

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS¹**

OF MAY 22, 2013

PROVISIONAL MEASURES REGARDING THE REPUBLIC OF COLOMBIA

MATTER OF ÁLVAREZ *ET AL.*

HAVING SEEN:

1. The Orders of the President of the Inter-American Court of Human Rights (hereinafter "the President") of July 22, August 14 and December 22, 1997; May 12 and August 6, 1998; and July 17, 2000.

2. The Orders of the Inter-American Court of Human Rights (hereinafter the Inter-American Court," or the "Court") of November 11, 1997; January 21, June 19 and August 29, 1998; August 10, October 11 and November 12, 2000; and May 30, 2001.

3. The Order of the Court of February 8, 2008, the operative part of which decided:

1. To call upon the State to adopt such provisional measures as may be necessary to protect the life and physical integrity of all the members of ASFADDES, by protecting the premises of the aforementioned organization.

2. To call upon the State to adopt the measures necessary in order to ensure the right to life and to physical integrity of María Eugenia López, Adriana Diosa, Astrid Manrique, Erik Arellana-Bautista, Daniel Prado, Silvia Quintero, María Eugenia Cárdenas, Álvaro Guisao-Usuga, Florentino Guisao-Usuga, Gloria Gómez, Verónica Marín and Nemecio Oquendo.

3. To remind the State that it must allow the petitioners to take part in planning and implementing the protection measures and that, in general, it must keep them informed about progress regarding the measures ordered by this Court.

4. To request the representatives, according to what was set forth in Considering paragraph 24 of this Order, to forward within six months as from notification of the instant Order, specific information on the situation of María Eugenia López, Adriana Diosa, Astrid Manrique, Erik Arellana-Bautista, Daniel Prado, Silvia Quintero, María Eugenia Cárdenas,

¹ Judge Humberto Sierra Porto, a Colombian national, did not participate in the discussion of this Order, in accordance with Articles 19(2) of the Statute and 19 of the Court's Rules of Procedure.

Álvaro Guisao-Usuga, Florentino Guisao-Usuga, Gloria Gómez, Verónica Marín and Nemecio Oquendo. In such report it must be clearly explained whether a situation of extreme gravity and urgency to avoid irreparable damage to such persons persists.

[...]

6. To request the State, after having reported pursuant to the foregoing operative paragraph, to continue reporting to the Inter-American Court of Human Rights every two months on the provisional measures adopted, and request the representatives of the beneficiaries of such measures, as well as the Inter-American Commission on Human Rights, to submit their comments within a period of four or six weeks, respectively, as of notification of the State's reports.

4. The briefs submitted by the State of Colombia (hereinafter "the State" or "Colombia") on January 8, March 10, April 14, July 16, August 3 and October 30, 2009; February 19, May 18, September 13 and December 13, 2010; February 21, February 25, April 5, July 11, September 30 and November 29, 2011; January 30, February 16, April 3, May 30, August 23, October 22, and December 21, 2012; and January 31, April 5 and May 16, 2013, in which it reported on matters related to these provisional measures.

5. The briefs presented by the representatives of the beneficiaries of the provisional measures (hereinafter "the representatives") on February 19 and August 28, 2008; January 10, March 20, July 10, September 10 and December 17, 2009; March 25, June 17 and November 12, 2010; February 8, May 10, August 8 and December 28, 2011; March 21, May 28, June 25, September 7, September 17 and September 21, 2012; and February 6, February 25, April 17, May 6 and May 8, 2013, in which they submitted their observations to the reports of the State.

6. The briefs submitted by the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") on January 12, April 16 and June 8, 2009; May 12, June 16, July 15 and September 13, 2010; May 17, June 2, October 7 and December 8, 2011; May 23, October 17 and December 21, 2012; and March 27 and May 16, 2013, in which it submitted its observations to the information provided by the State.

7. The briefs submitted by Silvia Quintero on March 15 and 17, April 10 and June 15 and 18, 2010, and on May 6, 2013.

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 recognized the contentious jurisdiction of the Inter-American Court on June 21, 1985.

2. Article 63(2) of the American Convention establishes that, "[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons," the Court shall adopt such provisional measures as it deems pertinent, in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission." This provision is, in turn, regulated in Article 27 of the Rules of Procedure of the Court² (hereinafter "the Rules"). According to said Rules, provisional measures may be applied provided that the basic requirements of extreme gravity, urgency and the need to avoid irreparable damage to persons are met. These three conditions must coexist and must persist for the Court to

² Rules approved by the Court during its Eighty-fifth Regular Period of Sessions held on November 16 to 28, 2009.

maintain the protection ordered; if one of these has ceased to exist, the Court shall assess the appropriateness of continuing with the protection ordered.³

3. Under international human rights law, provisional measures are not only preventive in the sense that they preserve a juridical situation, but they are also essentially protective because they protect human rights, inasmuch as they seek to avoid irreparable damage to persons. In this way, provisional measures become a real jurisdictional guarantee of a preventive nature.⁴

4. By reason of its jurisdiction, in the context of provisional measures the Court cannot consider the merits of any argument that is not strictly associated with extreme gravity, urgency and the need to avoid irreparable damage to persons. Any other matter or argument may only be examined and decided upon during the consideration of the merits of a contentious case⁵ or when monitoring compliance with the respective Judgment.

5. The Court notes that the provisional measures in relation to this matter were adopted in 1997. The Court ordered the protection of the members and offices of the *Asociación de Familiares de Detenidos Desaparecidos de Colombia-ASFADDES* (Association of Relatives of Detainees-Disappeared Persons of Colombia), a non-governmental organization that brings together and supports the relatives of victims of forced disappearance in Colombia. The beneficiaries allegedly suffered threats, harassment, surveillance and demands for information by State security bodies in relation to their membership and activities in said organization. In May 1997, the Association closed its offices in Ocaña, due to severe harassment of its officials. On June 24, 1997 a bomb destroyed the premises and files of the ASFADDES office in the city of Medellín. After this bombing, the provisional measures were adopted. In subsequent years, it was alleged, *inter alia*, that the communications between members of ASFADDES were illegally intercepted, that two of its members who were beneficiaries of provisional measures were forcibly disappeared and that members of this organization suffered different types of alleged harassment, threats and intimidation which had driven some of them into exile. These events are related to a petition that is being processed before the Inter-American Commission, entitled "Members of ASFADDES, Case 11.764, Colombia." In its brief of May 16, 2013, the Commission reported that the "initial petition regarding this matter was presented on June 27, 1997 [...and] that in 2006 [the Commission] agreed to defer its admissibility until the decision was issued on the merits."

6. In the last Order issued in 2008 (*supra* Having Seen 3), the Court analyzed the information provided between 2001 and the beginning of 2008 and ordered that the present measures be maintained, even though their scope was modified. Thus, while in 2001 there were 41 named beneficiaries, all members of ASFADDES, including persons who sought this organization's support and all the offices of ASFADDES, the Order of

³ Cf. *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering para. 14, and *Case 19 Tradesmen*. Provisional Measures regarding Colombia. Order of the Court of June 26, 2012, Considering para. 22.

⁴ Cf. *Case of the Newspaper "La Nación"*. Provisional Measures regarding Costa Rica. Order of the Court of September 7, 2001, Considering para. 4, and *Matter Mery Naranjo et al.* Provisional Measures regarding Colombia. Order of the Court of March 4, 2011, Considering para. 5.

⁵ Cf. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of August 20, 1998, Considering para. 6, and *Case Gutiérrez Soler*. Provisional Measures regarding Colombia. Order of the Inter-American Court of Human Rights of November 27, 2007, Operative Paragraph 1.

2008 restricted the coverage of these measures to 12 beneficiaries and to the members through the protection of the offices of ASFADDES.

7. There is some disagreement between the parties regarding the scope of this Order, and for this reason the Court shall first rule on the universe of beneficiaries of the measures (1). It shall then determine whether a situation of extreme gravity and urgency persists so as to prevent irreparable damage to the offices of ASFADDES (2) and to the beneficiaries of the Order issued in 2008 (3). Finally, the Court shall respond to the petitioners' allegation regarding the shortcomings of the criminal and disciplinary investigations into the threats and harassment suffered by the beneficiaries (4).

1. Scope of the ruling of February 8, 2008

1.1. Arguments regarding the request to consider all members of ASFADDES and of the organizations "Nydia Erika Bautista Foundation" and "Familiares Colombia" to be included within the Order issued in 2008.

8. The representatives requested that "the Court specify that these protection measures are to cover the offices of the Nydia Erika Bautista Foundation and of "Familiares Colombia". Furthermore, they considered that "the protection ordered is directed at the members of ASFADDES – without individually identifying them -, so that new members and, in particular, leaders of the Association, are also covered by those measures. Provisional measures are dynamic by definition and, *a fortiori*, when they seek to protect the life and integrity of a group of people who carry out activities – within the framework of an organization – putting their lives and integrity at risk. Thus, the individuals who have joined ASFADDES and/or have been appointed to management positions within ASFADDES, and who for reasons of timing were not mentioned in previous Orders for Provisional Measures, must equally be covered by the provisional measures". The representatives argued that: i) the "Court has decreed physical measures of protection without as yet individualizing the beneficiaries"; ii) "[t]he aim of these measures, is not to protect the premises of the ASFADDES offices *per se*, but rather to protect the life and physical integrity of the members of ASFADDES who work there and those who visit those offices", and iii) "from the spirit and letter of the successive Orders issued by the [...] Court in the procedure in question, it is inferred that the protection ordered is aimed at members of ASFADDES – without individualizing them -, so that new members and, in particular, leaders of the Association, are also beneficiaries of these measures."

9. The State argued that "the Court ordered the adoption of physical measures of protection specifically for the twelve (12) people named in Operative Paragraph 2 of the Order [of February 8, 2008], while the rest of the members of ASFADDES are covered by the protection provided to the organization's offices." It added that "the State has provided and shall provide measures of protection to other members of ASFADDES who are not individually named in Operative Paragraph 2, in accordance with its obligations under Article 1(1) of the American Convention." Regarding those beneficiaries who currently work as human rights defenders in other social organizations different to ASFADDES, the State noted that "both the context, and the specific situations that gave rise to the adoption of these provisional measures are intrinsically related to acts of violence against the ASFADDES organization or its members. Thus, the State indicated that membership of said Association is a parameter when examining the application of provisional measures".

10. The Inter-American Commission noted that “with respect to the persons who no longer belong to ASFADDES, the situation of extreme gravity and urgency for the beneficiaries arose because of the type of activities they were engaged in.” It argued that “even though some beneficiaries decide to leave the organization, not only do they continue to carry out the same activities [...] but they could remain involved in the investigations and processes in relation to which they have received threats and harassment, which gave rise and effect” to these provisional measures. Taking into account “the facts alleged by the representatives, the recent threats received and the continuation of many of these processes”, the Commission considered that “the provisional measures should be maintained in favor of all the persons affected.”

1.2. Arguments regarding the specific situation of Yanette Bautista and Andrea Solangie Torres Bautista, members of the Nydia Erika Bautista Foundation

11. The representatives argued that although Yanette Bautista and Andrea Solangie Torres Bautista are former members of ASFADDES, “they actively continue with their activities to combat forced disappearance in Colombia, through the Nydia Erika Bautista Foundation for Human Rights.”

12. The representatives referred to a series of events that occurred between February and March of 2012. They stated that on February 7 and 20, 2012, unidentified persons took photographs of the office of the Nydia Erika Bautista Foundation, where Yanette Bautista, the Foundation’s director, and Andrea Solangie Torres Bautista, the Foundation’s lawyer, work. They alleged that on February 28, 2012, “a suspicious vehicle was seen parked [...] near the home of Andrea Solangie Torres Bautista.” On March 2, 2012, Andrea Solangie Torres and her husband left their home; as they left, they noticed the same vehicle seen on February 28, 2012, which “had no license plates”. They explained that when Mrs. Solangie Torres “approached the vehicle to take photographs of it [...] the car suddenly drove off at great speed. [Then] the vehicle slowed down and the passenger’s door opened [and] a man dressed in civilian clothing got in. [Then] the vehicle stopped at a red traffic light [...] and Andrea Solangie Torres Bautista [and her husband] caught up with the vehicle [...]”. [When she asked] the passenger in the vehicle to what agency he belonged [...] he replied that to the ‘Ministry’ [first stating] ‘Ministry of the Interior’ [...] and then saying that to the Ministry of Culture. Immediately, the vehicle quickly started up again [...], stopped and then continued on at great speed [...] making several unauthorized maneuvers and turns in order to avoid pursuit.”

13. In a report of March 21, 2012, the representatives requested that the Court “adopt any measures and judicial decisions deemed pertinent to ensure that the Colombian State guarantees the safety and integrity of [...] Yanette Bautista and Andrea Solangie Torres Bautista and also of other relatives and members of the Nydia Erika Bautista Foundation for Human Rights, and that it urgently adopt the measures necessary for that purpose.”

14. In a report dated May 29, 2012, the State indicated that it had “carried out a reevaluation of the risk [to Mrs. Bautista and Mrs. Torres], which resulted in an exceptional level of risk. Accordingly, on April 27, 2012 the Committee for Risk Evaluation and Recommendation of Measures [...] ordered a collective security scheme consisting of a protection vehicle, a [...] driver and two [...] escort units for a period of one [...] year. This scheme was implemented in the first days of May and the vehicle assigned was recently changed at the request of Yanette Bautista and Andrea Torres

Bautista. The adoption of preventive measures by the National Police was also requested.”

1.3. *Considerations of the Court regarding the scope of the Order issued in 2008*

15. In its Order of February 8, 2008, the Court required the State to “adopt such provisional measures as may be necessary to protect the life and physical integrity of all the members of ASFADDES, by protecting the premises of the aforementioned organization”, and to “adopt the measures necessary in order to ensure the right to life and to physical integrity of María Eugenia López, Adriana Diosa, Astrid Manrique, Erik Arellana Bautista, Daniel Prado, Silvia Quintero, María Eugenia Cardenas, Álvaro Guisao Usuga, Florentino Guisao Usuga, Gloria Gómez, Veronica Marín and Nemecio Oquendo”. The Order was prompted by “a series of acts of harassment and grave threats against the premises and members of ASFADDES”, for which reason the Court considered that “the situation of risk continues and it is appropriate to maintain the protection measures covering the premises”, and that it was pertinent to “continue effecting periodic risk studies to determine the type of protection [which may be] most adequate and effective in the case of each specific person and premises at risk.” In relation to the risk affecting specific beneficiaries, the Court noted that “[b]etween 2001 and 2007, situations of risk have been reported regarding, *inter alia*”, the 12 persons mentioned, and therefore it was not appropriate to maintain the measures for the 41 people who had been individually identified prior to 2001.

16. Furthermore, in the Order of 2008 the Court took note of a request to extend the provisional measures to the “Nydia Erika Bautista Foundation” and “*Familiares de Colombia*” organizations. However, the Court did not include those organizations among the beneficiaries of the measures; therefore, it is not appropriate to consider whether circumstances of extreme gravity and urgency exist in relation to these organizations or their members.

17. The Court has pointed out that the Organization of American States recognizes the need to “support the work undertaken, at both the national and regional level, by human rights defenders”, acknowledge their “valuable contribution to the promotion, observance and protection of human rights and fundamental freedoms [and to] condemn actions that directly or indirectly prevent or hinder [their] task in the Americas.”⁶

18. The Court has also established that States have the duty to provide the necessary means to enable human rights defenders to do their work freely; to protect them when they are subject to threats in order to foil attempts against their life and physical integrity; to abstain from placing hurdles in the way of their work; and to investigate thoroughly and effectively the violations committed against them, fighting impunity.⁷

⁶ *Case of Nogueira de Carvalho et al. v. Brazil*. Preliminary Objections and Merits. Judgment of November 28, 2006, para. 75, and *Matter Alvarez et al.* Order of the Court of February 8, 2008. Provisional Measures regarding Colombia, Considering para. 19.

⁷ *Cf. Matter of the Forensic Anthropology Foundation of Guatemala*. Provisional Measures. Order of the Court of April 21, 2006, Considering para. 9, and *Matter Alvarez et al.*, Order of the Court of February 8, 2008. Provisional Measures regarding Colombia, Considering para. 23.

19. The Court considers that in cases where provisional measures are granted in favor of organizations that defend human rights a flexible approach should be taken in determining the status of the beneficiaries.⁸ This does not mean that protection measures should be extended to all members of such organizations, but rather that the criterion should be sufficiently broad to encompass, through an extension of provisional measures, the members of an organization who, because of the nature of their work, are in a situation of extreme and specific risk. In this case, the Court considers that the order to protect members of ASFADDES through the protection of the organization's offices must be understood in a broad sense, so that if any member of said organization faces a situation of extreme gravity and urgency, he or she may benefit from these provisional measures through an extension. In its Order of 2008 the Court specified that it "consider[ed] it appropriate to continue effecting periodic risk studies in order to determine the type of protection which may be most adequate and effective in the case of each specific person and premises at risk."

20. From the foregoing considerations it is clear that the provisional measures ordered in the operative part of the Order of February 8, 2008 refer to the protection of the ASFADDES offices and of the 12 persons individually named as beneficiaries and for whom an individualized risk was confirmed between 2001 and 2008. Moreover, the protection of offices implies the protection of members of ASFADDES while they are in those offices. Nevertheless, although the protection does not extend beyond the organization's premises, it may involve individualized protection where specific and individual circumstances of extreme gravity and urgency are identified in relation to members of ASFADDES, which will be assessed as a possible extension of provisional measures. Therefore, the Court shall consider maintaining the provisional measures granted in the Order of February 8, 2008 solely for the beneficiaries mentioned and for the protection of the offices.

2. Implementation of protection measures in the offices of ASFADDES and analysis of the continued situations of extreme gravity and urgency therein

2.1. Information presented by the State

21. In a report of December 13, 2010, the State indicated that "the Program of the Ministry of the Interior and Justice has implemented the armoring of the following offices: ASFADDES Bucaramanga, [...] ASSFADES M[edellín], [...] ASSFADES N[eiva], [...] ASFADDES National Headquarters [...] in Bogotá [...] and] ASFADDES P[opayán]."

22. In its most recent reports, the State has included in its analysis several measures related to Decree 4912 of December 26, 2011, which established the "Program for the Prevention and Protection of the rights to life, freedom and security of persons, groups and communities, of the Ministry of Interior and the National Protection Unit." This Decree regulates activities such as the provision of cell phones, the armoring of offices⁹, and regulates the operation of the Preliminary Assessment

⁸ *Mutatis mutandi*, see *Matter of Álvarez et al.*, Order of the Court of February 8, 2008. Provisional Measures regarding Colombia, Considering paras. 9, 24 and 31.

⁹ Cf. Article 11(1) subparagraphs f and g of Decree 4912 of 2011 states the following: "f) Means of Communication: Communications equipment delivered to the protected persons to facilitate their timely and effective contact with State institutions, the Prevention and Protection Program, in order to warn of an emergency situation, or to be in permanent contact and report on their security situation; g) Armoring of buildings and installation of technical security systems: Consists of security devices and equipment to control access to buildings owned by organizations where their headquarters are located. In exceptional cases, such

Group and of the Committee for Risk Evaluation and Recommendation of Measures (CERREM)¹⁰. The CERREM includes representatives of the Attorney General's Office, among others. The National Protection Unit was created, *inter alia*, because of "the need to establish a protection program with a security unit separate from the body responsible for intelligence and counterintelligence activities."

23. In a report of January 30, 2012, the State explained that "the following offices of the ASFADDES organization have architectural measures of protection: ASFADDES Bucaramanga (Department of Santander); ASFADDES Neiva (Department of Huila); ASFADDES National (Department of Cundinamarca); ASFADDES Popayán (Department of Cauca). In the latter case, the Ministry of the Interior reported that the building has armoring, even though the ASFADDES office no longer operates there, due to Mrs. Astrid Manrique's departure from the organization, and her subsequent membership of the FAMILIARES de COLOMBIA organization." The State added that "the ASFADDES office in the city of Medellín operates in a rented building, and therefore the implementation of architectural protection measures is pending. In this regard, and according to observations made by the representatives of the beneficiaries, the State [...] emphasi[zed] that domestic law requires ownership of the property where the armoring is to be installed, given that such architectural measures involve changes in the infrastructure of the place, which require the approval of the proprietor".

24. In a report submitted on May 30, 2012, the State explained that "regarding the collective measures to protect members of ASFADDES through the protection afforded to its offices, the National Protection Unit reported that it is currently executing the measure of armoring the offices located in the cities of Bucaramanga (Department of Santander), Neiva (Department of Huila), Popayán (Department of Cauca) and Bogotá D.C."

25. In a report submitted on October 22, 2012 the State reported that the National Police, in a meeting with the representatives of the beneficiaries, and "with a desire to reestablish links and maintain a fluid communication," provided the contact details for the Director of Human Rights of the National Police, "whom the beneficiaries can

elements may be provided to the homes owned by persons protected under the Prevention and Protection Program". Cf. Decree 4912 of 2011 (File of provisional measures, volume IX, page 2666).

¹⁰ Cf. Article 26 of Decree 4912 of 2011: "*Entities and institutions intervening in the context of the Protection Strategy*. The following organizations and institutions participate in one or several stages of the protection strategy: Human Rights Directorate of the Ministry of the Interior; National Protection Unit; National Police; Ministry of National Defense; Presidential Program for the Protection and Monitoring of Human Rights. Human Rights and International Humanitarian Law, or those acting on their behalf; Special Administrative Unit for Assistance and Reparation to Victims; Governors' and Mayors' Offices; Preliminary Assessment Group and; Committee for Risk Evaluation and Recommendation of Measures; Public Prosecutor's Office; Ombudsman's Office, and Attorney General's Office." According to Article 35 of this Decree, the Preliminary Assessment Group must conduct the risk assessment within a period of 30 working days, once the respective information is obtained from the Technical Corps for Information Gathering and Analysis -CTRAI-. The regular procedure of the Protection Program involves the following process: 1) Receipt of a request for protection and processing of the preliminary form characterizing the applicant, by the National Protection Unit; 2) Analysis and verification of the applicant's membership of the population benefiting from the Protection Program and confirmation of a causal link between the risk and his/her activities, by the National Protection Unit; 3) Visit by the Technical Corps for Information Gathering and Analysis -CTRAI-; 4) Presentation of the CTRAI's field work to the Preliminary Assessment Group ; 5) Analysis of the case by the Preliminary Assessment Group ; 6) Assessment of the case by CERREM; 7) Adoption of measures of prevention and protection by the Director of the National Protection Unit through an administrative procedure; 8) Notification sent to the protected person of the decision adopted, and 9) Implementation of measures. Cf. Decree 4912 of 2011 (File on Provisional Measures, volume IX, pages 2589, 2667 and 2668).

contact in any eventuality." The contact numbers of the human rights coordinators of the Police forces in the cities of Medellín, Huila, Bucaramanga and Bogotá were also forwarded to the representatives on November 29, 2012.

26. In a report of December 18, 2012, the State explained that "with regard to the armoring of the ASFADDES premises, [...] the security assessment at the headquarters located in the city of Bogotá D.C is currently [in] process. As to the other offices, the National Protection Unit [was] waiting for the beneficiaries and/or their representatives to send the relevant information to begin making the necessary arrangements"; given that "Decree 4912 of 2011 requires ownership of the building in order to make architectural changes associated with the armoring measures, [...]the implementation of some other type of protection measure will be considered, such as the installation of security cameras, which does not require alterations to the building," as well as "the implementation of preventive security measures, namely, self-defense courses, police patrols and/or police visits."

27. In a report dated April 1, 2013 the State noted that risk assessments were requested for Javier Enrique Barrera Santa, Gloria Luz Gómez and Gladys Victoria Vargas. It added that this "procedure was also ordered for Mrs. Aura María Diaz Hernandez," but that it was not possible initiate it given that there are no supervening facts that would change the weighting of the evaluation conducted at the beginning" of 2013.

28. In a report dated April 5, 2013, the State explained that "the armoring of the headquarters of the Association of Relatives of Detainees-Disappeared Persons (ASFADDES) in the city of Bogotá was agreed" and that "the work of architectural armoring is still in the process of being carried out."

2.2. Observations of the representatives

29. The representatives reported that in "May 2008, two men appeared at the premises of the Medellín office and asked for someone in that organization; they said they had come from Barrancabermeja (Santander) to bring some books. They left without leaving anything and did not return." The representatives reported that the same happened in 1997 when a bomb was left at the offices. The director of the Medellín branch stated that "in the first months of 2008, when she was traveling with another colleague [...], she noticed men following her and that they even entered [a store] and asked about the same things that they had inquired about." When she asked the people who worked in the store about the individuals who had inquired about them, they were told that "those men were from the local Convivir [organization]."

30. In their report of May 9, 2011, the representatives included the following summary of incidents between 2009 and 2011:

- a) on "02.02.09 an envelope arrived at the office [of ASFADDES in Bucaramanga] containing a threatening message against this organization and against all those who have promoted, supported and participated in searches and the handover of disappeared persons to their loved ones. The message referred to the handover, on January 23, 2009, of the remains of some victims who disappeared on May 16, 1998 in the city of Barrancabermeja";

- b) on "05.04.09[, i]n the context of a training and awareness-raising activity on the crime of forced disappearance in Colombia, organized in the village of Chinauta, in the Municipality of Fusagasugá, men dressed in black entered three of the cabins where the relatives of the different branches were staying, taking the documents, clothing, cell phones and bags of some members";
- c) on "29.05.09[, i] n the context of the "International Week of the Disappeared", during the launch of the campaign '*Victimas y Derechos: Haz lo justo hasta encontrarlos*' ('Victims and Rights: do the right thing until you find them'), at approximately 4:00 pm, in Plaza de Bolivar, a video camera, which was being used to record the activities of the relatives of the disappeared congregated in ASFADDES. was stolen from inside the ASFADDES tent.";
- d) on "13.07.10 a Public Forum organized by ASFADDES and entitled "Let's All Talk About the Disappeared" was held in Bogotá, at the Gabriel García Márquez Cultural Center. After the event a stranger tried to board one of the buses hired to transport the relatives to their lodgings. On the journey from the Cultural Center to the hotel, a gray van with darkened windows and a taxi followed the buses, and even tried to block their path. Upon reaching the hotel the members and relatives of ASFADDES were received by a person wearing a bellboy uniform, who told the communications coordinator of ASFADDES to store the bag at the reception; the supposed bellboy positioned himself beside the receptionist while another individual took the bag containing the video camera, the material taped at the forum and testimonies of relatives of ASFADDES. A recording from the hotel's security cameras shows how five individuals unconnected with the group of relatives who were entering the hotel at that moment, were strategically positioned to seize the equipment and the information."

31. In their report of September 17, 2012, the representatives alleged that "the attacks, threats and harassment against members of ASFADDES, their relatives and the organization's offices have increased and intensified." They mentioned that a communiqué signed by the '*Autodefensas Unidas de Colombia Bloque Central*' was received at the ASFADDES office in Popayán, declaring several members of ASFADDES to be "permanent military targets until they are wiped off the face of the earth, like most of the disappeared." This incident occurred on June 24, 2011¹¹, and "converges[...] with the threats received by ASFADDES and its members due to their legitimate activities in defense of human rights, [such as on] June 4, 2010, when a pamphlet signed by the '*Autodefensas Unidas de Colombia -AUC-*' arrived at the Ombudsman's Office in the city of Cali, threatening ASFADDES. This act of intimidation, furthermore, was repeated on June 8, 2010, when the '*Bloque Central*' of the '*AUC*', sent a pamphlet 'ratif[ying] the communiqué issued by the Bloque Sur Occidental last month, because many ideologists of Communism Past, Present and Future hide in these structures [...]' ASFADDES."

32. The representatives added that "during 2011 the National Police have not appeared at the offices of ASFADDES" and argued that "[t]he failings in complying with the provisional measures, are based on the restrictive interpretation made by the

¹¹ The threats were received by Nidia María Palechor, Coordinator of the ASFADDES Branch in Popayán, and Nilson López Santamaría and Esau López Santamaría, members of ASFADDES. Cf. Report of the representatives of the beneficiaries submitted to the Court on May 28, 2012 (File on Provisional Measures, volume IX, page 2519).

Colombian State [...] limiting its action solely to the last of the [Court] Orders and disregarding an accumulation of facts and circumstances brought to the attention of the Court [...] throughout the years [that the measures] have been in effect [...] in which the rulings on protection have not been effectively implemented.”

33. Regarding the lack of protection for the ASFADDES offices due to the change of premises of those offices, the representatives noted that “ASFADDES informed the State a long time ago about the transfer of the offices and also that none of these [premises], except for the national headquarters (located in the city of Bogotá) is owned by the organization, a factor that does not prevent their physical protection.”

34. In a report of April 17, 2013, the representatives considered that the “measures of protection for the ASFADDES offices [...] have not been fully implemented [...], for example, and despite the time that has elapsed, the work to adapt and maintain the armored installations in the ASFADDES headquarters in Bogotá has not yet materialized.”

35. The representatives stated that “although [they are] aware of the added value of having a state body in charge of coordinating the protection of persons, the possibility of a real and effective implementation” of the provisional measures ordered by the Court “cannot depend on the opinion of the CERREM”, since this “puts pressure on the legally binding character of the decisions of the Inter-American Court.”

2.3. Observations of the Commission

36. The Commission argued that “the State cannot limit and condition the implementation of the provisional measures ordered by the Court to its domestic rules, neither as regards the protection of the offices nor the personal protection of certain beneficiaries.” It considered that “the State [did] not submit information regarding the protection provided to the ASFADDES offices, or to the individual beneficiaries of these measures, but that it only makes general reference to the State protection system.”

2.4. Considerations of the Court

37. The Court takes note of the information provided by the representatives on the events that occurred between 2008 and 2013. It also acknowledges the meetings held between the representatives of ASFADDES and State authorities to agree on protection measures for the different offices of ASFADDES. Such negotiations make it possible to ensure that the actions agreed to implement the protection ordered through the provisional measures, achieve various levels of efficacy. Moreover, they may be useful to restore the beneficiaries’ trust in the State institutions. In this regard, the Court considers it essential to create an atmosphere of trust between the institutions responsible for providing protection in each of the offices, and those who benefit from such protection; therefore fluid and constant communication may be useful.

38. Regarding this matter, the Court notes that although several alleged incidents have been reported, some of them serious, at present there is no specific, detailed and up-to-date information from the representatives regarding a specific situation of risk to any of the ASFADDES offices, between 2012 and 2013. In their briefs issued since August 8, 2011, the representatives have not submitted or provided further information about any incidents after that of June 24, 2011, when a threatening message was received at the ASFADDES offices in Popayán. Since that date, there have been no specific facts that would constitute a situation of extreme gravity and

urgency related to irreparable damage, and that would warrant the adoption of provisional measures in favor of the ASFADDES offices.

39. In this proceeding, the State has indicated its willingness to adopt specific measures to provide immediate and effective protection. The Court notes that a dispute exists between the State and the representatives over the implementation of protection measures in the ASFADDES offices that are not owned by the organization, specifically the measures that affect the architectural structure. The representatives also criticize the fact that the work to adapt and maintain the armored installations at ASFADDES headquarters in Bogotá was not carried out. However, it is important to clarify that such disputes may be considered by the Court only insofar as they are directly related to the need to prevent a situation of extreme gravity, urgency and the risk of irreparable damage. Any alleged setbacks or delays in the past regarding the implementation of collective measures of protection for the ASFADDES offices do not constitute *per se* a justification for maintaining the provisional measures ordered.

40. Consequently, the Court lifts the provisional measures specifically related to the protection of the ASFADDES offices. Nevertheless, having regard to the principle of good faith, the Court urges the State to continue implementing the various agreements made to improve the protection systems in the ASFADDES offices, within the framework of the institutions belonging to the domestic protection system.

3. Regarding the situation of risk and the obligation to adopt the measures necessary to guarantee the right to life and physical integrity of María Eugenia López, Adriana Diosa, Astrid Manrique, Erik Arellana Bautista, Daniel Prado, Silvia Quintero, María Eugenia Cardenas, Álvaro Guisao Usuga, Florentino Guisao Usuga, Gloria Gómez, Veronica Marín, Nemecio Oquendo and other members of ASFADDES in an alleged situation of extreme gravity and urgency

41. The State requested that the Court “assess the effectiveness of the provisional measures” in this matter, considering that: i) “the petitioners have not submitted up-to-date information confirming a continued situation of gravity and urgency regarding Astrid Manrique, Daniel Prado, Silvia Quintero, María Eugenia Cárdenas, Álvaro Guisao and Florentino Guisao”; ii) “Astrid Manrique, Daniel Prado, Silvia Quintero, María Eugenia Cárdenas, Álvaro Guisao and Florentino Guisao, [...] are no longer active members of [ASFADDES]”; iii) “Erick Arellana and María Eugenia López [...] do not form part of ASFADDES”, and iv) “both the context and the specific situations that gave rise to the adoption of these provisional measures are intrinsically related to the acts of violence against the ASFADDES organization or its members [and] membership of said Association is a parameter when examining the effectiveness of the provisional measures.”

42. The representatives requested that the provisional measures be maintained in favor of ASFADDES and its members “and also regarding the beneficiaries named in previous Orders” of the Court.

43. The Commission considered that “provisional measures should be maintained in favor of all the persons affected”, and that “[a]lthough risk studies are an adequate and effective means to design appropriate protection schemes, on the one hand, the measures should not be conditioned to such a study and, on the other, the State must ensure that such studies are conducted in a timely manner.” Furthermore, it stated that, “regarding the six beneficiaries who no longer belong to ASFADDES, the

Commission reiterates that their situation of extreme gravity and urgency arose due to the type of activities they were carrying out, in relation to different processes within Colombia.”

44. The Court reiterates that the maintenance of protection measures requires a more thorough evaluation regarding the continuation of the situation that gave rise to these.¹² Likewise, if a State requests the lifting of provisional measures, it must present sufficient evidence and arguments to allow the Court to appreciate that the risk or threat no longer satisfies the requirements of extreme gravity and urgency to avoid irreparable damage.¹³ Furthermore, the Court emphasizes that the burden upon the beneficiaries and the Commission to argue and prove a situation of risk increases as time passes and no new threats arise.¹⁴ Bearing in mind the foregoing, the Court will analyze the situation of each of the 12 persons named, based on the information provided by the State and the representatives and the observations made by the Commission, in order to determine the need to maintain the provisional measures.

3.1. *María Eugenia López Maya*

45. The representatives reported that on September 17, 2012 “she received two phone calls on the land line of her home in Medellín (Antioquia) made from cell phones, in which two men identified themselves as Commanders Cesar´ and `Ricardo´ of the paramilitary group known as `Los Urabeños´, [who] demanded that [she] buy some medicine and deliver it to a rural area called `Chaparral.´” The representatives added that “although [María Eugenia López] has ceased to be active in the organization, she remains a member of ASFADDES and her activities, along with other relatives, to combat forced disappearances in the Department of Antioquia, where she lives, and in particular her search for justice and truth in the Massacre of Campamento perpetrated [in 1990] by the paramilitary group `The Twelve Apostles´[...], are sources of risk to her physical integrity.” They indicated that “the case of the Massacre of Campamento potentially generates risks for María Eugenia López, since according to a public complaint filed in Argentina in May 2010 by [a] retired Major of Colombia’s National Police, [...] the head of that paramilitary group is allegedly Santiago Uribe Vélez, brother of Álvaro Uribe Vélez, then a Senator and subsequently President of the Republic.”

46. The Commission did not submit observations regarding the situation of risk facing Mrs. María Eugenia López Maya.

47. As noted previously, the criterion for maintaining provisional measures is the persistence of a situation of grave risk to the beneficiaries, based on specific evidence (*supra* Considering para. 44) and having regard to the exceptional and temporary nature of provisional measures. The fact that the brother of a former President is

¹² Cf. *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering para. 24, and *Matter Liliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of July 9, 2009, Considering para. 17.

¹³ Cf. *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering para. 24, and *Matter Liliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of July 9, 2009, Considering para. 17.

¹⁴ Cf. *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering para. 24, and *Matter Liliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of July 9, 2009, Considering para. 17.

mentioned in a criminal complaint does not constitute *per se* a situation of extreme gravity and urgency. A “potential risk” does not meet the threshold of a specific risk.

48. As to the telephone calls received by María Eugenia López Maya on September 17, 2012, the representatives have not presented any specific information showing that these constitute autonomous situations of extreme gravity and urgency.

49. Therefore, the Court decides to lift the provisional measures regarding Mrs. María Eugenia López Maya, given that no detailed information has been provided demonstrating a specific situation of extreme gravity and urgency that would justify their continuation.

3.2. *Adriana Diosa*

50. The State did not submit information regarding the specific situation of Adriana Diosa after 2008.

51. In their report of January 10, 2009 the representatives stated that Mrs. Diosa’s “name and very detailed personal information has been used by strangers at financial institutions to obtain loans and she has found out because she appears reported in the data-credit offices for non-fulfillment of her obligations” and that this “took place in 2008.”

52. The Commission did not submit observations regarding her situation of risk.

53. The Court recalls that in order to monitor the implementation of provisional measures and evaluate their continuation it is necessary to determine whether the situation of extreme gravity and urgency that gave rise to those measures persists.¹⁵ The usefulness (*effet utile*) of provisional measures depends, to a great extent, on the real possibility that they can be implemented.¹⁶ In the absence of information regarding extreme gravity and urgency to avoid irreparable damage to life and physical integrity, it is appropriate to lift the provisional measures adopted.¹⁷

54. Therefore, the Court decides to lift the provisional measures regarding Mrs. Adriana Diosa, given that no up-to-date information has been provided showing a specific situation of extreme gravity and urgency that would justify maintaining these measures.

3.3 *Astrid Manrique*

55. The State alleged that “the petitioners have not provided up-to-date information demonstrating the persistence of a situation of gravity and urgency

¹⁵ Cf. *Matter of the Indigenous Community of Kankuamo*. Provisional Measures regarding Colombia. Order of Inter-American Court of April 3, 2009, Considering para. 7, and *Case of the Barrios Family*. Provisional Measures regarding Venezuela. Order of the Court of May 30, 2013, Considering para. 11.

¹⁶ Cf. *Case of Caballero Delgado and Santana*. Provisional Measures regarding Colombia. Order of the Court of July 4, 2006, Considering para. 13, and *Case of the Barrios Family*. Provisional Measures regarding Venezuela. Order of the Court of May 30, 2013, Considering para. 12.

¹⁷ Cf. *Matter of Liliana Ortega et al.* Provisional Measures regarding Venezuela. Order of the Court of July 9, 2009, Considering para. 42, and *Matter Millacura Llaipén et al.* Provisional Measures regarding the Argentine Republic. Order of the Court of February 13, 2013, Considering para. 12.

regarding [...] Astrid Manrique." It stated that "bearing in mind that the representatives of the beneficiaries consider that the measures in favor of [...] Astrid Manrique should be maintained by virtue of her work as a human rights defender in other social organizations different to ASFADDES, an organization of which she [is] no longer a member [...], [...] the context and specific situations that prompted the adoption of these provisional measures are intrinsically related to acts of violence against the ASFADDES organization or its members." The State further indicated that on May 15, 2012 the National Protection Unit reported that in the context of these measures Mrs. Manrique had received 37 transport subsidies and three national air tickets between 2008 and 2010.

56. In a report dated December 28, 2011, the representatives explained that "Astrid Manrique stopped being a member of ASFADDES and joined the *Familiares de Colombia* Foundation", but that she "forms part of the victims' group in the petition submitted by Members of ASFADDES, Case 11.764, Colombia, which is currently being processed before the Inter-American Commission on Human Rights."

57. According to the Commission, "the representatives indicated that [...] Astrid Manrique w[ould] continue her work to combat the practice of forced disappearance [...and] that the provisional measures granted in her favor should not be lifted."

58. Given that there have been no reports of actions that would constitute a specific situation of extreme gravity and urgency regarding Mrs. Astrid Manrique since the Order of February 8, 2008 was issued, the Court decides to lift the provisional measures granted in her favor.

3.4. *Erik Arellana Bautista*

59. On December 10, 2010 the State reported that "in January 2009 [Erik Arellana Bautista] was provided with a [...] cell phone as a measure of protection and [...] a road transport subsidy for 100 hours monthly for a term of six [...] months. Subsequently, [...] in the month of May, two [...] national air tickets were approved monthly. The last risk assessment was conducted in December 2008 and produce[d] an extraordinary result."

60. The representatives reported that Erik Arellana Bautista, (a former member of ASFADDES), and currently a member of the "Nydia Erika Bautista Foundation", in the course of his work "as a human rights defender in different parts of the country, has had to face interference in these activities by the police." They added that the "risk assessment shows that [the risk] is very high and therefore extraordinary mechanisms are required to confront the danger." Furthermore, they stated that the "information provided by the Government reflects its lack of interest and timely attention to situations that the State itself has assessed as extraordinary." They added that on February 8, 2009, the beneficiary and other people suffered acts of violence by armed men who attacked them during a workshop imparted by the Foundation, stealing video and photographic equipment from them. They alleged that "[o]n February 21, 2012, a man with boots and a military-style haircut stood at the entrance to the office of the Nydia Erika Bautista Foundation for Human Rights and approached Erick Arellana with a hostile attitude [and] used aggressive words against him."

61. In response to the incident of February 21, 2012, the State reported on March 30, 2012, that "a high level meeting took place with the participation of Mr. Erick Arellana and other members of the Nydia Erika Bautista Foundation for Human Rights,

the Vice Minister for Political Relations of the Ministry of the Interior and delegates of the National Protection Unit, in order to discuss the situation.”

62. In its report of May 16, 2011, the Commission noted that “the State has not provided information on the measures adopted regarding [Mr.] Bautista, despite the fact that the last risk assessment produced an `extraordinary´ result”. In a report dated May 31, 2012, the Commission considered that, “even though some beneficiaries decide to leave the organization, they not only continue to carry out the same activities –as reported by the representatives- but they may also remain involved in the investigations and processes for which they allegedly suffered threats and harassment, and which gave rise and effect to these measures. An example of this is the information presented in relation to Erik Arellana and his relatives, who allegedly suffered harassment and were followed until, at least, February of 2012.”

63. The Court notes that the State reported on the measures of protection adopted in favor of Mr. Erick Arellana in 2009, without subsequently providing detailed information on the protection measures in effect. In response to the events of February 2012, the State merely indicated that Mr. Erick Arellana has provisional measures. For their part, the representatives have not reported any situations since that date which would constitute an extreme risk for Mr. Arellana; therefore the Court considers it appropriate to lift the provisional measures regarding this beneficiary.

64. Nevertheless, the Court emphasizes that its jurisdiction allows it the possibility of independently assessing whether a situation of extreme gravity and urgency exists, regardless of the determinations made by the domestic authorities concerning the alleged risk suffered by a person. In this regard, given that the last risk assessment carried out for Erik Arellana in 2008 showed that he faced an “extraordinary risk”, the Court takes note of the domestic measures of protection adopted by the State and considers that these should be maintained while the situation of risk identified by the State persists. The Court will not monitor those actions which the State shall implement in the context of the principle of good faith and in compliance with its general international obligations.

3.5. *María Eugenia Cárdenas*

65. In their report of January 9, 2009 the representatives stated that this beneficiary “is no longer part of [ASFADDES] and they [had] no knowledge of any situations of risk facing her.” In a report of April 17, 2013, the representatives stated that “María Eugenia Cárdenas has not had links with ASFADDES for several years.”

66. The State argued that “the petitioners have not provided up-to-date information showing an ongoing situation of gravity and urgency regarding [...] María Eugenia Cárdenas.”

67. The Commission made no comment regarding this beneficiary.

68. The Court notes that the representatives have not provided any information on this beneficiary’s risk situation since it requested such information regarding her risk status and urgent needs through the Order of February 8, 2008. Furthermore, the Court points out that the representatives expressly stated that they had no knowledge of any situations of risk to her (*supra* Considering para. 65). In the absence of information showing that a situation of extreme gravity and urgency persists, this

Court deems it appropriate to lift the measures ordered in favor of this beneficiary, since the lack of information does not allow it to confirm whether she meets the requirements for maintaining the provisional measures ordered in her favor.

3.6. *Daniel Prado*

69. On May 29, 2012 the State reported that “[f]orty three (43) transport subsidies were provided between February 2008 and June 2010 and one (1) national air ticket.” In a report dated January 30, 2013, the State argued that “the petitioners have not submitted up-to-date information showing a continued situation of gravity and urgency regarding [...] Daniel Prado.”

70. On April 17, 2013 the representatives indicated that Mr. “Daniel Prado, who provided legal services to ASFADDES, has not had any connection with the organization and its activities for several years.”

71. In the absence of information regarding situations of extreme gravity and urgency to the detriment of Daniel Prado, the Court decides to lift the provisional measures granted in his favor.

3.7. *Álvaro Guisao Usuga and Florentino Guisao Usuga*

72. In its report of April 14, 2009, the State pointed out that “at the meeting to monitor and discuss provisional measures, held on August 28, 2008 [...], the petitioners confirmed that Messrs. Álvaro and Florentino Guisao Usuga are abroad”, and that “this situation makes it impossible, *de facto*, for the State of Colombia to adopt and implement measures of protection in their favor, rendering ineffective the measures ordered in their favor by the [...] Court.” In a report of October 17, 2012, it reiterated that “[i]n relation to Messrs. Álvaro Guisao and Florentino Guisao, who are outside the country, the State does not have up-to-date information on facts that could endanger their life and physical integrity, not has it received a request for measures of protection in their favor.”

73. The State reported that on May 15, 2012 the National Protection Unit issued three relocation subsidies in favor of Messrs. Guisao Usuga.

74. The representatives reported that on January 9, 2009 Messrs. Guisao Usuga “[we]re out of the country due to numerous threats and intimidation against [their] entire family from people claiming to belong to various State institutions.” In a report of May 28, 2012, they noted that “some of the beneficiaries named have opted for exile in the absence of any State guarantees – such as in the cases of Álvaro Guisao and Florentino Guisao - or they no longer have links with ASFADDES – as is the case of [Doctor] Daniel Prado, who provided legal services to the organization.” In a report dated April 17, 2013 the representatives indicated that Messrs. Guisao “are living in Sweden, apparently under protection afforded by their refugee status and to date, neither one has indicated to the representatives their intention to return to Colombia.”

75. The Commission stated that “[i]n relation to the persons who live abroad, [...] the provisional measures should be maintained and [...] it would be appropriate that the Court order the State to provide them with protection when they decide to return to the country temporarily or definitively. To this end, the representatives of the

beneficiaries must inform the authorities of any possible visits by those persons to Colombia.”

76. Based on the information provided, this Court considers that because these beneficiaries of the measures have left the territory of the State which is supposed to protect them, and given that there is no information that they intend to return soon, or that they wish to do so, the Court decides to lift the provisional measures in their favor.

3.8. *Gloria Luz Gómez Cortés, Coordinator General of ASFADDES*

77. In a report dated December 10, 2010, the State indicated that “Gloria Gómez Cortés, [...] receiv[ed] collective measures, and was granted three [...] subsidies for collective road transport for the sum of three million six hundred and eighteen thousand Colombian pesos (\$3,618,000) monthly (equivalent to US\$ 1,809), for the national team, as from 2001. Similarly, as a measure of protection, she was granted a [...] cell phone.” The State added that at that time “the beneficiary [did] not allow a risk assessment to be carried out, saying that she does not trust the State security bodies.”

78. In a report of May 9, 2011, the representatives mentioned the following incidents which had allegedly occurred since the Order of February 8, 2008: on “15.11.09 [Gloria Gómez] was in Barrancabermeja [...] to conduct interviews and make recordings [...] to highlight the situation of forced disappearance. This investigative activity was taking place at the headquarters of the United Workers’ Union (USO), near this office; throughout the recording process she was watched and harassed by men with walkie-talkie radios who tried to enter the office, claiming that they were relatives of a person who was “supposedly” inside there, a situation that forced her to leave the city, fearing that she would be a victim of an attack”; “on 02.12.09 [she was] harassed at her home by two men who rode a high cylinder motorcycle. According to accounts given by the neighbors and the watchman, the individuals stopped to take photographs of the house where Gloria Gómez lives [...]. Upon noticing the presence of the watchman, the men left the area and a few minutes later, after noticing the presence of Gloria Gómez’ son, abruptly stopped their motorcycle in order to identify him and intimidate him.”

79. The representatives reported that “on 26.04.11[,] Alejandro Álvarez Gómez, a member of ASFADDES and son of Gloria Gómez [...] was subjected to a serious act of intimidation that could have ended in his forced disappearance[, when] he was on his way to the university [he...], was approached by three men, one of them dressed in clothes exclusively used by the armed forces, who traveled in a vehicle without license plates [...] and] they said: “we’re looking for people for the war. Are you interested?” They searched him, and tried to force him into an unmarked car.” The representatives further alleged that on “4 May [2012], [...] Alejandro Álvarez Gómez [...] was the victim of another serious incident instigated by members of the National Police,” and that “two policemen on a motorcycle were expelling people from [a] park [...]. [When] Alejandro Álvarez Gómez ask [ed] [why] they [had to] leave, a policeman [responded] [...] “because I say so and I feel like it [...] because either you all go to bed or you all hit the ground.” [Upon answering that] the park [was] a public space and that sitting down [was] not a crime, the policeman immediately m[ade] signs to other policemen to approach, saying “very uppity, very macho [...] let’s see if you do the same at [the Police] station”; they surrounded him [...] and forcibly and for no reason beg[an] to push Alejandro to take him to [the Police station],” where he was held for

approximately two hours. The representatives considered that “these actions [...] are not only intended to violate the rights of one of the members ASFADDES, in this case of Alejandro Álvarez Gómez, but also to intimidate the organization as a whole and [Gloria Gómez].”

80. The representatives reported that on September 20, 2011 phone calls were received at the Swedish Movement for Reconciliation (SweFOR), an international organization that provides international accompaniment to ASFADDES. The calls were made by someone “who knew all the travel details of Gloria and SweFOR to Barranquilla” and not “someone who found out about the case by chance” as the caller wished people to believe. The caller asked for Gloria Gómez and suggested that she was presumably being followed.¹⁸

81. In its report of May 16, 2011, the Commission pointed out that “the State did not explain what is understood by ‘collective measures’ in relation to [Mrs.] Gómez.”

82. The Court notes that the State has not provided up-to-date and specific information on the protection measures granted to Mrs. Gloria Gómez. On the other hand, the representatives have not reported incidents of extreme gravity and urgency specifically directed at Mrs. Gómez since December 2009. The alleged incidents involving her son, despite being potentially associated with arbitrary and illegal acts, or with alleged acts of harassment against Mrs. Gómez, are not such that would constitute *per se* a situation of extreme gravity and urgency with respect to Mrs. Gómez. In this regard, the Court does not have up-to-date and detailed information to consider that Mrs. Gómez’ current situation warrants maintaining the measures of protection ordered in her favor, for which reason the Court proceeds to lift them.

3.9. *Veronica Marín and Nemecio Oquendo*

83. The State reported that on May 15, 2012 the National Protection Unit granted three relocation subsidies in favor of Mr. Nemecio Oquendo. The State has not submitted information on the security measures issued in favor of Mrs. Veronica Marín.

84. In relation to Mrs. Veronica Marín and Mr. Nemecio Oquendo, the representatives have not provided current information on the alleged situation of risk facing them.

85. The Commission did not submit specific observations regarding the situation of Mrs. Veronica Marín and Mr. Nemecio Oquendo.

86. Therefore, the Court lifts the provisional measures in the absence of information on the existence of a situation of gravity and urgency.

¹⁸ In the first call received during the morning, a man asked whether SweFOR knew Gloria Gómez, as he had information concerning a complaint that she had filed because members of the Department of Administrative Security (DAS) had followed her and “some foreigners” in the city of Barranquilla the previous year. In the second call received in the afternoon, the caller identified himself as Rafael Mendoza and as the person who had made the telephone call in the morning. This person stated that Gloria Gómez together with some foreign companions had been followed by a DAS agent, in the context of intelligence activities. In 2010 the General Coordinator of ASFADDES had traveled to Barranquilla, accompanied by members of SweFOR, to participate in a training course organized by the National Commission for the Search for Disappeared Persons. Report of the representatives of the beneficiaries of December 28, 2012 (File on Provisional Measures, volume VIII, page 2381).

3.10. *Silvia Quintero*

87. On December 17, 2009 the representatives of the beneficiaries indicated that they had decided to “decline [the] representation” of Mrs. Silvia Quintero. Consequently, the Secretariat, following the instructions of the President of the Court, directly requested Mrs. Quintero to submit her observations regarding the implementation of the provisional measures. Mrs. Quintero expressed her views on this matter in the briefs of March 15 and 16, 2010, April 10, 2010, June 15 and 18, 2010, and May 6, 2013.

88. In a brief of March 15, 2010, Mrs. Quintero requested that the Court “maintain the provisional measures and consider the possibility of extending these [for herself] and for [her] family in order to avoid irreparable damage.” She stated that she was forced to move from Medellín to Bogotá because of the alleged risk in “the current context of violence, due to clashes between gangs formed and sponsored by drug traffickers in a territorial dispute with [other] gangs formed and sponsored by paramilitaries of the Bloque Cacique Nutivara, known as ‘LOS RINRORES’, to which several of [her] neighbors belong and that their clashes are with ‘LA AGONIA’, a gang to which several neighbors and [...] childhood friends [...]of [her] relatives also belong.”

89. On May 6, 2013 Mrs. Quintero submitted “the declaration of forced inter-urban displacement” of which she is a victim “after learning about an order to kill her for being a human rights defender,” as she was “told directly by ‘ALIAS EL MONO’ who belongs to a paramilitary organization that controls Comuna 13 (District 13) of Medellín. Mrs. Quintero said she forms “part of the Municipal Group for Participation in Law 1448, known as the victims’ law.”

90. In a brief of May 15, 2013, the State reported that: i) “Mrs. Quintero does not currently have [protection] measures”; ii) in meetings between the National Protection Unit and ASFADDES she was not included in the lists of people requiring a risk assessment, and therefore the National Protection Unit was not aware of her needs and/or requirements; iii) on May 8, Mrs. Gloria Gómez was contacted in order to obtain the personal and contact details of Mrs. Quintero, so as to begin the process to provide appropriate protection; iv) the National Police has no knowledge of any threats made against Mrs. Quintero; v) the National Police is willing to provide the necessary security measures, such as police patrols and visits to offices and homes, security talks, establishment of a liaison system; vi) except for the communication of May 6, 2013, Mrs. Quintero had not informed the National Protection Unit, the National Police or the Foreign Ministry about her alleged security situation, and vii) the National Protection Unit “is taking appropriate steps to begin providing protection to Mrs. Quintero”, and is waiting to make contact with her to assess her risk status.

91. In a brief of May 16, 2013, the Commission stated that “the situation of extreme gravity and urgency facing the beneficiaries, including Mrs. Quintero, arose because of the type of activities that were carrying out as human rights defenders, in connection with different processes within Colombia.” Thus, the Commission reiterated that “even though some beneficiaries decide to leave the organization, as was the case with Mrs. Quintero, but continue carrying out the same activities, they might remain involved in the investigations and processes regarding the threats and harassment which gave rise and effect to these provisional measures.”

92. The Court notes that the last communication submitted by Mrs. Quintero does not clearly state the dates on which the most recent incidents of alleged extreme gravity occurred. The only document attached by Mrs. Quintero, dated October 2011, indicates that on December 20, 2010 she rendered a statement of forced displacement. Taking into account the insufficiency of the information reported, the Court considers that, in the absence of precise information concerning the threats made after 2010, the requirement of urgency necessary to maintain provisional measures has not been met, for which reason it is appropriate to lift the measures ordered in favor of Mrs. Quintero. Nevertheless, the Court deems it appropriate to urge the State, based on the principle of good faith, to continue with its efforts to address Mrs. Quintero's situation within its domestic protection program. In particular, it urges the State to proceed with the measures aimed at assessing the alleged risk facing Mrs. Quintero and her immediate family.

3.11 *Luz Elsie Almanza Suárez, leader of the Barrancabermeja Branch of ASFADDES*

93. The representatives stated that:

a) "on 12.08.08[,] [o]ne of her minor sons [...was] forcibly detained by heavily armed men who traveled on motorcycles [...] and spoke to him in a threatening tone, telling him to 'take care and that they knew what his mother did'";

b) on "18.11.09[,] she [r]eceived a text message on her cell phone, with a threat that [she was] a military target of the *Autodefensas Gaitanistas*";

c) on "22.11.09[,] [a] rumor began circulating in Barrancabermeja of an alleged blacklist with names of people about to be executed by the *Autodefensas Gaitanistas*, which included Luz Elsie Almanza."

d) on September 4, 2012, as she walked with her mother, "two men on a red motorcycle stopped in front of them and took photographs of them." That same day "two men dressed in black on a black motorcycle parked outside the home of Luz Elsie for several minutes, staring insistently inside her house";

e) on September 6, 2012 Mrs. Almanza received a threat via a text message to her cell phone which stated the following:

"Bitch, bastard you keep on messing with [sic] tenerife and we'll scalp you and your kids... we know where you live, we know where you are, coordinator asfadds luz almanza att los urabeños."

f) on February 23, 2013 "she received a letter at her home in Barrancabermeja, containing a death threat and signed by the paramilitary group `Central Committee of the Anti-restitution Commando´ [...], which also contained a bullet." The letter stated the following:

LUZ ALMAN[Z]A (ASFADDES) Bitch, you think this is a game and you ignored our warning; we give you 12 hours to get out of Barrancabermeja - if not we'll send you to see the airplanes close up, bitch [sic] you're a snitch for interfering with things that are none of your business, you think [sic] that because you have a [bullet proof] vest and two escort rats you'll be guarded 24 hours, you're a toad for defending thieves, dope dealers, guerrillas, let us do social cleansing and don't interfere in things that are none of your business, better take care of your family before they start crying for you, don't think that

g) on May 8, 2013 the representatives reported that on April 27, 2013 Mrs. Almanza "learn[ed] of a plan to murder [her]; the information came from a person who lives in the area" who "overheard a conversation by a criminal group known as "LOS RASTROJOS"; "that the commander of Comuna 7 Alias " JUANCHO" was the one who gave the order to follow [her] to do the "job" (kill her)." Mrs. Almanza explained that "they have been the instigators of several of the threats made against [her] in the course of this year. "JUANCHO", is the material author of the direct threat made through the pamphlet of February 2013."

94. On April 17, 2013 the representatives reported that Mrs. Almanza's "protection scheme has been provided in an unsatisfactory and deficient manner," given that : i) "[t]he National Protection Unit of the Interior Ministry owes her the toll money corresponding to the months of October, November and December 2012 and January February and March, 2013"; ii) that the "vehicle assigned, which [...] is not armored, is not suitable for traveling in rural areas", and iii) "[t]he amounts allocated for fuel for the vehicle are insufficient to cover the visits she needs to make in an "extensive region such as the Magdalena Medio", and for this reason she has had to use public transport which "adversely affects her operational capacity for work and, above all, her personal security."

95. In a report of September 21, 2012, the State argued that it had "adopted appropriate measures of protection in response to the imminent risk, consisting of an ordinary vehicle and two [...] escort units; these were implemented on September 11, [2012] and are in effect", providing "evidence [of] the timely measures taken to protect the life and integrity of Mrs. Almanza." The State pointed out that although "Mrs. Luz Almanza is not among the group of beneficiaries of the provisional measures, mentioned in the second operative paragraph of the Order February 8, 2008 of the [...] Inter-American Court [...] the State, in fulfillment of its constitutional and legal duties, and in line with its international human rights obligations, took the appropriate steps in the context of the protection program established by Decree 4912 of 2011, by reason of her work as a human rights defender."

96. In a report of April 5, 2013, the State reported that "with respect to the threats suffered by Mrs. Luz Almanza, in an intimidating pamphlet sent by the emerging criminal gang "Aguilas Negras", [...] this information was brought to the attention both of the National Police and the Attorney General's Office on February 25 [2013], in order to take the pertinent actions, within the framework of their jurisdiction."

97. In a report of May 16, 2013, the State reported that "in a meeting held on May 7, 2013, [the Committee for Risk Evaluation and Recommendation of Measures] recommended reinforcing the protection scheme, changing the vehicle [...] for an armored vehicle." The State also reported that the Commander of the Police Station in the municipality of Barrancabermeja was ordered to carry out visits and patrols of Mrs. Almanza's home.

98. Regarding the threat of April 27, 2013, in a brief dated May 16, 2013, the Commission asked the State to provide "up-to-date and detailed information on the

steps taken to determine and implement appropriate measures of protection to guarantee [the] life and physical integrity" of Mrs. Luz Almanza.

99. The Court notes that although the State had the obligation to protect the members of ASFADDES in the organization's offices, the Court cannot be indifferent to the series of threats and harassment that Mrs. Almanza is alleged to have suffered between 2008 and 2013, and which constitute *prima facie* a situation of extreme gravity and urgency that justifies an extension of provisional measures, *ex officio*, in her favor. The Court takes into account the fact that Mrs. Almanza received direct and serious threats after the implementation of the protection scheme. In that regard, international protection can play an important role in reinforcing the protection provided at the domestic level in this case of extreme risk, addressing Mrs. Almanza's situation with special care and attention. The Court takes cognizance of the various measures adopted by the State to protect Mrs. Almanza and awaits further detailed information on efforts aimed at strengthening the implementation of her protection scheme.

4. Regarding the investigations

100. The representatives argued that the State had not provided "any information whatsoever on the investigative processes and inquiries, both of a criminal and a disciplinary nature, regarding the numerous incidents and attacks committed against the beneficiaries of the provisional measures" and that "the processes and investigations, both criminal and disciplinary [...] are of the utmost importance to ensure the effectiveness of the provisional measures, given that these could produce useful results leading to the discovery of those responsible for those actions, in order to punish them and, consequently, neutralize the risk factors and sources of danger to the physical and personal integrity of the beneficiaries."

101. The State argued that "within the provisional measures procedure only arguments relating to the beneficiaries' situation of extreme gravity and urgency are acceptable." However, the State provided information on five investigations that are being conducted by the Prosecutor General's Office, specifically the Bogotá Office, into the alleged crimes of conspiracy to commit a crime, threats and abuse of authority through arbitrary or unjust actions in relation to the incidents reported by Erick Arellana, Andrea Solangie Torres Bautista, Yannette Bautista and Alejandro Álvarez Gómez.

102. The Commission considered that "the proper conduct of the investigations is of vital importance to guarantee the life and physical integrity of the beneficiaries, particularly considering that their situation of vulnerability is associated with their work as human rights defenders and that the continuity of those tasks is precisely the circumstance that places them in a situation of risk."

103. However, the Court reiterates¹⁹ that a supposed lack of investigation by a State does not necessarily constitute a situation of extreme gravity and urgency that

¹⁹ Cf. *Case of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering para. 24, and *Matter Giraldo Cardona et al.* Provisional Measures regarding Colombia. Order of the Court of February 8, 2013, Considering para. 36.

warrants maintaining provisional measures. Moreover, on certain occasions, the duty to investigate may be prolonged for a considerable period, during which time the threat or risk does not necessarily remain extreme and urgent. This Court has also pointed out that the analysis of the effectiveness of the investigations and procedures related to the facts that gave rise to the provisional measures corresponds to the examination of the merits of the case.²⁰ To summarize, failure to fulfill the duty to investigate is not *per se* sufficient reason to maintain provisional measures.

104. Finally, the Court reiterates that Article 1(1) of the Convention establishes the general obligations of States Parties to respect the rights and freedoms enshrined therein and to ensure the free and full exercise of those rights and freedoms to all persons subject to their jurisdiction, in all circumstances. Provisional measures, for their part, have an exceptional nature and are complementary to this general obligation of the States. In this regard, the assumptions for the lifting of provisional measures by the Court cannot imply that the State is relieved of its treaty obligations to protect those present in its territory. Therefore, regardless of the existence of specific provisional measures, the State is obliged to guarantee the rights of individuals in a situation of risk and must expedite the investigations required to elucidate the facts reported and, if appropriate, punish those responsible.²¹ In conducting such investigations, the State in question must make every effort to determine all the facts surrounding the threat and how it was manifested; to determine whether there is a pattern of threats against the beneficiary or group or entity to which he or she belongs; to determine the object or purpose of the threat; and to determine those responsible for the threat, and if applicable, punish them.²²

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

In exercise of the authority conferred upon it by Article 63(2) of the American Convention on Human Rights and Article 27 of the Court's Rules of Procedure,

DECIDES:

1. To extend the provisional measures ordered in this matter, so that the State may adopt the measures necessary to continue protecting the life and physical integrity of Mrs. Luz Elsie Almanza Suárez.
2. To change the name of this matter, which shall now be called the "Matter of Almanza Suárez regarding Colombia."

²⁰ Cf. *Matter Pilar Noriega Garcia et al.* Provisional Measures regarding Mexico. Order of the Court of February 6, 2008, Considering para. 14, and *Matter Giraldo Cardona et al.* Provisional Measures regarding Colombia. Order of the Court of February 8, 2013, Considering para. 37.

²¹ Cf. *Case of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering para. 24, and *Matter Giraldo Cardona et al.* Provisional Measures regarding Colombia. Order of the Court of February 8, 2013, Considering para. 49.

²² Cf. *Case of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering para. 24, and *Case of the 19 Tradesmen v. Colombia.* Provisional Measures regarding Colombia. Order of the Court of June 26, 2012, Considering para. 47.

3. To lift the provisional measures ordered in respect of the offices of ASFADDES and in respect of María Eugenia López, Adriana Diosa, Astrid Manrique, Erik Arellana Bautista, Daniel Prado, María Eugenia Cardenas, Álvaro Guisao Usuga, Florentino Guisao Usuga, Gloria Gómez, Veronica Marín and Nemecio Oquendo, under the terms of Considering paragraphs 41 to 86 of this Order.

4. To lift the provisional measures ordered in favor of Mrs. Silvia Elena Quintero and not to grant provisional measures in favor of her relatives, in accordance with Considering paragraphs 87 to 92.

5. To remind the State that it must allow the beneficiary of these measures to participate in their planning and implementation and, in general, that it must keep her informed about the progress made in their implementation.

6. To remind the State to continue reporting every two months on the provisional measures adopted, and to require the representatives of the beneficiary and the Inter-American Commission on Human Rights to submit their observations within periods of four and six weeks, respectively, as from notification of said State reports.

7. To require the Secretariat of the Court to notify this Order to the State of Colombia, the Inter-American Commission on Human Rights and to the representatives of the beneficiaries of these measures.

Diego García-Sayán
President

Manuel E. Ventura Robles

Alberto Pérez Pérez

Eduardo Vio Grossi

Roberto de Figueiredo Caldas

Eduardo Ferrer Mac-Gregor Poisot

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary