

**ORDER OF THE  
INTER-AMERICAN COURT OF HUMAN RIGHTS  
OF JULY 6, 2011**

**PROVISIONAL MEASURES  
REGARDING VENEZUELA**

**MATTER OF CERTAIN VENEZUELAN PRISONS**

**HAVING SEEN:**

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court," or "the Tribunal") of February 8, 2008, in the matter of El Rodeo I & El Rodeo II Capital Judicial Confinement Centers, whereby it decided, *inter alia*:

1. To order the State to adopt the provisional measures necessary to protect the life and physical integrity of all the people confined in Capital Judicial Confinement Center Rodeo I and Rodeo II, especially, in order to prevent injuries and violent deaths.

[...]

2. The Order of the Inter-American Court of November 24, 2009, in the matters of Monagas Judicial Confinement Center ("La Pica"); Yare I and Yare II Capital Region Penitentiary Center (Yare Prison); Penitentiary Center of the Central Occidental Region (Uribana Prison), and Capital El Rodeo I and El Rodeo II, whereby it ruled to "procedurally joinder the processing of the same" and decided, *inter alia*:

1. To order the State to maintain and adopt the measures necessary to continue protecting the life and personal integrity of the beneficiaries of the following four penitentiary centers: Monagas Judicial Confinement Center ("La Pica"); Yare I and Yare II Capital Region Penitentiary Center (Yare Prison); Penitentiary Center of the Central Occidental Region (Uribana Prison) and El Rodeo I and El Rodeo II Capital Judicial Confinement Center.

2. To require the State to adopt the necessary measures to protect the life and personal integrity of Mr. Humberto Prado.

[...]

3. The Order of the Court of May 15, 2011, in the matter of the Penitentiary Center of Aragua "Cárcel de Tocarón", whereby it decided, *inter alia*:

1. To order the joining of the proceedings in the matters of the Monagas Judicial Confinement Center ("La Pica"); Yare I and Yare II Capital Penitentiary Center (Yare Prison); Penitentiary Center of the Central Occidental Region (Uribana Prison); El Rodeo I and El Rodeo II Capital Judicial Confinement Center, and the Penitentiary Center of Aragua "Cárcel de Tocorón".

[...]

4. The Order of the Tribunal of May 15, 2011 in the matter of the Ciudad Bolívar Judicial Detention Center "Vista Hermosa Prison," whereby it decided, *inter alia*:

[...]

2. To order that the processing of the matters of the Monagas Detention Center ("La Pica"), the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison), the Occidental Region Penitentiary Center (Uribana Prison), the Capital Detention Center El Rodeo I and El Rodeo II, the Aragua Detention Center "Tocorón Prison," and the Ciudad Bolívar Judicial Detention Center "Vista Hermosa Prison" be joined.

[...]

5. The brief of June 13, 2011, whereby the Venezuelan Observatory of Prisons (hereinafter "the representatives") informed of the facts that occurred "during the night of June 12, 2011 at the Capital Detention Center Rodeo I, where according to that stated by authorities to the different media, more than 8 inmates [had] die[d] and another 50 [had been] injured," a situation originated "by the fight between the inmates of The Annex and The Tower areas for control of the prison."

6. The brief of June 17, 2011, whereby the Inter-American Commission of Human Rights (hereinafter "the Inter-American Commission" or "the Commission") indicated that it had received information according to which on June 17, 2011 "thousands of officials of the Venezuelan National Guard had taken control of the prisons El Rodeo I and II in order to carry out a search and regain control of the same" and that, according to the inmates' next of kin "it would be receiving information regarding the inmates who had died and were injured, the shots fired from armored cars, the presence of snipers, the use of tear gas grenades, and the possible transfer of [inmates]." Likewise, the brief of June 20, 2011, through which the Commission informed that it had become aware that, within the framework of the operation carried out by the National Guard at El Rodeo I and II, "a situation of extreme gravity in which several deaths and injuries ha[d] been recorded still persisted"; that "a series of transfers of detainees w[ould] be carried out towards other prisons," some of which "were part of the present measures"; and that "defamatory remarks would be spread on the [I]nternet" with regard to the work of Mr. Humberto Prado, beneficiary of the present provisional measures.

7. The briefs of June 20 and 23, 2011, whereby Mr. Humberto Prado, in his capacity as beneficiary of the present provisional measures, forwarded information that was circulating on the Internet and in the media regarding his person.

8. The notes of the Secretariat of the Court of June 14, 20, and 23, 2011, whereby it requested that the Bolivarian Republic of Venezuela (hereinafter "the State" or "Venezuela"), following the instructions of the President of the Tribunal, present information regarding the events that occurred as of June 12, 2011 at the El Rodeo I and El Rodeo II Capital Judicial Confinement Centers and that were reported by the Commission, the representatives, and Mr. Humberto Prado (*supra* Having Seen paragraphs 5 through 7), no later than June 24, 2011.

9. The brief of June 23, 2011, whereby the State filed a "preliminary report", corresponding to the facts mentioned by the Inter-American Commission, the representatives, and Mr. Humberto Prado (*supra* Having Seen paragraphs 5 through 7), as well as to "the actions of the competent State bodies." The State pointed out the

preliminary nature of said report, expressing that “it is a situation of [i]ntervention that is still in progress at the El Rodeo I and Rodeo II Capital Judicial Confinement Centers, caused by the refusal of a small group of violent inmates, who decline to lay down their weapons and collaborate with the State in the normalization of the situation.”

10. The brief of June 24, 2011, whereby the Commission informed, *inter alia*, that on June 21, 2011 it adopted precautionary measures “with the purpose of protecting the next of kin of the inmates of the El Rodeo prisons and any other groups of people who are gathered and protesting around said judicial confinement center, until the situation had been normalized.”

11. The note of the Secretariat of the Court of June 27, 2011, whereby following the instructions of a plenary of the Court, it asked the State to file a supplemental brief no later than July 4, 2011, in which it is to reference the actions adopted after June 22, 2011 regarding the El Rodeo I and El Rodeo II Capital Judicial Confinement Centers. In said report, it shall specifically provide the following information:

- a) updated numbers of all the people that are currently detained at the El Rodeo I and El Rodeo II Capital Judicial Confinement Centers, with a precise indication of the juridical nature of their imprisonment;
- b) names of the injured beneficiaries, the medical attention granted, as well as the conditions and the place where they are currently located;
- c) name of the deceased beneficiaries;
- d) names of the beneficiaries that were transferred to other prisons with a precise indication of the place and conditions in which they are currently imprisoned, and
- e) the coordination and result of the meetings carried out with both national governmental authorities and the next of kin and representatives of the inmates.

12. The brief of July 4, 2011 whereby the State of Venezuela filed a supplemental report, in response to the note of the Secretariat of June 27, 2011 (*supra* Having Seen 11), in which it reiterated that the same “does not have a final nature, since the situation of the aforementioned Rodeo I and II Capital Judicial Confinement Centers [...] is still in course” given the fact that on June 28, 2011 “the violent inmates that kept the rest of the population of [EI] Rodeo II inmates incomunicado in the area named ‘La Torre’ are still entrenched.” The State also submitted part of the information requested (*supra* Having Seen 11).

13. The communications of July 2 and 5, 2011, whereby Mr. Humberto Prado, in his status of beneficiary of the present provisional measures, submitted information that was circulating on the Internet, in addition to his claim filed before the Public Prosecutor’s Office on June 21, 2011.

**CONSIDERING THAT:**

1. Venezuela has been a State Party to the American Convention on Human Rights (hereinafter, the “American Convention” or “the Convention”) since August 9, 1977, and pursuant to Article 62 of the Convention, it accepted the binding jurisdiction of the Court on June 24, 1981.

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

3. The stipulation enshrined in Article 63(2) of the Convention confers an obligatory nature to the provisional measures ordered by the Court, given that a basic principle of international law, supported by international case law, indicates that States must comply with their treaty-based obligations in good faith (*pacta sunt servanda*).<sup>1</sup> These orders imply a special duty of protection to the beneficiaries of the measures, as long as the latter are in force, and failure to comply with them may generate international responsibility for the State.<sup>2</sup> In this sense, it is appropriate to recall that Article 1(1) of the Convention establishes the general obligations that fall upon the States Parties to respect the rights and freedoms acknowledged in the same and to guarantee their free and full exercise to all persons subject to its jurisdiction, which are imposed not only with regard to the State's power but also with regard to the actions of individual third parties.<sup>3</sup>

4. Article 63(2) of the Convention demands that for the Court to be able to order provisional measures three conditions must be present: (i) "extreme gravity"; (ii) "urgency," and (iii) the need "to avoid irreparable damage to persons." These three conditions must coexist and be present in any situation in which the Court's intervention is requested. Likewise, the three conditions described must persist in order for the Court to maintain the protection ordered. If one of them ceases to be present, the Tribunal must assess the appropriateness of continuing with the protection ordered.<sup>4</sup>

5. The Court observes that the information recently provided by the Inter-American Commission, the representatives, and the State refers specifically to the situation that prevails at the El Rodeo I and El Rodeo II Capital Judicial Confinement Centers as of June 12, 2011, date on which a riot, allegedly motivated by a change of power amongst the imprisoned population, was recorded; the same caused the death of inmates and people present therein, as well as injuries. Based on the entity and urgency of the information presented, the Tribunal considers it appropriate to refer only to the current situation in said prison in the present Order.

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<sup>1</sup> Cfr. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Inter-American Court of Human Rights of June 14, 1998, Considering Clause number six; *Matter of Natera Balboa*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of May 15, 2011, Considering Clause number three, and *Matter of Alvarado Reyes*. Provisional Measures regarding Mexico. Order of the Inter-American Court of Human Rights of May 15, 2011, Considering Clause number four.

<sup>2</sup> Cfr. *Case of Hilaire, Constantine, and Benjamin et al. v. Trinidad and Tobago. Merits, Reparations, and Costs*. Judgment of June 21, 2002. Series C No. 94, paras. 196 through 200; *Matter of Natera Balboa*, *supra* note 1, Considering Clause number three, and *Matter of Alvarado Reyes et al.* Provisional Measures regarding Mexico. Order of the Inter-American Court of Human Rights of November 26, 2010, Considering Clause number four.

<sup>3</sup> Cfr. *Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 8, 2008, Considering Clause number eleven; *Matter of Alvarado Reyes*, *supra* note 1, Considering Clause number twenty-four, and *Matter of the Ciudad Bolívar Judicial Detention Center "Vista Hermosa Prison"*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of May 15, 2011, Considering Clause number sixteen.

<sup>4</sup> Cfr. *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of July 6, 2009, Considering Clause number fourteen; *Matter of Natera Balboa*, *supra* note 1, Considering Clause number four, and *Matter of the Forensic Anthropology Foundation of Guatemala*. Provisional Measures regarding Guatemala. Order of the Inter-American Court of Human Rights of February 22, 2011, Considering clause number two.

6. From the information provided by the State (*supra* Having Seen 9 and 12) regarding the intervention and actions employed in this situation by the Ombudsman, the Ministry of Popular Power for Interior Relations and Justice, the Public Prosecutor's Office, the National Public Defender, the Vice-Presidency of the Republic, and the National Bolivarian Guard, we can conclude the following:

a) The number of people detained at the time of the facts at El Rodeo I and El Rodeo II was approximately 4,787 inmates. On June 23, 2011, approximately 915 people continued to be detained at the El Rodeo I Prison.

b) Regarding the number of people who died and were injured during the acts of June 12, 2011, partial numbers were provided, since the intervention at the El Rodeo I and II Capital Judicial Confinement Centers "is still on-going", thus an official report with the final numbers will be forwarded later on (*supra* Having Seen 12). The information forwarded up to now indicates the following: according to the Ombudsman, approximately 20 deceased and 50 injured; according to the Ministry of Popular Power for Interior Relations and Justice, approximately 22 deceased (21 inmates and 1 visitor) and 14 injured; and according to the National Bolivarian Guard, approximately 22 deceased and 58 injured.

c) The bodies of the deceased have been handed over to their next of kin, except for that of one person.

d) 52 inmates were treated at the prison's medical service; 32 inmates were transferred to different health centers outside the prison; and 20 inmates were hospitalized. According to the Public Prosecutor's Office 16 of the injured parties presented injuries caused with firearms and 5 of them had general multiple traumas.

e) On June 16, 2011 a joint decision was made by the Ministry of Popular Power for Interior Relations and Justice, the Public Prosecutor's Office, the Ombudsman, the National Bolivarian Guard, and officials of the National Office of Prison Services to intervene the prison with 3,500 officials of the National Bolivarian Guard and the presence of a team of prosecutors.

f) This operation was carried out on June 17<sup>th</sup>, regaining control of El Rodeo I. A total of four people were recorded with bullet injuries (three officials of the National Bolivarian Guard and one inmate) and one from the National Bolivarian Guard was recorded as deceased.

g) Subsequently, a search for weapons was carried out with the help of 400 unarmed paratroopers, which resulted in the seizure of 7 rifles, 5 shotguns, 3 carbines, one sub-machine gun, 20 different caliber guns, 4 different caliber revolvers, 63 gun loaders, 28 rifle loaders, 8 hand grenades, 45 kilos of cocaine, 12 kilos of marijuana, 5,000 rifle cartridges, 100 mobile phones, and a number of multiple, prohibited objects. Additionally, 2 officials died and 22 members of the National Bolivarian Guard were injured.

h) Criminal investigations were started due to the claims of corruption related to the seizure of weapons within the prison and the deaths that had occurred during the recent conflict.

i) On June 20, 2011, a total of 2,573 inmates were transferred; all of said transfers were of a "temporary" nature. The account of transfers would be as follows: to the Penitentiary Center of the Central Occidental Region "Uribana" of the State of Barquisimeto: 500 people according to the Ministry of Popular Power for Interior Relations and Justice and the Public Prosecutor's Office; to the Penitentiary Center "Puente Ayala" of the State of Anzoátegui: 800 people according to the Public Prosecutor's Office; to the Penitentiary Center of Aragua "Tocorón" of the State of Aragua: approximately 400 people according to the Ministry of Popular Power for Interior Relations and Justice and the Public Prosecutor's Office; to the Capital Region Penitentiary Center Yare II of the State of Miranda: 801 people according to the Public Prosecutor's Office; to the Judicial Confinement Center of Carabobo "Tocuyito" of the State of Carabobo: between 66 and 73 people according to the Public Prosecutor's Office; to the Penitentiary Center of Carabobo (La Mínima): 73 people according to the Ministry of Popular Power for Interior Relations and Justice; to the Metropolitan Penitentiary Center: 801 people according to the Ministry of Popular Power for Interior Relations and Justice, and to the Agro-productive Penitentiary Center of Barcelona: 798 people according to the Ministry of Popular Power for Interior Relations and Justice.

j) The evacuation and transfer of the inmates was carried out with the presence of the Public Prosecutor's Office, "which authorized prosecutors at each of the destinations where inmates from El Rodeo would be arriving." Likewise, the Ministry of Popular Power informed of the preparation of lists of transfers of the detainees, so that the next of kin could be informed of the situation. Likewise, the Public Defender forwarded a list of inmates transferred to the national regional coordination offices of

the Public Defender so it could coordinate matters related to prison visits and the continuation of the judicial proceedings.

k) Through a commando operation on June 21, 2011, officials of the National Guard rescued 36 inmates subdued by the so-called “pranes” at the El Rodeo II Penitentiary Center, 11 of them injured.

l) Up to that day, a total of 81 inmates “kidnapped” by the so-called “pranes” of El Rodeo II had been rescued.

m) On June 22, 2011 military officials had also been able to recover the administrative files of all the inmates of El Rodeo II, since they feared they were going to be destroyed.

n) On June 22, 2011 the Vice-Presidency held an encounter with spokespersons for the next of kin of the inmates of different penitentiary centers.

ñ) The comprehensive assistance phase was started and in it the Public Defender and the Public Prosecutor’s Office reviewed the judicial cases jointly, being that 459 convicts were choosing alternative forms of compliance with their sentence.

o) El Rodeo II would continue to be taken and the so-called “pranes” did not allow the entrance of water and food supplies.

p) Constant communication was maintained with the inmates at El Rodeo II “in order to express to them the willingness of the entities involved to guarantee them their constitutional and legal rights, recommending that they avail themselves of the rule of law and the security measures implemented by the competent authorities to solve the situation.”

q) Threats were recorded against the commanding officer of the National Bolivarian Guard and his family.

7. This Court finds that the State is in a special position of guarantor regarding detainees since penitentiary authorities exercise complete control over them. In this sense, “[o]ne of the obligations that must necessarily be assumed by the State in its position of guarantor, with the objective of protecting the life and personal integrity of detainees, is that of [securing] them the minimum conditions compatible with their dignity while they remain at the detention centers.”<sup>5</sup>

8. First of all, the Tribunal points out that El Rodeo I and El Rodeo II Capital Judicial Confinement Centers are under the protection of provisional measures ordered by this Court since 2008, being that at the time of the adoption of these measures it had 2,143 inmates, and a capacity of 1,434 (*supra* Having Seen 1). After four years of being in force, the Tribunal warns that the number of inmates has doubled (*supra* Considering Clause 6(a)), presenting on June 12, 2011 a situation of overcrowding within this prison of approximately 333%. This evidently has given rise to an atmosphere of instability and conflict within the prison.<sup>6</sup>

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<sup>5</sup> Cfr. *Case of the “Juvenile Reeducation Institute” v. Paraguay. Preliminary Objections, Merits, Reparations, and Costs.* Judgment of September 2, 2004. Series C No. 112, para. 159; *Matter of Capital El Rodeo I and El Rodeo II*, *supra* note 3, Considering Clause number eleven, and *Matter of Monagas Judicial Confinement Center (“La Pica”)*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of July 3, 2007, Considering Clause number eleven.

<sup>6</sup> As has been previously stated by this Tribunal, said situation of overcrowding hinders the normal performance of essential functions at the centers, such as health, rest, hygiene, food, safety, visitation regimen, education, work, recreation, and conjugal visit; the result is a generalized deterioration of the physical installations; there are serious coexistence issues, and violence within the prison is favored. All this in detriment of both the inmates and the officials that work at the penitentiary centers, due to the difficult and risky conditions in which they carry out their daily activities. Cfr. *Case of Montero Aranguren et al. (Detention Center of Catia) v. Venezuela. Preliminary Objection, Merits, Reparations, and Costs.* Judgment of July 5, 2006. Series C No. 150, para. 90; *Case of Vélez Loo v. Panama. Preliminary Objections, Merits, Reparations, and Costs.* Judgment of November 23, 2010 Series C No. 218, para. 204, and *Case of Boyce et al. v. Barbados. Preliminary Objection Merits, Reparations, and Costs.* Judgment of November 20, 2007. Series C No. 169, para. 93.

9. Without prejudice to the fact that there is no final information on the total number of people who died and were injured at the Judicial Penitentiary Center during the events occurring since June 12, 2011 and up to the moment of the adoption of the present Order, from the information provided it can be concluded that at least 25 people have died and another 60 were injured, among both detainees and officials of the National Bolivarian Guard, in circumstances that have not yet been fully ascertained (*supra* Considering Clauses 6(b), 6(d), 6(f), and 6(k)). For the Court said acts are inconceivable within the framework of the protection due by the State to the people under its jurisdiction, and incompatible with the order of provisional measures issued by this Tribunal.

10. On the other hand, the State informed the Tribunal that, after the riot, approximately 2,573 inmates were transferred to other penitentiary centers (*supra* Considering Clause 6(i)). Regarding these transfers, the State indicated that they would be of a temporary measure. Additionally, the State reported that some of the injured inmates would still remain at health centers (*supra* Considering Clause 6(d)). The Commission noted the need that the State provide detailed information as to the current conditions of imprisonment of the people previously detained at El Rodeo and the nature of the transfers, as well as the measures adopted to guarantee that the transfers do not worsen the grave situation of the prisons that are also the object of protection of these provisional measures, thus making sure they do not create a situation of greater risk for the inmates transferred. In this regard, the State filed lists that contain the new location of the detainees transferred from El Rodeo to other penitentiary centers (*supra* Having Seen 12).

11. Regarding the beneficiaries of the present measures, it is appropriate to clarify that they are identifiable and represent those people who on June 12, 2011, at the time the facts started, were detained at El Rodeo I and El Rodeo II, regardless of the change in location of their imprisonment, as their custody continues to be the State's responsibility. In this vein, the Tribunal points out that some beneficiaries are at penitentiary centers whose population is also subject to protective measures.<sup>7</sup>

12. Concerning those people who have been transferred to penitentiary centers that are not the subject of the present provisional measures or to health centers, in the understanding that these transfers are temporary, as indicated by the State – approximately 15 days until “a series of modifications” are made “to the physical structure of the [J]udicial [C]onfinement [C]enter” - the latter must immediately and effectively adopt all the measures necessary to guarantee said people their rights to life and humane treatment, until they are relocated to the El Rodeo I and El Rodeo II Capital Judicial Confinement Center or the State reports that their transfer is final.

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<sup>7</sup> *Matter of the Aragua Penitentiary Center “Tocorón Prison”*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of November 24, 2010; *Matter of the Penitentiary Center of the Occidental Central Region (Uribana Prison)*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 2, 2007, and *Matter of Yare I and Yare II Capital Region Penitentiary Center (Yare Prison)*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of March 30, 2006.

13. In sum, during the validity of these provisional measures, according to the information provided by the Commission, the representatives, and the State, detainees at the El Rodeo I and El Rodeo II Capital Judicial Confinement Center continue to be subjected to situations that put them at risk or have directly affected their lives and right to humane treatment. Proof of this are the serious acts of violence that occurred as of the riot of June 12, 2011, which had high human costs, thus making evident the persistence of the situation of extreme gravity and urgency. Additionally, the Tribunal has verified that the level of overpopulation had become worse and that the deficient conditions of security and internal controls subsist, as well as the continuation of the entrance and possession of weapons inside the penitentiary center.

14. Under the circumstances of the present matter and while the State adjusts the detention conditions that affect the inmates, the Tribunal must demand, for the purposes of the present provisional measures, that the State specifically eradicate the risks of violent death and of attacks against the right to humane treatment, for which the measures to be adopted must include those aimed directly towards protecting the beneficiaries' rights to life and humane treatment, both in their relationships amongst themselves as well as with State agents, and to eradicate said risks, especially with regard to the deficient conditions of security and internal controls of the El Rodeo I and El Rodeo II Capital Judicial Confinement Centers.

15. In short, Venezuela is the guarantor of the lives and right to humane treatment of detainees at El Rodeo I and El Rodeo II, as well as the other penitentiary centers throughout the country. Therefore, it is compelled to adopt the measures necessary to protect them and to abstain, under any circumstances, from acting in any way that breaches the rights to life and humane treatment of said persons. The Court observes that the actions of state security agents, especially those directed to maintaining discipline or carrying out transfers, must be practiced with strict observance of the human rights of detainees and making all efforts possible to avoid unnecessary acts of force.<sup>8</sup> Additionally, given the characteristics of the detention centers, the State must protect the inmates from the violence that, in the absence of state control, may occur among the detainees.<sup>9</sup>

16. Finally, the Tribunal continues to await official and final information on the number of people who died and were injured in the events occurring as of June 12, 2011 at the El Rodeo I and El Rodeo II Capital Judicial Confinement Centers.

17. Regarding the information submitted by Mr. Humberto Prado on the alleged attacks received by different members of the media (*supra* Having Seen 7 and 13), the State mentioned that the same would not have any legal grounds, since it was not known if he had turned to Venezuelan authorities to present the respective claims. In this sense,

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<sup>8</sup> Cfr. *Case of the Children Deprived of Freedom in the "Complexo do Tatuapé" of FEBEM*. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of November 30, 2005, Considering Clause number fourteen; *Matter of the persons imprisoned in the "Dr. Sebastião Martins Silveira" Penitentiary in Araraquara, São Paulo*. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of September 30, 2006, Considering Clause number sixteen, and *Matter of the Yare I and Yare II Capital Region Penitentiary Center*, *supra* note 7, Considering Clauses number fourteen and fifteen.

<sup>9</sup> Cfr. *Matter of the persons imprisoned in the "Dr. Sebastião Martins Silveira" Penitentiary in Araraquara, São Paulo*, *supra* note 8, Considering Clause number sixteen.



it indicated that Mr. Humberto Prado “can go to the proper Prosecutor’s Office, file the respective claim and seek protection from the Law for the Protection of Victims, Witnesses, and Other Procedural Subjects.” Regarding this matter, Mr. Humberto Prado submitted a copy of the claim filed before the Public Prosecutor’s Office for statements made about him in the media (*supra* Having Seen paragraph 13).

18. In this sense, the Tribunal points out that instead of implementing protective measures, the State focuses on an investigative response, which depends on a possible claim filed by the beneficiary with the Public Prosecutor’s Office. In this regard, it is necessary to recall that Mr. Humberto Prado, in his position of director of a non-governmental organization that represents the beneficiaries of the present measures, is also a beneficiary himself of provisional measures, and therefore it is the State who must implement the measures of protection and grant effective and adequate guarantees so that he can carry out his activities freely, avoiding actions that may limit or hinder his work.<sup>10</sup> In this line, the prevalence of human rights within a democratic State is based greatly on the respect and freedom offered to defenders in their tasks.<sup>11</sup>

19. Likewise, this Court reiterates what it has stated in other cases in the sense that when issuing a judgment in matters of public interest State authorities are submitted “to certain limitations since they must reasonably, even though not extensively, verify the facts upon which they substantiate their opinions, and they must do so with a diligence even greater than the one due by individuals, given their high investiture, the broad scope, and possible effects their expressions may have on determined sectors of the population.” In this sense, the Tribunal has also stated that public officials “must take into consideration [their] position of guarantor[s] of individuals’ fundamental rights.”<sup>12</sup>

20. Finally, the Tribunal considers that the State must facilitate the means necessary so that the representatives of the beneficiaries of the present measures may carry out their activities freely, given that their work constitutes a positive contribution that complements the State’s efforts to protect the rights of the people under its jurisdiction,<sup>13</sup> and especially, those who are imprisoned.

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<sup>10</sup> Cfr. *Matter of Lysias Fleury*. Provisional Measures regarding Haiti. Order of the Inter-American Court of Human Rights of June 7, 2003, considering clause number five; *Matter of the Inter-Ecclesial Commission on Justice and Peace*. Provisional Measures regarding Colombia. Order of the Inter-American Court of Human Rights of November 25, 2010, Considering clause number twenty-three, and *Matter of the Colombian Commission of Jurists*. Provisional Measures regarding Colombia. Order of the Inter-American Court of Human Rights of November 22, 2010, Considering clause number twenty-four.

<sup>11</sup> Cfr. *Matter of Lysias Fleury*, *supra* note 10, Considering clause number five; *Matter of the Inter-Ecclesial Commission on Justice and Peace*, *supra* note 10, Considering clause number twenty-three, and *Matter of the Colombian Commission of Jurists*, *supra* note 10, Considering clause number twenty-four.

<sup>12</sup> Cfr. *Case of Apitz Barbera et al. (“First Court of Administrative Disputes”) v. Venezuela. Preliminary Objection, Merits, Reparations, and Costs*. Judgment of August 5, 2008, Series C No. 182, para. 131; *Matter of the Colombian Commission of Jurists*, *supra* nota 10, Considering clause number twenty-five, and *Case of Perozo et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs*. Judgment of January 28, 2009. Series C No. 195, para. 151.

<sup>13</sup> Cfr. *Matter of Monagas Judicial Confinement Center (“La Pica”)*. Provisional Measures. Order of the Inter-American Court of Human Rights of February 9, 2006, Considering clause number fourteen; *Matter of the persons imprisoned in the “Dr. Sebastião Martins Silveira” Penitentiary in Araraquara, São Paulo*, *supra* note 8, Considering clause number twenty-four, and *Matter of Mery Naranjo et al.* Provisional Measures. Order of the Inter-American Court of Human Rights of July 5, 2006, Considering clause number eight.

21. Based on all the foregoing, it is correct to maintain in force these provisional measures by virtue of which the State is compelled to protect the life and integrity of all the people that on June 12, 2011 were imprisoned at the El Rodeo I and El Rodeo II Capital Judicial Confinement Centers, as well as that of Mr. Humberto Prado.

22. Without prejudice for the aforementioned, the Tribunal considers it appropriate to recall that besides the measures ordered in the present matter, other Venezuelan penitentiary centers are under provisional measures ordered by the Tribunal,<sup>14</sup> as well as those ordered in the case of *Montero Aranguren et al. (Detention Center of Catia) v. Venezuela*,<sup>15</sup> within the framework of its contentious case jurisdiction, in which it established the State's international responsibility for the prison conditions of said premises and ordered, *inter alia*, that:

145. [...] as a measure of non-repetition guarantee, the State [should] adopt, within a reasonable time, the necessary measures to have incarceration conditions conform to internationally accepted standards.

146. In particular, the State [should] guarantee that the living conditions of the inmates are the result of the respect due to their dignity as human beings; including, *inter alia*: a) bed space that meets minimum standards; b) accommodation which is ventilated and naturally lit; c) regular access to clean toilets and showers securing toilet privacy; d) adequate, timely and sufficient food and health care; and e) access to educational, employment and other opportunities to assist inmates towards a law abiding and self-supporting life.

23. In conclusion, we recall that the measures adopted in the matters of the Monagas Detention Center ("La Pica"), the Capital Region Penitentiary Center Yare I and Yare II (Yare Prison); the Occidental Region Penitentiary Center (Uribana Prison); Penitentiary Center of Aragua "Tocorón Prison", and the Ciudad Bolívar Judicial Detention Center "Vista Hermosa Prison" are still in force and that the joinder of the proceedings on provisional measures ordered in the matters of specific penitentiary centers of Venezuela subsists. Therefore, the parties must submit the information required on the implementation of the provisional measures at all the penitentiary centers subject to provisional measures ordered by this Court, pursuant to the Orders of May 15, 2011 (*supra* Having Seen 3 and 4).

**THEREFORE:**

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

by virtue of the authority conferred upon it by Article 63(2) of the American Convention on Human Rights and Articles 27 and 31(2) of the Court's Rules of Procedure,<sup>16</sup>

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<sup>14</sup> Monagas Judicial Confinement Center ("La Pica"); Yare I and Yare II Capital Region Penitentiary Center (Yare Prison); Penitentiary Center of the Central Occidental Region (Uribana Prison); Aragua Penitentiary Center "Tocorón Prison", and Judicial Confinement Center of Ciudad Bolívar "Vista Hermosa Prison".

<sup>15</sup> *Cfr. Case of Montero Aranguren et al. (Detention Center of Catia) v. Venezuela, supra* note 6, paras. 145 and 146.

<sup>16</sup> Rules of Procedure of the Court approved in its LXXXV Regular Session held from November 16<sup>th</sup> to 28, 2009.

**DECIDES:**

1. To require that the State maintain and adopt the measures necessary to continue protecting the life and right to humane treatment of the beneficiaries of the El Rodeo I and El Rodeo II Capital Judicial Confinement Centers, pursuant to Considering Clauses 11 through 16 and 21.
  
2. To require that the State maintain and adopt the measures necessary to protect the life and right to humane treatment of Mr. Humberto Prado.
  
3. To ratify the joinder of proceedings for provisional measures in force in the matters of the Monagas Detention Center ("La Pica"), the Capital Region Penitentiary Center Yare I and Yare II ("Yare Prison"), the Occidental Region Penitentiary Center ("Uribana Prison"), the Capital Detention Center El Rodeo I and El Rodeo II, the Aragua Detention Center ("Tocorón Prison"), and the Ciudad Bolívar Judicial Detention Center ("Vista Hermosa Prison").
  
4. To order that the State submit its brief to the Inter-American Commission of Human Rights, no later than July 27, 2011, pursuant to the terms of Considering Clauses number 12, 14, 16, and 18 of the present Order. As of the filing of said brief, the State must continue to provide information, as required in the third and fourth operative paragraphs of the Order of the Inter-American Court of May 15, 2011. The representatives of the beneficiaries and the Inter-American Commission of Human Rights must file their briefs within four and six weeks, respectively, from the date of service of the same.
  
5. To order that the Secretariat serve notice of the present Order on the State, the Inter-American Commission of Human Rights, and the representatives of the beneficiaries.

Diego García-Sayán  
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Eduardo Vio Grossi

Pablo Saavedra Alessandri  
Secretary

So ordered,

Diego García-Sayán  
President

Pablo Saavedra Alessandri  
Secretary