity of the beneficiary."

38. Later, the State reported that on November 23, 2009, conditional liberty was granted. During that time, he lived with Ms. Mery Naranjo, for which reason "he was covered by the security and protective measures granted to her." Nevertheless, in its most recent report, Colombia indicated that "on April 17, 2010, [...] Juan David Naranjo [...] was arrested for the alleged crime of illegally carrying a weapon" after he was found with a firearm without the corresponding permit. With regard to this, it indicated that

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<sup>18</sup> Cf. *Matter of Mery Naranjo et al.* Order of the Court of January 31, 2008, *supra* footnote 14, Considering 25, and *Matter of Mery Naranjo et al.* Provisional Measures regarding Colombia. Order of the Court of September 22, 2006, Operative Paragraph 3.

<sup>19</sup> The State indicated that the relatives of beneficiary Juan David Naranjo Jiménez have reported that the alleged perpetrator of the homicide of Ana Teresa Yarce - an incident that, among others, led to the adoption of these provisional measures - "was trying to persuade Mr. Naranjo to intercede with his mother, Ms. Mery Naranjo, to get her to withdraw the complaint against him."

Medellin Office of the Public Prosecutor 60 was in charge of the corresponding investigation of the aforementioned beneficiary for the crime of manufacturing, trafficking, and carrying firearms or munitions. Colombia reported on the different steps taken in that investigation, among them the legalization of the arrest warrant for Mr. Juan David Naranjo by the corresponding Guarantees Oversight Judge on finding that "it had been carried out in keeping with the regulations sets forth for that proceeding." Finally, the State insisted that "the negligent actions of beneficiary Juan David Naranjo put his life and personal integrity at risk and increased [...] the level of risk he was facing."

39. For their part, the representatives reiterated that Juan David Naranjo Jiménez' situation "is not related to the community activities of his mother, Mery Naranjo Jiménez, nor with the protective measures."

40. The Commission took note of the information provided by the State on the reasons for the detention of beneficiary Juan David Naranjo Jiménez. Likewise, it expressed appreciation over the agreement to transfer the beneficiary to another penitentiary and asked the State to submit updated information "on the specific protection provided to that beneficiary."

41. The Court recalls that in its Order of January 31, 2008, it asked the State to submit specific information on the detention of beneficiary Juan David Naranjo. Regarding this, it observes with satisfaction the information submitted by the State on this issue. However, it notes that updated information has not been submitted to the Tribunal on the protective measures implemented to the benefit of that beneficiary, given that on being imprisoned in a detention center, he was not protected by the "collective" measures of protection implemented to the benefit of his relatives, as the State itself indicated with regard to the earlier detention of that beneficiary (*supra* Considering 37).

42. Regarding this, the Court finds it appropriate to recall that the State has the obligation to guarantee the free and full exercise of these rights for all individuals subject to its jurisdiction. These obligations apply not only with regard to State power, but also with regard to the actions of private third parties. Special duties are derived from these general obligations, to be determined according to the particular needs for protection of the bearer of the right, whether due to the bearer's personal condition or the specific situation facing the individual,<sup>20</sup> as is the case with this detention. This Tribunal has found that the State is in a special position to guarantee rights with regard to individuals deprived of liberty due to the fact that penitentiary authorities exercise total control over those individuals. In this situation, the State's general obligations to respect and guarantee rights takes on a particular shade of meaning that obliges the State to provide inmates with the minimum conditions compatible with their dignity during the time they remain in the detention centers, with the purpose of protecting and guaranteeing their rights to life and personal integrity.<sup>21</sup> Likewise, the Court has indicated that independent of the existence of specific provisional measures, the State is especially obligated to guarantee the rights of individuals under circumstances of deprivation of liberty.<sup>22</sup>

<sup>20</sup> Cf. *Case of the "Pueblo Bello Massacre" v. Colombia. Merits, Reparations and Costs*. Judgment of January 31, 2006. Series C No. 140, para. 111; and *Case of Anzualdo Castro v. Peru. Preliminary Objections, Merits, Reparations and Costs*. Judgment of September 22, 2009. Series C No. 202, para. 37, and *Matter of the Urso Branco Prison*. Provisional Measures regarding Brazil. Order of the Court of November 25, 2009, Considering 10.

<sup>21</sup> Cf. *Case of Neira Alegría et al. v. Peru. Merits*. Judgment of January 19, 1995. Series C No. 20, para. 60; *Matter of the children and adolescents deprived of liberty in the "Complejo do Tatuapé" of the FEBEM*. Provisional Measures regarding Brazil. Order of the Court of November 25, 2008, Considering 12, and *Matter of the Urso Branco Prison*, *supra* footnote 20, Considering 10.

<sup>22</sup> Cf. *Matter of the Mendoza Penitentiaries*. Provisional Measures regarding Argentina. Order of the Court of March 22, 2007, Considering 16; *Matter of Natera Balboa*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of December 1, 2009, Considering 14, and *Matter of the "Cárcel de Tocarón" Penitentiary*, *supra* footnote 3, Considering 13.

43. The Court therefore requests that the State, in its next report on the implementation of these provisional measures, make specific reference to the protective measures it has adopted and is adopting to protect the life and personal integrity of beneficiary Juan David Naranjo Jimenez in keeping with his particular situation.

*1.4 On the alleged murders of beneficiaries Javier Augusto Torres Durán and Sebastián Naranjo Jiménez*

*a. With regard to Javier Augusto Torres*

44. The State reported in July 2008 that the investigations into the death of Mr. Javier Augusto Torres Durán, the son-in-law of Ms. Mery Naranjo, were being moved forward by the Fifth District Public Prosecutor. Regarding those investigations, it expressed that "the identity of the alleged perpetrators of the death of Mr. Torres Durán [had] been established and the crime's motives [had] been partially elucidated." Likewise, it indicated that the evidence pointed at the three individuals allegedly responsible belonging to "a gang that operates in the neighborhood [where the person who was a beneficiary perished] of Comuna 13, in Medellín" where the current beneficiaries reside. It added that of the three individuals presumably responsible, as of June of 2008, one had been detained as a measure to ensure preventative detention and the other two were in prison awaiting a hearing to formalize the charges and rule on the request for measures against them. At that time, the State reported that the measures taken by the Metropolitan police of the Aburrá Valley and the Armed Forces to strengthen and provide security in the Comuna 13 sector of Medellín where the beneficiaries reside.

45. The representatives did not make any comments on the information provided by the State with regard to the death of this beneficiary.

46. The Commission took note of the information submitted by the State on the investigations launched into the death of Javier Augusto Torres Durán. Regarding them, it found it necessary for the State to submit information on "the possible connection of the homicide of Javier Augusto Torres with the facts leading to the adoption and maintaining in force of these provisional measures." Likewise, it asked the Court to require information from the State on the investigations into the death of that beneficiary.

*b. With regard to beneficiary Sebastián Naranjo Jiménez*

47. On October 7, 2010, the representatives reported that on this past October 4, the minor Sebastián Naranjo Jiménez, 16 years old, had been wounded in the head with a firearm. They explained that as a consequence, the beneficiary suffered a serious cranialcerebral injury that caused his death on the morning of October 6, 2010. The representatives indicated that neither they nor his family "had information on the circumstances in which the facts took place, as the minor was supposedly found by police officers in another neighborhood of the city." Therefore, they requested that the State be ordered to investigate the facts and provide information in this regard.

48. In response to a request for information from the President of the Tribunal (*supra* Having Seen 6), the State expressed that on October 5, 2010 it learned from beneficiary Mery Naranjo that her grandson had been found by the police in the outskirts of Comuna 13 of Medellín with a gunshot wound to the head. It indicated that because the beneficiary was not carrying any identification when he was found by the police, they had not been able to establish his identity at first. In addition, it expressed that the reasons for which the minor was in that area with its complex public safety situation far from his residence are unknown. However, it indicated that an order has been issued "to move forward in the investigative work [...] in order to clear up the related facts. Toward doing so, officials with the District [with jurisdiction were] moving forward with interviewing

possible witnesses to the facts in order to establish the identities of the perpetrators." Additionally, it indicated that on the day of the minor's homicide, "none of the relatives of Ms. Mery Naranjo requested police escort or reported on the places they would be traveling to." It added that the protective measures that the state granted to the benefit of beneficiary Mery Naranjo are collective in nature, thus covering her relatives and therefore also covering minor Sebastián Naranjo Jiménez.

49. The representatives observed that the State did not explain how it identified minor Sebastián Naranjo, nor how it was possible that "it almost immediately informed his relatives if Sebastián was not carrying any identification." They indicated that as of now, there is no witness testifying that Sebastian" Jiménez was seen alive in the neighborhood where he was found and that "his family reasonably doubts" that he had gone voluntarily to that place, "suspecting that he was taken there by his murderers, probably to give the *coup de grace* that caused his death, with the body being abandoned in the place where it was found." They argued that the death of this beneficiary was an extrajudicial execution with the same patterns that have been detected in other similar incidents, where the circumstances "do not follow the *modus operandi* of the criminal gangs, who attack their victims in places in which they are found regularly." With regard to what Colombia has stated to the effect that the police were not informed of any travel on that day, they indicated that "the State has never provided the necessary police officers to offer escorts to the beneficiaries when they are traveling to places other than their residences" and that the plan for the beneficiaries to report on their movements "is inadequate" when "there is no intention of accompanying them." For this reason, their right to movement and residency is affected without any compensation being provided in terms of security and protection. With regard to the investigation launched into these incidents, they argued that "the activities referred to by [the State] are purely formal and there is no work plan for the investigation." In addition, they added that they have not been permitted access to the preliminary procedures despite the power of attorney granted by the relatives of Sebastián Naranjo Jiménez to represent them as a civil party.

50. The Commission expressed its concern over the death of the beneficiary Sebastián Naranjo and observed, "without prejudice to [later] broadening [its] comments," that the death "was in the context of the situation of lack of protection" which the beneficiaries have been exposed to given the fact that the measures implemented by the State had not been sufficient to safeguard their personal integrity.

*c. Considerations of the Court on the alleged murders of Javier Augusto Torres Durán and Sebastián Naranjo Jiménez (supra clauses 1(4)(a) and 1(4)(b))*

51. The Court recalls that in its Order of January 31, 2008, it asked the State to submit specific information on the alleged murder of Javier Augusto Torres Durán. Regarding this, it observes with satisfaction the information submitted by the State on this issue. However, it is deeply saddened by the death of that beneficiary and considers the fact that the it took place despite these provisional measures being in force to be extremely grave. The Tribunal notes that, following what the State put forward in July 2008 (*supra* considering 44), it has not submitted additional information on the death of Javier Augusto Torres Durán, especially with regard to the circumstances in which it took place, in a way that would permit the Tribunal to determine its possible connection to the facts leading to the adoption of these provisional measures, in keeping with what the Court indicated in its latest order in this matter.<sup>23</sup> Likewise, it observes that neither have the representatives submitted comments on the information submitted by the State.

<sup>23</sup> Cf. *Matter of Mery Naranjo et al.* Order of the Court of January 31, 2008, *supra* footnote 14, Considering 24.

52. However, the Court observes that from the information effectively presented by the State, one can deduce that the murder of Javier Augusto Torres Durán took place in part as a consequence of the general situation of violence and insecurity in the area where the beneficiaries reside, a situation that, according to recent information (*infra* considering 65 and 66), still persists.

53. In addition, the Tribunal profoundly regrets the recent death of Sebastián Naranjo Jiménez, who was also a beneficiary of these provisional measures. The Court notes the information provided by the State to the effect that it had not received any request for police escort from the beneficiaries on the day of Sebastián Naranjo's death (*supra* Considering 48), as well as the comments of the representatives as far as the problems experienced when requesting these kinds of escorts, for which reason the beneficiaries were not informing the State on their movements (*supra* considering 11 and 49). However, it observes that the murder of another beneficiary is an exceedingly grave fact denoting the ineffectiveness of the measures adopted to eradicate the sources of risk and adequately protect the beneficiaries. Also, in this particular matter, it evidences the lack of effective communication between the beneficiaries and the State with regard to the implementation of these provisional measures.

54. The orders to adopt provisional measures imply a special duty to protect the beneficiaries of the measures as long as the measures are in force. A failure to comply with them can leave the State internationally responsible.<sup>24</sup>

55. The Court insists that in order to make the rights enshrined in the American Convention effective, the State Party has the obligation, *erga omnes*, to protect all the individuals under its jurisdiction, including with regard to acts of private third parties or irregular armed groups of any nature.<sup>25</sup>

56. As far as the specific incidents in which the deaths of the aforementioned beneficiaries took place, this Tribunal notes that the information provided by the State does not allow for a conclusion on whether State authorities carried out all measures available to it to protect the beneficiaries or if, under the circumstances of the moment, they acted diligently and in a timely fashion. The Tribunal observes what the parties have indicated as far as the facts related to the death of Sebastián Naranjo Jiménez, as well as the difficulties in implementing the measures presumably provided in this case (*supra* Considering 53). Therefore, it finds it necessary for the State to take all necessary measures to achieve effective implementation of the protective measures, particularly during the movement and travel of the beneficiaries within or outside the area where they live; as well as for the beneficiaries and the representatives to offer all due cooperation to State authorities in order to achieve adequate implementation of the measures. To do so, it finds it especially relevant for clear and direct means of communication to be established between the State and the beneficiaries in order to establish the necessary trust for their adequate protection, as well as for the State to offer participation to the beneficiaries and the representatives in the planning and implementation of the protective measures to their benefit. In this sense, the Tribunal

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<sup>24</sup> Cf. *Case of Hilaire, Benjamin, Constantine et al. v. Trinidad and Tobago. Merits, Reparations and Costs*. Judgment of June 21, 2002. Series C No. 94, paras. 196 to 200; *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. Brasil*, *supra* footnote 1, Considering 3.

<sup>25</sup> Cf. *Matter of the Peace Community of San José de Apartadó*. Provisional Measures regarding Colombia. Order of the Inter-American Court of June 18, 2002, Considering 12; *Matter of the Jiguamiandó and Curbaradó Communities*. Provisional Measures regarding Colombia. Order of the Court of August 30, 2010, Considering 44, and *Matter of the Peace Community of San José de Apartadó*. Provisional Measures regarding Colombia. Order of the Court of August 30, 2010, Considering 23.

reiterates that the aforementioned participation and agreement between the parties presupposes that they shall propose and coordinate the measures to be adopted.

57. Consequently, the Court asked the beneficiaries and the State to agree on the measures necessary to provide effective protection to them during their movement and travels within or outside the area where they reside. In this regard, it urges the beneficiaries and their representatives to provide the State with the cooperation necessary for this. In addition, it asks the State to submit in its next report detailed and complete information on the measures it has adopted and is adopting to provide greater effectiveness to these measures, in particular with regard to what is set forth in this considering clause and the prior one.

## **2. On the measures adopted to protect the life and personal integrity of Ms. María del Socorro Mosquera Londoño**

58. With regard to beneficiary María del Socorro Mosquera Londoño, the State reported that she currently enjoys the following protective measures: i) an "Avantel" communication device to be able to communicate with her corresponding police contact should incidents of threats arise or should she require a police escort, and ii) the connection of the beneficiary to the National Police's "Plan Godfather," under which she is provided with a trusted officer in the city of Medellín. Likewise, the State made reference in several of its reports to different terrestrial transportation assistance granted to the beneficiary, with the last of these reported to the Court by Colombia as having been approved on February 23, 2010, for a period of six months. Likewise, in March 2009, it indicated that the Medellín Police remain attentive to any requests made by the beneficiary with regard to her security, given that it respects "the decision made by Ms. [...] Mosquera Londoño to not want to report her current place of residence." It highlighted that the measures granted to the benefit of this beneficiary are "the direct result of the coordination with both the petitioners and the beneficiary." It indicated that in response to the beneficiary's complaints over her Police contact, a change of that contact had been proposed. Finally, Colombia reported that in a meeting held on June 25, 2010, (*supra* Considering 20) a proposal had been made that the beneficiary temporarily relocate due to the concern expressed by Ms. Mosquera Londoño over the security situation in Comuna 13, as she considered that the disturbances and incidents of violence put her life and security at risk. However, the State indicated in October of 2010 that thus far it had not received a response from the beneficiary to the proposal, for which reason the Ministry of the Interior and Justice "could not move forward with any proceedings to study the approval of aid for temporary relocation" to her benefit, as her consent is required in order to do this.

59. The representatives expressed that as with Ms. Mary Naranjo Jiménez, Ms. Mosquera Londoño had had her transportation aid suspended definitively (*supra* Considering 11), causing serious risks to her life and integrity when moving about and traveling through the neighborhood.<sup>26</sup> Likewise, in July 2010, they indicated that "on several occasions the beneficiary has needed to communicate with the police officer assigned to her [under 'Plan Godfather'] and the communication has not been possible or they have not responded to her needs and requests."

60. The Commission took note of the implementation of protective measures to the benefit of the beneficiary. Nevertheless, it found that they have not been sufficient and

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<sup>26</sup> In December of 2008, the representatives indicated that although the State had previously reported that the beneficiary had been officially granted transportation aid six times, to date she had only been provided with transportation aid once and that currently she was requesting a coordination meeting with the State on certain situations of risk faced in the headquarters of the association Mujeres de la Independencias (AMI), where the beneficiaries carry out "their activities as community leaders [...] and where on occasion Ms. Socorro Mosquera has passed the night." However, the representatives did not again present information on this.

expressed concern over the facts of violence reported by the representatives with regard to Ms. María del Socorro Mosquera Londoño (*infra* Considering 65e).

61. The Court recalls that in its order of January 31, 2008, it indicated to the State that it must respect the decision of the beneficiary to keep her residence confidential and that the implementation of the protective measures to her benefit must be coordinated with the representatives ahead of time.<sup>27</sup> In this regard, it observes with satisfaction that the State agreed on certain measures to her benefit and that they are being implemented. Likewise, it views positively the meetings held between the State and the beneficiaries to follow up on the protective measures implemented (*supra* Considering 20 to 22).

62. Now, the Court notes that as with the measures implemented to the benefit of Ms. Mery Naranjo and her relatives, the representatives have expressed repeatedly their complaints over the official designated as the police contact for Ms. María del Socorro Mosquera Londoño, as well as over what they consider to have been a unilateral suspension of the measure of transportation aid granted to the beneficiary. The Court observes that the State reported that in June of 2010 that this beneficiary had been offered a change in her police contact, yet does not have information indicating that the aforementioned contact corresponding to "Plan Godfather" was effectively changed. Regarding this, the Court reiterates that the State must provide for the beneficiaries' participation in the planning of these measures in such a way that they will be in agreement with the measures adopted to their benefit and can be implemented in a diligent and effective manner.

63. Therefore, the Tribunal deems it necessary for the State to provide detailed and complete information in its next report on the measures that have been taken or are being taken toward the effective implementation of protective measures to the benefit of beneficiary María del Socorro Mosquera Londoño.

64. In addition, the Court takes note of the information provided by the State to the effect that it had offered temporary relocation aid to the beneficiary, but that it had not received a response from the beneficiary on this. Likewise, it observes that as of the date of this order, the corresponding comments from the representatives have not been submitted to the Tribunal, for which reason the Court asks the representatives to submit the corresponding information to the Tribunal in such a way that it can adequately evaluate the implementation of the protective measures to the benefit of beneficiary Mosquera Londoño with regard to her specific situation.

### **3. On the situation of risk faced by the beneficiaries**

65. The representatives indicated that the persecution and harassment suffered by beneficiaries Mery Naranjo and María del Socorro Mosquera since the year 2002 have threatened the lives and personal integrity of the beneficiaries, affecting their physical and psychological health and the quality of their lives. In particular, they reported on the following situations that have placed the beneficiaries at risk:

- a. In June of 2008, beneficiary Mery Naranjo was injured by members of the police of the Immediate Response Center (CAI in its Spanish acronym) of the San Michel neighborhood.
- b. Likewise, they indicated that the niece of Ms. Mery Naranjo, Francisco Javier Escudero, had been subjected to threats "consisting in damaging his professional profile." These threats were carried out in August of 2008 and an investigation was launched in Court 187 of the Military Court of Medellín.

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<sup>27</sup> Cf. *Matter of Mery Naranjo et al.* Order of the Court of January 31, 2008, *supra* footnote 14, Considering 17.

- c. In April 2009, the representatives indicated that two months prior, "pamphlets threatening the population began circulating in certain neighborhoods and municipalities close to [Medellin's Comuna 13]. The pamphlets said, 'The time for social cleansing has arrived,' causing fear and tension in the community in general." They found that the distribution of those pamphlets was not an isolated incident but a mechanism used by "supposedly demobilized paramilitary groups and groups of narcotraffickers fighting for control and territorial domination in the city" to terrorize the civilian population. They also indicated that although these are not acts specifically carried out against the beneficiaries, they increase the risks they face. They added that on the days prior, "murders, explosions during the night, and a serious alteration of the public order" took place, caused by confrontations between the aforementioned groups "for territorial control of the city."
- d. In addition to the shots fired into the air by a police officer assigned to the permanent post at the residence of beneficiary Mery Naranjo (*supra* Considering 18), they indicated that on April 24, 2010, eight supposed soldiers of the National Army began shooting from the sidewalk in front of the house of that beneficiary "without any motive and in an indiscriminate manner," almost injuring a daughter and a niece of Ms. Mery Naranjo who were in the house. According to the representatives, the police on duty in the permanent post in front of the residence of the beneficiary "did not alert their superior officers or requested reinforcements," for which reason the beneficiary had to call the police through the National Police's general system for attending emergencies. Likewise, they indicated that the situation had arisen at other times, generating "a response from the illegal armed groups," leaving the house of beneficiary Mery Naranjo with several bullet holes, "with no concrete results having been obtained to date from the corresponding investigation."
- e. On May 21, 2010, beneficiary María del Socorro Mosquera Londoño had been insulted and beaten by members of the Police upon trying to defend certain young people who they were harassing in an arbitrary and illegal fashion. They highlighted that Ms. Mosquera Londoño was able to communicate with the police contact assigned to her "after a long time" and that in spite of this, "she did not receive any kind of assistance from the armed forces and [that] currently, no investigation is being carried out into these serious facts."
- f. On August 25, 2010, a serious situation against the public order arose that put the beneficiaries Mery Naranjo and María del Socorro Mosquera in particular danger. They indicated that "more than 20 men dressed as civilians carrying firearms, knives, and clubs entered the home [of Ms. Mery Naranjo] in the company of three police officers shouting that they were looking for guns." Meanwhile, the security and oversight post of the police at her residence "was empty, facilitating the illegal search." They added that the national authorities and the Chief of the Police Station became aware of these facts on that same day.
- g. In addition, they "briefly recounted" the incidents leading to the grave situation of public order that they have experienced for several months in Medellin's Comuna 13. They indicated that there is a general situation of human rights violations in the Comuna where the beneficiaries reside due to the permanent establishment of paramilitaries in a large part of the city, to the "failure of the demobilization, disarmament, and reinsertion" process, and to the operation of criminal gangs, *pandillas*, and *combos*. All this "contributes to the understanding of the context in which the [beneficiaries] live and the impact that it has on their situation of vulnerability and risk" as mediators in the conflict, complainants over the irregularities, and leaders in the defense of human rights in the Comuna.
- h. Finally, they indicated that on November 3, 2010, during the morning hours in the neighborhood where the beneficiaries reside, a group of police officers from the area "physically and verbally attacked the child Alfonso Villa Mosquera and Marlon Daniel Herrera Mosquera, grandson and son of Ms. Socorro Mosquera." According to the representatives, the police officers had "covered their own identifications"

and caused injuries to their bodies "with kicks and blows from a metallic object," threatened to kill them, and baselessly accused them of carrying weapons.

66. Regarding all this, the State reported that the National Police "have deployed all their resources" to protect beneficiaries and "at no time have the actions of the Police Force put [their] lives and integrity in danger." In particular, with regard to the facts alleged by the representatives, it indicated the following:

- a. With regard to the facts alleged by beneficiary Mery Naranjo as having taken place in April of 2010 (*supra* considering 65(d)), the State indicated that the National Police had no knowledge of shots fired by any of its officials in that jurisdiction and that its uniformed officers are duly trained to use their firearms appropriately. In addition, it indicated that the official denounced by beneficiary Mery Naranjo reported that he had not fired those shots. Nevertheless, it indicated that it was decided to transfer that official to another unit "in order to not cause problems for the beneficiary." Likewise, it added that the Defense Ministry had reported that the beneficiary's complaint had been forwarded to the Operating Command of the Battalion in the city of Medellin for an investigation into the facts denounced. In addition, it indicated that although it was true that in the area where the beneficiaries reside disturbances were taking place between the criminal gangs, the Municipal Mayor's Office has been working on security campaigns to preserve the life of the inhabitants of the Comuna and the National Police "had provided more security measures and uniformed officers for the areas where the beneficiaries reside."
- b. With regard to the facts that took place on August 25, 2010 (*supra* Considering 65(f)), the State reported that on that day, there was a confrontation between gangs working for narco trafficking organizations in Medellin's Comuna 13. It stated that at no time did agents of the National Police enter improperly or carry out an illegal search in the residence of Ms. Mery Naranjo given that the facts took place at the time the police were pursuing those responsible for the situation at hand, for which reason they clarified that "the aforementioned individuals dressed in civilian clothing were not police agents but rather members of a criminal group in that area." It highlighted that the home of the beneficiary is on the "imaginary border delineating the territory" of two criminal groups fighting over control of that zone, for which reason "she has been directly affected [...] by the confrontations that have taken place." It added that on the day the facts took place, the police personnel stationed at the residence of the beneficiary "saw the necessity to seek support from units of the National Army." Additionally, it expressed that the Defense Ministry "did not receive any complaint from the beneficiary on these incidents having taken place."
- c. The State also made reference to the context of violence being faced in Medellin's Comuna 13, where the beneficiaries reside. It considered this violence to be the product of criminal groups, the formation and confrontation of criminal gangs, murders, and arms trafficking, among other reasons. However, it indicated that it is taking measures to reduce the levels of violence and crime currently present. It also made reference to what it considered to be the results of those measures, which reflect "a reduction in the levels of criminality present in that Comuna."

67. In response to what the State indicated with regard to what happened on August 25, 2010 (*supra* Considering 66(b)), the representatives submitted written notarized testimony from Ms. Mery Naranjo corroborating that it was "the National Police in the company of a group of men dressed as civilians" who entered her house illegally seeking arms on the above-mentioned date.

68. With regard to these situations, the Commission expressed its concern over the new incidents of violence reported by the representatives with regard to beneficiaries Mery Naranjo Jiménez and María del Socorro Mosquera Londoño, for which reason it

asked the Court to request detailed information from the State on these new incidents, as well as on "the measures adopted to counteract them" and the investigations launched on them. In particular, it highlighted that the State had not made reference in its reports to the incidents reported by the representatives with regard to "pamphlets, murders, explosions during the nights, and the alteration of the public order due to confrontations between paramilitaries and narcotraffickers" that would place the beneficiaries in a situation of risk. For this reason it reiterated that it considered it necessary for Colombia to provide detailed information on this, and especially to "take those threats into account in the measures it adopts to safeguard the personal integrity of the beneficiaries." It considered that "the information provided with regard to the incidents of August 25, 2010, could be one more example of the situation of lack of protection" faced by the beneficiaries. It found it necessary for the State to adopt proper measures as soon as possible given that the protection granted had not been sufficient.

### *3.1 Considerations of the Court on the situation of risk faced by the beneficiaries*

69. The Court reiterates that in the context of provisional measures, it falls to the Court to consider only and strictly those arguments directly related to extreme gravity, urgency and the need to avoid irreparable damages to persons. Any additional fact or argument can only be examined and resolved during the deliberations on the merits in the adversarial case.<sup>28</sup>

70. The Tribunal observes that according to the information submitted by the parties (*supra* Considering 65, 66 and 67), while these provisional measures have been in force the beneficiaries have continued to be subjected to acts of harassment, intimidation, and other situations that have put their lives and personal integrity at risk or affected them. In this regard, it highlights that while these provisional measures have been in force, two beneficiaries have been murdered, to wit: Javier Augusto Torres Durán and Sebastián Naranjo Jiménez (*supra* Considering 44 and 47). Likewise, it observes with concern that the State has not submitted information on what the representatives have indicated with regard to what allegedly took place on May 21, 2010, to the detriment of beneficiary María del Socorro Mosquera Londoño, nor on the authorities' alleged lack of proper attention with regard to the incident (*supra* Considering 65(e)). Likewise, it notes the contradictory information submitted by the parties with regard to what happened on August 25, 2010, in the area of the residence of the beneficiaries (*supra* Considering 65(f) and (66)(b)). 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.

71. It can be deduced from the information provided that the protective measures adopted by the State to the benefit of beneficiaries have been neither effective nor sufficient, both in their planning and their implementation, with respect to the need for protection. However, the Court observes that in certain situations the lack of communication between the beneficiaries, the representatives, and State authorities, as well as the absence of agreement as far as the protective measures that should be adopted, have exacerbated the situation. The Tribunal reiterates that the State's adoption of particular measures of protection is not enough. Rather, these measures and their implementation must be effective such that the threats toward and harassment of the individuals whose protection is sought cease. The Court exhorts the beneficiaries, their representatives, and the State to seek more appropriate channels of communication in

<sup>28</sup> Cf. *Case of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Inter-American Court of August 29, 1998, Considering six; *Matter of the Jiguamiandó and Curbaradó Communities*, *supra* footnote 25, Considering 6, and *Matter of Gladys Lanza Ochoa*, *supra* footnote 3, Considering 7.

order to overcome the obstacles preventing the efficient implementation of protective measures in accordance with the current risk faced by the beneficiaries.

72. Given all the foregoing considerations, the Court deems it necessary for the State to immediately and effectively take all necessary and special measures to ensure the full exercise of the rights to life and humane treatment of Ms. Mery Naranjo Jiménez and her relatives, and of Ms. María del Socorro Mosquera Londoño, such that the measures be effective at preventing and ceasing the threats and harassment, as well as so the beneficiaries can live their lives in the way in which they are accustomed and without fear.

73. In addition, the Court takes note of the information provided by the representatives with regard to the relatives of Ms. Mosquera Londoño (*supra* Considering 65h). It also observes that the State has not taken the opportunity to present its observations in this regard. However, it notes that the alleged victims of these attacks are not beneficiaries of these provisional measures. In this sense, the Court reiterates that it cannot rule on facts or situations that do not exclusively pertain to the beneficiaries of the measures.<sup>29</sup>

#### ***4. On the investigations into facts related to these provisional measures***

74. The State reported on steps taken and progress made in the various criminal and disciplinary investigations launched as a consequence of the facts originating these provisional measures, as well as in relation to the threats or alleged failure to carry out their duties by officials in charge of the security and protective measures implemented to the benefit of the beneficiaries.

75. Regarding the investigations, the representatives found that "positive progress in the criminal and disciplinary investigations is important not only because it stops the violations but also because it alleviates the risk faced by the victims." In addition, they reiterated that "progress in the proceedings [...], the search for the truth, and the punishment of those responsible is fundamental in this case, and [...] compliance with the protective measures is not enough." For this reason, they demanded results from the State with regard to justice.

76. For its part, the Commission took note of the information submitted by the representatives and the State on this topic on various occasions, but commented with concern that "significant progress in the investigation into the facts leading to these measures has not been present." Finally, it found it necessary for Colombia to present "current and detailed information on this," as it was fundamental for the State to adopt all necessary measures to "progress in its compliance with measures of justice in this case."

77. With regard to the pleadings related to the judicial investigations carried out by the State into the alleged facts that led to these measures, as with any other action to investigate acts of harassment, threats, or the situations separate the life 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 the fact that they have been in the process of implementation for four years, the Court finds that the issue of the investigations implies an analysis of the merits that is beyond the scope of the provisional measures.

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<sup>29</sup> Cf. *Matter of the Jiguamiandó and Curbaradó communities*, *supra* footnote 25, Considering 62.

78. Likewise, the Tribunal 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.<sup>30</sup>

79. Taking this into account, in the context of these provisional measures and as it has done in other matters,<sup>31</sup> the Court will not address the alleged absence of results nor the way in which State is investigating. In that sense, the Tribunal reiterates that it will not repeat its request to the parties for information on this point. However, this does not exempt the State from its obligation to investigate the facts denounced on which these provisional measures are based, under the terms of Article 1(1) of the American Convention.

**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,

**DECIDES TO:**

1. Rule that the provisional measures adopted to the benefit of Sebastián Naranjo Jiménez have ceased to have a purpose due to his death, in accordance with what was set forth in Considering 47 through 49 of this Order.
2. Require the State to continue adopting the necessary measures to protect the rights to life and personal integrity of Mery Naranjo Jiménez and her relatives, to wit, Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo and Luisa María Escudero Jiménez.
3. Require the State to guarantee that the measures of protection are not provided by the security officials who, according to the beneficiaries, were involved in the reported facts, in a manner such that the designation of the same must be made with the participation of the beneficiaries or their representative.
4. Require the State to continue adopting the necessary measures of permanent protection to ensure the safety of the place of residence of Ms. Mery Naranjo Jiménez and her family.

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<sup>30</sup> Cf. *Case of Velásquez Rodríguez*. Provisional Measures regarding Honduras. Order of the Court of January 15, 1988, Considering 3; *Matter of Ramírez Hinojosa et al.* Provisional Measures regarding Peru. Order of the Court of February 3, 2010, Considering 27, and *Matter of the Peace Community of San José de Apartadó*. Order of the Court of August 30, 2010, *supra* footnote 25, Considering 44.

<sup>31</sup> Cf. *Matter of the children and adolescents deprived of liberty in the "Complexo do Tatuapé" of the FEBEM*. Provisional Measures regarding Brazil. Order of the Court of July 3, 2007, Operative Paragraph 7; *Matter of the Jiguamiandó and Curbaradó communities*, *supra* footnote 25, Considering 39, and *Matter of the Peace Community of San José de Apartadó*. Order of the Court of August 30, 2010, *supra* footnote 25, Considering 30.

5. Require the State to continue adopting the measures necessary to protect the life and personal integrity of Ms. María del Socorro Mosquera Londoño.
6. Ask the State of Colombia to submit a detailed and exhaustive report to the Inter-American Court of Human Rights no later than January 30, 2011, indicating the measures it has adopted toward compliance with the provisions of the second, third, fourth, and fifth operative paragraphs of this order, as well as the information required in Considering 29, 36, 43, 57 and 63 of this order.
7. Request the representatives of the beneficiaries to present their comments on the State report indicated in the prior operative clause within six weeks counting from its receipt, as well as the information requested in Considering 36 and 64 of this Order.
8. Ask the Inter-American Commission on Human Rights to submit its comments on the State report indicated in operative paragraph 6 within a period of six weeks counting from its receipt.
9. Reiterate to the State that it should allow the beneficiaries of these measures to take part in their planning and implementation and, in general, keep them informed about the progress in their execution.
10. Reiterate that the State must continue reporting to the Inter-American Court of Human Rights every two months on the provisional measures taken, and require the representatives of the beneficiaries and the Inter-American Commission on Human Rights to present their comments within four and six weeks, respectively, counting from the date on which they are notified of the State's reports.
11. Request that the Secretariat of the Court notify the State, the Inter-American Commission on Human Rights and the representative 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