

**ORDER OF THE PRESIDENT OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF APRIL 1, 2011**

**PROVISIONAL MEASURES  
REGARDING THE UNITED MEXICAN STATES**

**MATTER ALVARADO REYES *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 May 26 and November 26, 2010, in which the Tribunal ordered provisional measures and monitored their execution in this matter. In the latter, the Court ordered, *inter alia*:

1. To reiterate that the State immediately adopt whatever measures necessary to promptly ascertain the whereabouts of Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza, and José Ángel Alvarado Herrera, as well as measures for the protection of their lives, right to humane treatment, and personal freedom.

2. To require the State to adopt immediately whatever measures are necessary to protect the lives and right to humane treatment of [the 24 relatives of Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza and José Ángel Alvarado Herrera].

3. To require the State to adopt immediately whatever measures are necessary to protect the rights to life and personal integrity of Emilia González Tercero [...].

4. To reject the request to broaden these provisional measures to the benefit of Patricia Galarza Gándara, Brenda Andazola, Luz Esthela Castro Rodríguez, Oscar Enríquez, Javier Ávila Aguirre, and Francisca Galván [...].

5. To require the State to undertake all appropriate procedures to ensure that the protective measures contained in this Order are planned and carried out with the participation of the beneficiaries or their representatives and with an aim towards their swift and effective implementation. The State must also keep the beneficiaries or their representatives informed as to progress in their execution.

[...]

2. The communication dated February 11, 2011, in which the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) informed the Court of new alleged facts of threats toward the beneficiaries, as

a result of which "the members of the Alvarado family had left their homes and their jobs and were in hiding." (*infra* Having Seen 7(d)).

3. The note from the Secretariat of February 15, 2011, requesting that the United Mexican States (hereinafter "the State" or "Mexico") submit any information it considered pertinent regarding the new facts alleged by the Commission in its next report on the implementation of these measures (*supra* Having Seen 2).

4. The brief dated February 21, 2011, and its annex in which the State submitted a report on the implementation of these provisional measures.

5. The note from the Secretariat dated March 2, 2011, requesting that the State submit specific information in its next report on the implementation of these measures, as this information had not been provided in its report dated February 21, 2011 (*supra* Having Seen 4).

6. The brief dated March 16, 2011, and its annex in which the Inter-American Commission requested that these provisional measures be broadened to the benefit of nine families and six representatives of the beneficiaries (hereinafter also "the representatives").

7. The alleged facts on which the Inter-American Commission bases its request that these measures be broadened:

- a) on January 24 , 2011, uniformed and armed federal police appeared at the home of beneficiary José Ángel Alvarado Favela, together with personnel from the Office of the Attorney General of the Republic's Ciudad Juárez delegation. The police officers attempted to detain the beneficiary given that "he had filed a writ of *amparo* to locate José Ángel Alvarado Herrera, Nitza Paola Alvarado Espinoza and Rocío Irene Alvarado Reyes," for which reason "he must appear before that office to report on the whereabouts of his relatives." Mr. Alvarado Favela had expressed his fear to the officers and told them that State officials were the ones who must provide information on his disappeared relatives;
- b) on January 28, 2011, Mr. Alvarado Favela, accompanied by representatives Luz Esthela Castro and Gabino Gómez, appeared at the offices of the Office of the Attorney General of the Republic, complying with the requirements placed on all individuals seeking access there. Nevertheless, they were told that in order to be allowed access, additional information must be provided, along with photographs of Mr. Alvarado Favela. He and his representatives decided not to allow the taking of photographs or fingerprints and left;
- c) on January 29, 2011, federal police and personnel of the Office of the Attorney General of the Republic again appeared at the home of Alvarado Favela. On failing to find him there, the officials took pictures of the house and its surroundings, and
- d) on January 29, 2011, Mr. José Ángel Alvarado Favela received a call on his cellular phone where a man told him: "we have your son and he is alive, we are going to kill you and your children like dogs, you have 12 hours to leave the house and the city, if not we are going to kill everyone because you are talking too much." Following that phone call, the members of the Alvarado family left their homes and jobs and "are in hiding."

8. The Commission's arguments on which it based its request for the broadening of provisional measures, among others:

- a) the relatives to the benefit of whom the broadening of the measures is requested share the same immediate family as the current beneficiaries and, in that sense, are facing the same situation of extreme gravity, urgency and risk of irreparable damage.
- b) these relatives - mainly boys and girls - have been directly affected by "the extreme measures that the beneficiaries have had to take to protect their lives and personal integrity" in response to continuing acts of intimidation and threats toward them;
- c) it can be deduced from the language used in the threatening phone call that its purpose was to silence those who were publicly denouncing the disappearances of the original beneficiaries and the alleged participation of military officials in those incidents, and to prevent the investigation from continuing;
- d) the representatives to the benefit of whom the broadening of these measures was requested have played "an active role not only in the context of the international processing of the provisional measures but have also continued to denounce the facts domestically," including by "filing briefs" before the different authorities and appearing before them in support and accompaniment of the members of the Alvarado family. As a consequence, they have "significant visibility" as a driving force behind the domestic investigations and the measures of protection before the bodies of the inter-American system;
- e) the threat that beneficiary José Ángel Alvarado Favela received on his cell phone took place after he appeared on January 28, 2011, at the Office of the Attorney General of the Republic, accompanied by his representatives and proposed beneficiaries Luz Esthela Castro and Gabino Gómez;
- f) both relatives and representatives participate in making the allegations and demanding justice. The latter accompany and provide backup for the actions of the relatives;
- g) at least one of the representatives who has participated in those activities - beneficiary Emilia González Tercero - has been a direct victim of acts of harassment and intimidation, "strengthening the earlier indications that the risk extends to the representatives," and
- h) there are contextual elements that "together with the earlier elements," allow for the presumption of a situation of risk to the lives and personal integrity of the representatives. In particular, it indicated that, according to the United Nations Office of the High Commissioner of Human Rights, Chihuahua is in first place nationally with regard to complaints of attacks on human rights defenders. In this regard, it indicated that the attacks are various in nature and include "an intense climate of threats toward and harassment of human rights defenders who carry out their activities in the region." In this sense, it highlighted that in many cases these threats have culminated "in the disappearance and/or murder of [human rights] defenders, many of who were actively participating in publicly denouncing abuses of military forces in the state of Chihuahua."

9. The Commission requests, based on Article 63(2) of the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") and 27 of the Rules<sup>1</sup> (hereinafter also "the Rules of Procedure") that the Court order the State to:

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<sup>1</sup> Rules of Procedure of the Court approved in its LXXXV Regular Period of Sessions, held on November 16-28, 2009

- a) Take immediate measures to protect [the] life and personal integrity [of the proposed beneficiaries];
- b) Investigate the facts behind this request for the broadening of provisional measures as a means of identifying the source of the risk and ensuring that the threats are not carried out[,] and
- c) Coordinate provisional measures with the proposed beneficiaries.

10. The brief dated March 25, 2011, and its annexes, as well as the additional annexes submitted on March 28, 2011, in which Mexico submitted its comments on the request to broaden provisional measures. Regarding the recent threatening acts alleged by the Commission, the State:

- a) indicated during the meeting held with the beneficiaries and the representatives on February 18, 2011, that it had requested information from the various authorities involved in this matter, "insofar as they were aware of the facts" with regard to beneficiary José Ángel Alvarado Favela. In this regard, it indicated that it had given a response to the petitions made during that meeting in a later meeting held on March 4, 2011, but that during this latter meeting "it was not possible to reach the agreements that were indispensable for the implementation of the provisional measures;"
- b) highlighted "the lack of willingness of the beneficiaries to assist in the investigations" carried out by the Office of the Attorney General of the Republic toward locating beneficiaries Rocío Irene, Nitza Paola and José Ángel Alvarado. In this sense, it stated that "although elements of that office approached Mr. Alvarado Favela, he did not wish to collaborate in the investigations, the same as [when] he himself visited the offices of the [Attorney General];"
- c) reported that in the March 4, 2011, meeting, in response to the requirement that the relatives of the disappeared victims provide "more information" in order for the investigations to be carried out, representative Luz Esthela Castro Rodríguez responded that "they will in no way provide statements and that the information provided [on the investigations] [was] not sufficient." The State added that the representative refused "to place" her comments in the investigation's record and left together with the relatives of the presumably disappeared victims "without even signing the record that she had had access the preliminary investigation file;"
- d) clarified that the State "has no intention of applying any of the coercive measures provided for by law to the beneficiaries in order to get them to appear," and that it was fully available to provide them with the necessary legal guarantees to adjust the proceeding to their special needs under the terms of the Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power of the General Assembly of the United Nations, as well as to keep them safe when they decide to appear before the authorities, and
- e) indicated as an example of that willingness the facilities provided by the Office of the Attorney General of the Republic to beneficiaries of the measures in order for them to be able to participate in the investigation proceedings, despite which, and "for quite respectable reasons," the beneficiaries have not participated as "required of them."

11. In particular, with regard to the request for a broadening of these provisional measures, Mexico indicated that:

- a) With regard to the relatives of the beneficiaries, it is "fully available to adopt the measures" that were handed down by the Court, and toward doing so, the authorities in charge have held working meetings with the representatives of the beneficiaries in which those representatives put forward specific petitions for addressing the situation of the beneficiaries. However, it indicated that it has not been possible to reach useful agreements for determining what actions to take "given the posture of the representatives of the beneficiaries" and their reticence toward reaching an agreement with the State on the actions to take in order to provide protection to the beneficiaries. Regarding this, it indicated as an example the fact that during the aforementioned meeting on March 4, 2011, the representatives left after making the statements that they felt were pertinent without allowing for "the building of the agreements necessary to continue implementing the provisional measures." In this sense, Mexico "urged the Inter-American Commission to serve as an intermediary with the representatives of [the beneficiaries]," given that without the necessary dialogue between the parties it would be very difficult to establish the measures necessary to guarantee the rights of the beneficiaries, and
- b) with regard to the representatives of the beneficiaries, the facts presented by the Commission as the factual basis of its request for the broadening of the measures make no reference to the situation of the representatives proposed as beneficiaries of these measures. The State argued that the Commission did not submit specific facts to provide justification for its request for measures regarding those persons, nor did it indicate that any of them had been the victim of any act of aggression or threat as a result of this matter, meaning that the situation of extreme gravity and urgency has not been demonstrated. Likewise, Mexico highlighted that proposed beneficiaries Luz Esthela Castro Rodríguez and the other members of the Centro de Derechos Humanos de las Mujeres (CEDEHM) are covered by precautionary measures granted by the Inter-American Commission, which have been duly implemented.

#### **CONSIDERING THAT:**

1. Mexico has been a State Party to the American Convention since March 24, 1981, and, in keeping with Article 62 of the Convention, recognized the contentious jurisdiction of the Court on December 16, 1998.

2. Article 63(2) of the American Convention holds that, "In cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission."

3. On this subject, Article 27 of the Rules of Procedure of the Court establishes in its applicable 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.

[...]

5. The Court, or if the Court is not sitting, the Presidency, upon considering that it is possible and necessary, may require the State, the Commission, or the representatives of the beneficiaries to provide information on a request for provisional measures before deciding on the measure requested.

6. If the Court is not sitting, the Presidency, in consultation with the Permanent Commission and, if possible, with the other Judges, shall call upon the State concerned to adopt such urgent measures as may be necessary to ensure the effectiveness of any provisional measures that may be ordered by the Court during its next period of sessions.

[...]

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

6. In keeping with Orders of the Court dated May 26 and November 26, 2010, the State must, *inter alia*, adopt all necessary measures for protecting the life and personal safety of: (i) Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza and José Ángel Alvarado Herrera, allegedly forcibly disappeared on December 29, 2009; (ii) 24 of their relatives, and (iii) representative Emilia González Tercero.

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<sup>2</sup> Cf. *Case of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of June 14, 1998, Considering 6; *Case of Caballero Delgado and Santana*. Provisional Measures regarding Colombia. Order of the Court of February 25, 2011, Considering 3, and *Matter of Mery Naranjo et al.* Provisional Measures regarding Colombia. Order of the Court of March 4, 2011, Considering 4.

<sup>3</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 Mery Naranjo et al.*, *supra* footnote 2, Considering 4, and *Matter of Wong Ho Wing*. Provisional Measures regarding Peru. Order of the Court of March 4, 2011, Considering 10.

7. On March 16, 2011, the Commission requested that these provisional measures be broadened to the benefit of nine families<sup>4</sup> and six representatives of the beneficiaries.<sup>5</sup> Likewise, the Commission requested that the identities of the children to whose benefit the broadening of these measures was requested not be included in the public documents. The names of all the measures' proposed beneficiaries have been provided to the State confidentially, in order that, where appropriate, the protection ordered herein be provided to them. Regarding this, this Presidency observes that the State did not address this request of the Commission (*supra* Having Seen 10). As a consequence, attending to the Commission's request and in the absence of any objection to it, this Presidency finds it appropriate that this Order not reveal the identity of the proposed beneficiaries who are minors, this based on what the Commission has indicated in this regard. Likewise, this Presidency notes that there are 11 beneficiaries protected by the provisional measures ordered by the Court in its Order of November 26, 2010, who are also minors, according to the information found in the case file. When the Inter-American Commission requested the broadening of the measures in 2010 to include these children, it did not request that their identities be kept confidential, for which reason their names were made public in the aforementioned Order of November 26, 2010. In this regard, this Presidency finds it appropriate that the identities of these 11 children who are beneficiaries not be made public in this Order in consideration of the request made at this time by the Commission, and asks the Commission and the representatives to inform the Tribunal of their opinions regarding this for the purposes of eventual subsequent orders.

8. In the aforementioned Order of November 26, 2010, the Court monitored the implementation of these provisional measures to the benefit of their current beneficiaries. In this Order, the President will analyze exclusively the aforementioned request for broadening of the provisional measures in the following order: (i) with regard to the relatives of the beneficiaries, and (ii) with regard to the representatives of the beneficiaries. Likewise, it will also consider the request for a hearing submitted by the representatives (*infra* Considering 25 to 27).

9. This request for provisional measures is not related to a case before the Court. Rather, it originated in a request for precautionary measures presented before the Inter-American Commission. This Tribunal does not have information on whether the facts brought to its attention form part of an adversarial proceeding before the Inter-American system or if a petition on the merits related with this request has been brought before the Inter-American Commission.

10. On previous occasions, this Court has interpreted the phrase "a case not yet submitted to the Court" contained *in fine* in Article 63(2) of the American Convention presupposes that there exists at least the possibility that the matter motivating the request for provisional measures could be brought before Tribunal and its contentious jurisdiction. In order for that

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<sup>4</sup> In particular, the Commission requested that these provisional measures be broadened to the benefit of the following persons: (i) five relatives of beneficiary Jaime Alvarado Herrera, to wit, his wife, Sandra Luz Rueda Quezada and his children J.O.A.R., R.G.A.R., S.A.R. and J.E.A.R.; (ii) a relative of beneficiary Rosa Olivia Alvarado Herrera, her daughter, J.G.A., and (iii) three relatives of Manuel Melquíades Alvarado Herrera, to wit, his wife, Mayra Daniela Salais Rodríguez, and his daughters, D.J.A and J.A..

<sup>5</sup> To wit: Javier Ávila, Oscar Enríquez, Francisca Galván, Patricia Galarza Gándara, Luz Esthela Castro Rodríguez and Gabino Gómez.

minimum possibility to exist, the proceeding established in articles 44 and 46 to 48 of the American Convention must have been initiated before the Commission.<sup>6</sup>

11. The Court has previously found it necessary to clarify that, given the tutelary nature of provisional measures (*supra* Considering 5), in exceptional cases and even when there is no specific adversarial case before the Inter-American system, it is possible for the Court to order them in situations in which, *prima facie*, the grave and urgent infraction of human rights could take place.<sup>7</sup> To do so, the Court must weigh the problem in question, the effectiveness of State actions given the situation described, and the degree of lack of protection faced by individuals for whom the measures are requested in the event that the measures are not adopted. To accomplish this objective, it is necessary for the Inter-American Commission to have presented sufficient grounds that meet the aforementioned standards and for the State to have failed to demonstrate clearly and sufficiently the effectiveness of the specific measures that it has adopted domestically.<sup>8</sup>

12. 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 Court’s intervention is requested<sup>9</sup>

### **I. Regarding the request to broaden measures to the benefit of relatives of the beneficiaries**

13. The President observes that in its request to broaden the measures, the Commission reported on a number of facts that took place with regard to beneficiary José Ángel Alvarado Favela, father of the allegedly disappeared José Ángel Alvarado Herrera, in connection with the investigation into what happened to the beneficiaries who were presumably disappeared (*supra* Having Seen 7). Regarding these facts, this Presidency notes that Mexico alleges a supposed lack of availability of the representatives and beneficiaries to collaborate with the investigation, but it also notes that the State confirmed that officials of the Office of the Attorney General of the Republic approached Mr. Alvarado Favela to request his statement,<sup>10</sup>

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<sup>6</sup> Cf. *Matter of García Uribe et al.* Request for Provisional Measures regarding Mexico. Order of the Court of February 2, 2006, Considering 3 and 4; *Matter of Alvarado Reyes et al.* Provisional Measures regarding Mexico. Order of the Court of November 26, 2010, Considering 31, and *Matter of José Luis Galdámez Álvarez et al.* Provisional Measures regarding Honduras. Order of the Court of February 22, 2011, Considering 9.

<sup>7</sup> Cf. *Matter of Capital El Rodeo I & El Rodeo II Judicial Confinement Center.* Provisional Measures regarding Venezuela. Order of the Court of February 8, 2008, Considering 9; *Matter of María Lourdes Afiuni.* Provisional Measures regarding Venezuela. Order of the President of the Court of March 10, 2010, Considering 7, and *Matter of the Unidad de Internación Socioeducativa.* Provisional Measures regarding Brazil. Order of the Court of February 25, 2011, Considering 6.

<sup>8</sup> Cf. *Matter of Capital El Rodeo I & El Rodeo II Judicial Confinement Center,* *supra* footnote 7, Considering 9; *Matter of María Lourdes Afiuni,* *supra* footnote 7, Considering 7, and *Matter of the Unidad de Internación Socioeducativa,* *supra* footnote 7, Considering 6.

<sup>9</sup> Cf. *Case of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering 14; *Matter of the Unidad de Internación Socioeducativa,* *supra* footnote 7, Considering 7, and *Matter of Mery Naranjo et al.,* *supra* footnote 2, Considering 10.

<sup>10</sup> The State indicated all this in its comments. Nevertheless, the annexes to its comments include an official letter from the Office of the Attorney General of the Republic where it states that the Chihuahua Delegation of that institution “did not carry out any procedures on the day and time mentioned by the

which he also declined to grant. Regarding this, the President recalls that the Court, in its order dated November 26, 2010, found that the separate occasions on which the relatives had complained of feeling harassed or threatened have been related with the criminal complaint, investigation or interrogation by State authorities with regard to the alleged forced disappearance of their relatives.<sup>11</sup> In this sense, the Court found that the progress of the investigations and the need to request information from the relatives for those investigations neither justified nor constituted sufficient reason for the apparent repeated visits of State authorities to the residences of the proposed beneficiaries, especially from authorities who the proposed beneficiaries had indicated as possibly responsible for the alleged disappearance of their relatives.<sup>12</sup> The President reiterates those considerations and urges the State to take them into consideration when implementing actions toward determining the whereabouts of the beneficiaries who were presumably disappeared.

14. In addition, this Presidency 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> The State must take the pertinent steps for the provisional measures ordered in this Order to be planned and applied with the participation of the beneficiaries of those measures or their representatives in such a way that the measures are implemented diligently and effectively. However, the beneficiaries and their representatives also have the duty to cooperate in order to achieve adequate implementation of the security measures. In this sense, the President highlights the importance of 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.

15. In addition, the President observes that as a result of the phone call received by beneficiary José Ángel Alvarado Favela on January 29, 2011, the members of the Alvarado family have left their places of residence and are in hiding due to fear of possible damage to their lives and personal integrity (*supra* Having Seen 7(d)). Likewise, it takes into account that the relatives to whose benefit the broadening of these measures is requested at this time are the spouses or children of beneficiaries who are presumably currently in hiding as a result of the aforementioned threat. In this sense, this Presidency observes that on the occasion of the extension of these measures to certain relatives of the beneficiaries presumably disappeared, in its Order dated November 26, 2010, the Tribunal found that the situation of intimidation faced by certain relatives of the aforementioned disappeared beneficiaries was such that it extended to the other relatives, particularly because all the proposed beneficiaries shared a home with at least one of the relatives involved in the investigation, as well as with their corresponding and presumably disappeared relatives, from which it was deduced that those relatives could potentially be at risk. The President finds that the relative to whose

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beneficiaries of the measures [January 24, 2011], particularly at the domicile of José Ángel Alvarado Favela, which would have resulted in its inclusion in the detailed report [related to this matter] that it keeps."

<sup>11</sup> Cf. *Matter of Alvarado Reyes et al.*, *supra* footnote 6, Considering 45.

<sup>12</sup> Cf. *Matter of Alvarado Reyes et al.*, *supra* footnote 6, Considering 45.

<sup>13</sup> Cf. *Case of the "Mapiripán Massacre"*. Provisional Measures regarding Colombia. Order of the Court of September 2, 2010, Considering 20; *Matter of the Forensic Anthropology Foundation regarding Guatemala*. Provisional Measures regarding Guatemala. Order of the Court of February 22, 2011, Considering 28, and *Case of the Mapiripán Massacre*. Provisional Measures regarding Colombia. Order of the Court of March 1, 2011, Considering 18.

favor the broadening of the measures is requested this time are facing the same situation of potential risk as the relatives who are current beneficiaries. Additionally, the President takes note that the State has not opposed the granting of provisional measures to the benefit of these proposed beneficiaries. On the contrary, it has expressed its "full willingness" to adopt the provisional measures ordered in this sense (*supra* Having Seen 11(a)).

16. The President recalls that the urgency required for the adoption of provisional measures alludes to special and exceptional situations that require and merit immediate actions and responses oriented toward averting the threat. These are circumstances that due to their very nature presuppose an imminent risk. The nature of the response needed for remedying the threat is derived from its level of urgency. The response must, above all, be immediate and, in principle, timely in order to address such a situation, as a lack of response would in itself imply a danger.<sup>14</sup> Likewise, in cases such as this one, the extreme gravity of the threat must be evaluated based on its specific context, it being evident that if fundamental rights such as the rights to life and physical integrity are compromised by these kinds of threats, the context is in principle one that merits considering the adoption of protective measures.<sup>15</sup> In this case, the irreparable character of the damage that could result has to do with the rights to life and humane treatment of the relatives of the beneficiaries.

17. The *prima facie* evaluation standard in a given matter and the use of assumptions given the need for protection have moved the President and the Court to order provisional measures on several occasions.<sup>16</sup>

18. By virtue of the foregoing considerations, the President finds that the threatening phone call presumably received by beneficiary José Ángel Alvarado Favela and the resulting difficult decision of the members of the Alvarado family to leave their residences and jobs and take refuge in a secret place indicate *prima facie* a situation of extreme gravity and urgency that justifies the broadening of protective measures with the purpose of preventing irreparable damage to the other members of the family facing the situation. As a result, this Presidency finds that the State must adopt the necessary measures to protect the lives and personal integrity of the nine relatives of the beneficiaries indicated by the Inter-American Commission in its request (*supra* Considering 7).

## **II. Regarding the request for broadening to the benefit of the representatives of the beneficiaries**

19. The President takes note of the arguments expressed by the Commission to request the broadening of these measures to the benefit of the representatives of the beneficiaries,

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<sup>14</sup> Cf. *Matter of Capital El Rodeo I & El Rodeo II Judicial Confinement Center*, *supra* footnote 7, Considering 18; *Matter of Alvarado Reyes et al.*, *supra* footnote 6, Considering 47, and *Matter of the Mery Naranjo et al.*, *supra* 22, Considering 11.

<sup>15</sup> Cf. *Matter of Capital El Rodeo I & El Rodeo II Judicial Confinement Center*, *supra* footnote 7, Considering 17; *Matter of Alvarado Reyes et al.*, *supra* footnote 6, Considering 47, and *Matter of Mery Naranjo et al.*, *supra* 22, Considering 11.

<sup>16</sup> Cf. *inter alia*, *Matter of Monagas Judicial Confinement Center ("La Pica")*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of January 13, 2006, Considering 16; *Matter of the Unidad de Internación Socioeducativa*, *supra* footnote 7, Considering 5, and *Matter of Mery Naranjo et al.*, *supra* footnote 22 Considering 13.

according to which: (i) the threats against the beneficiaries of these provisional measures extend to the representatives of the beneficiaries by virtue of the relationship of these threats with the investigation and allegation of the presumed disappearance of beneficiaries Nitza Paola, Rocío Irene and José Ángel Alvarado, in which the representatives have visibly and actively participated, and (ii) the alleged context of harassment of human rights defenders in Chihuahua would lead to the presumption of a situation of risk to the life and integrity of those representatives (*supra* Having Seen 8). Likewise, the President takes note of the State's comments in this regard to the effect that the Commission does not refer to specific facts in connection with the representatives that would reveal a situation of extreme gravity and urgency.

20. In relation with the aforementioned context of harassment of human rights defenders, the President deems it opportune to reiterate what the Court indicated in its Order dated November 26, 2010.<sup>17</sup> At that time, the Tribunal explained that although in order to determine whether a situation of extreme gravity and urgency for preventing irreparable damage exists the Court can weigh the whole of the political, historical, cultural or other factors or circumstances that affect beneficiaries or place them in a situation of vulnerability in a particular moment and expose them to violations of their rights, only specific extreme and urgent circumstances can be covered by provisional measures. In this sense, the Court indicated that a collection of factors or circumstances can exist revealing grave aggression against a specific group of persons that places those persons in a situation of extreme gravity and urgency and at risk of suffering irreparable damage. In that extreme situation, the granting of provisional measures can be justified even without a direct threat to the beneficiary if a series of grave attacks against the group to which the beneficiary belongs allows it to be reasonably inferred that the beneficiary will also be attacked. Nevertheless, the Court indicated that there are also situations in which are not like this and that those situations in and of themselves do not represent extreme gravity and urgency and risk of suffering irreparable damage for particular groups. In that case, the context serves only to define the specific threat against the beneficiary and not to justify in and of itself the granting or maintaining of provisional measures.<sup>18</sup>

20. With regard to the request for broadening to the benefit of the representatives, this Presidency observes that at this time the Commission again requested that provisional measures be granted to the benefit of five representatives whose prior request for provisional measures was rejected by the Tribunal in its Order of November 26, 2010.<sup>19</sup> In that Order, the Court found that the supposed context did not *per se* justify the granting of provisional measures to the benefit of those representatives - that is, that this alleged context was not sufficient basis for broadening the provisional measures in the absence of specific facts allowing for sound conclusions with regard to the alluded-to effects of that context in the specific matter.

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<sup>17</sup> Cf. *Matter of Alvarado Reyes et al.*, *supra* footnote 6,6

<sup>18</sup> Cf. *Matter of Carlos Nieto et al.* Provisional Measures regarding Venezuela. Order of the Court of January 26, 2009, Considering 19; *Matter of Liliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of July 9, 2009, Considering 24, and *Matter of Alvarado Reyes et al.*, *supra* footnote 6, Considering 62.

<sup>19</sup> At that time, the Tribunal rejected the request to broaden these provisional measures to the benefit of Patricia Galarza Gándara, Brenda Andazola, Luz Esthela Castro Rodríguez, Oscar Enríquez, Javier Ávila Aguirre, and Francisca Galván. Cf. *Matter of Alvarado Reyes et al.*, *supra* footnote 6, Considering 4.

21. At this time, the President reiterates what the Tribunal had ruled in the sense that it cannot be concluded from the information provided that the alleged context of harassment of human rights defenders constitutes *per se* a basis for granting provisional measures to the benefit of the representatives. This Presidency observes that the information submitted does not indicate that any concrete incidents have taken place against the proposed beneficiaries - the representatives of the beneficiaries - that could constitute the effects of the aforementioned alleged context.

22. Therefore, this Presidency does not observe *prima facie* the existence of a situation of extreme gravity and urgency that could result in irreparable damage to the rights of the representatives in this matter, for which reason it does not find the request to broaden the provisional measures to their benefit to be admissible at this time.

23. Without prejudice to these considerations, the President finds it opportune to reiterate 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. These obligations apply not only with regard to State power, but also with regard to the actions of private third parties.<sup>20</sup>

24. Likewise, the President reiterates that the State has a specific duty to protect those persons who work in nongovernmental organizations, as well as other groups or individuals who work for the defense of human rights, as the work that they do constitutes a positive and complementary contribution to the State's efforts in its position as guarantor of the rights of persons under its jurisdiction.

### **III. Regarding the request to call a hearing on this matter**

25. The President observes that on two occasions the representatives have requested that a public hearing be held on this matter, because the State has not taken concrete and effective action toward locating the presumably disappeared beneficiaries, has taken "no action" to protect the relatives of the beneficiaries, in keeping with the requirements of the Order of the Tribunal of November 26, 2010, and its response did not address the gravity and urgency of the situation in this matter.<sup>21</sup>

26. This Presidency notes that in the aforementioned Order of November 26, 2010, the Court asked the State to submit a complete report by January 31, 2011, at the latest on the provisions of operative paragraphs 1, 2 and 3 of that Order, and to submit certain specific information. It observes that the State submitted that report on February 21, 2011. However, it did not contain detailed and complete information on the measures effectively adopted to protect the life and integrity of all the beneficiaries, or on the measures adopted since the submission of its last report to locate the whereabouts of the presumably disappeared

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<sup>20</sup> Cf. *Case of Velásquez Rodríguez*. Provisional Measures regarding Honduras. Order of the Court of January 15, 1988, Considering 3; *Case of Caballero Delgado and Santana*, *supra* 2, Considering 25 *Matter of María Lourdes Afiuni*. Provisional Measures regarding Venezuela. Order of the Court of March 2, 2011, Considering 12.

<sup>21</sup> The representatives asked that a hearing be called on this matter in briefs dated November 22, 2010, and January 25, 2011.

beneficiaries, in keeping with the orders of the Tribunal found in operative paragraph 6 of the aforementioned order of November 26 from 2010.

27. By virtue of this, and given the request by the representatives for a hearing, the President finds it appropriate to call a public hearing during the next Regular Period of Sessions, which will take place from June 27 to July 9, 2011, with the purpose of hearing specific and updated information from the State, as well as the comments of the representatives and of the Inter-American Commission on the status of implementation of these provisional measures.

**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. Require the State to adopting the measures necessary to protect the rights to life and personal integrity of the following persons: J.O.A.R., R.G.A.R., S.A.R. and J.E.A.R., children of beneficiary Jaime Alvarado Herrera; Ms. Sandra Luz Rueda Quezada, wife of Mr. Jaime Alvarado Herrera; J.G.A., daughter of beneficiary Rosa Olivia Alvarado Herrera; D.J.A and J.A., daughters of beneficiary Manuel Melquíades Alvarado Herrera; and Ms. Mayra Daniela Salais Rodríguez, wife of Mr. Manuel Melquíades Alvarado Herrera.

2. Reiterate that the State immediately adopt whatever measures may be necessary to promptly ascertain the whereabouts of Rocío Irene Alvarado Reyes, Nitza Paola Alvarado Espinoza, and José Ángel Alvarado Herrera, as well as measures for the protection of their lives, integrity, and personal freedom.

3. Reiterate that the State must immediately adopt the necessary measures to protect the life and personal integrity of Patricia Reyes Rueda; A.A.R. and A.A.R., children the beneficiary Patricia Reyes Rueda; M.U.A., daughter of beneficiary Rocío Irene Alvarado Reyes; Manuel Reyes; Obdulia Espinoza Beltrán; J.A.E., J.A.A.E. and A.A.E., children of beneficiaries José Ángel Alvarado Herrera y Obdulia Espinoza Beltrán; José Ángel Alvarado Favela; Concepción Herrera Hernández; Jaime Alvarado Herrera; Manuel Melquíades Alvarado Herrera; Rosa Olivia Alvarado Herrera; K.P.A.A. and F.A.H., children of beneficiary Rosa Olivia Alvarado Herrera; Feliz García; M.P.A.E., N.C.A.E. and D.A.E., daughters of beneficiary Nitza Paola Alvarado Alvarado Espinoza; María de Jesús Alvarado Espinoza; Rigoberto Ambriz Marrufo; María de Jesús Espinoza Peinado, and Ascensión Alvarado Favela.

4. Reiterate that the State must adopt immediately whatever measures are necessary to protect the rights to life and personal integrity of Emilia González Tercero.

5. Reject the request to broaden these provisional measures to the benefit of Patricia Galarza Gándara, Luz Esthela Castro Rodríguez, Oscar Enríquez, Javier Ávila Aguirre,

Francisca Galván and Gabino Gómez, pursuant to the content of Considering 19 through 22 of this ruling.

6. Require the State to undertake all appropriate procedures to ensure that the protective measures contained in this Order are planned and implemented with the participation of the beneficiaries or their representatives and with an aim towards their swift and effective implementation. The State must also keep the beneficiaries or their representatives informed as to progress of the measures' execution.

7. Call Mexico, the representatives of the beneficiaries and the Inter-American Commission on Human Rights to a public hearing to be held during the next Regular Period of Sessions, which will take place from June 27 to July 9, 2011, with the purpose of hearing specific and updated information from the State, as well as the comments of the representatives and of the Inter-American Commission on the status of implementation of these provisional measures. The Secretariat will communicate the date and time of the public hearing to the parties in a timely fashion.

8. Ask the State to report to the Inter-American Court of Human Rights no later than June 1, 2012, on the measures adopted toward complying with the provisions of the first operative paragraph of this Order.

9. Ask the representatives of the victims and the Inter-American Commission on Human Rights to submit any pertinent comments on the State report mentioned in the preceding operative paragraph, within four and six weeks, respectively. Both time periods shall be counted as of the receipt of the corresponding State report.

10. Ask the State to continue reporting to the Inter-American Court of Human Rights on the measures adopted toward complying with the provisions of the first operative paragraph of this Order in its bimonthly reports on the implementation of the provisional measures in this matter, and require the representatives of the beneficiaries and the Inter-American Commission on Human Rights to present their comments within the time periods of four and six weeks, respectively, counting as of the notification of said State reports.

11. Order the Secretariat of the Court to notify the State, the Inter-American Commission on Human Rights and the representative of the beneficiaries of this Order.

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary

