

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS¹
OF AUGUST 23, 2013**

**PROVISIONAL MEASURES
REGARDING MEXICO**

MATTER OF CASTRO RODRÍGUEZ

HAVING SEEN:

1. The Order delivered by the Inter-American Court of Human Rights (hereinafter “the Inter-American Court,” “the Court,” or “this Court”) on February 13, 2013, which, pursuant to the request of the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”), ordered that provisional measures be granted in favor of Luz Estela Castro Rodríguez, effective until September 30, 2013, and consisting of the following:

- 1) to require the State of Mexico to adopt the necessary and effective measures to prevent damage to the life and personal integrity of Luz Estela Castro;
- 2) to require the State to take appropriate steps to ensure that the measures of protection are planned and implemented with the participation of the representatives of the beneficiary and that they are kept informed of the progress made in their implementation, and

[...]

2. The briefs of May 22, June 13 and 17, and August 23, 2013, in which the State of Mexico (hereinafter “the State” or “Mexico”) presented its reports related to the implementation of the provisional measures.

3. The brief of July 19, 2013, in which the representatives of the beneficiary of the provisional measures (hereinafter “the representatives”) submitted their observations regarding the reports of the State.

4. The Inter-American Commission had not submitted its observations on the implementation of the provisional measures at the time of issuance of this Order.

¹ The Judge Eduardo Ferrer Mac-Gregor Poisot, of Mexican nationality, did not participate in the hearing and deliberation of this Order, pursuant to that provided in Articles 19(2) of the Statute and 19(1) of the Rules of Procedure of the Court.

CONSIDERING THAT:

5. Mexico ratified the American Convention on Human Rights on March 24, 1981 and, in accordance with Article 62 thereof, recognized the binding jurisdiction of the Court on December 16, 1998.

6. Article 63(2) of the American Convention stipulates 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 matters 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 Court’s Rules of Procedure and is obligatory in accordance with a basic principle of international law, supported by international jurisprudence, whereby States are required to comply with international treaty obligations in good faith (*pacta sunt servanda*).²

7. Under international human rights law, provisional measures are not merely preventive, in that they preserve a juridical situation, but rather they are essentially protective, since they protect human rights inasmuch as they seek to avoid irreparable damage to persons.³ In this sense, Article 63(2) of the Convention requires that, for the Court to be able to order provisional measures, three conditions must concur: (i) “extreme gravity”; (ii) “urgency” and (iii) that the purpose is to “avoid irreparable damage to persons.” These three conditions must coexist and be present in any situation in which the Court is asked to intervene. In the same way, these three conditions must persist for the Court to maintain the protection ordered. If one of them has ceased to be valid, the Court must assess the pertinence of continuing the protection ordered.⁴

8. Pursuant to its jurisdiction, within the framework of provisional measures, the Court can only consider the merits of arguments relating strictly and directly to extreme gravity and urgency and the need to avoid irreparable damage to persons. Thus, in order to decide whether to maintain the provisional measures in effect, the Court must analyze whether the situation of extreme gravity and urgency that led to their adoption persists, or whether new circumstances, which are equally grave and urgent, warrant keeping them in force. Any other issue may only be brought to the Court’s attention by means of a contentious case.⁵

² Cf. *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 6, and *Matter of Dottin et al. Provisional Measures regarding the Republic of Trinidad and Tobago*. Order of the Inter-American Court of Human Rights of May 14, 2013, considering clause 3.

³ *Case of the newspaper “La Nación”. Provisional Measures regarding Costa Rica*. Order of the Inter-American Court of Human Rights of September 7, 2001, considering clause 4, and *Matter of B. Provisional measures regarding El Salvador*. Order of the Inter-American Court of Human Rights of May 29, 2013, considering clause 5.

⁴ Cf. *Case of Carpio Nicolle. Provisional Measures regarding Guatemala*. Order of the Inter-American Court of Human Rights of July 6, 2009, considering clause 14, and *Matter of Wong Ho Wing. Provisional Measures regarding the Republic of Perú*. Order of the Inter-American Court of Human Rights of May 22, 2013, considering clause 3.

⁵ Cf. *Matter of James et al. Provisional Measures regarding Trinidad and Tobago*. Order of the Inter-American Court of Human Rights of August 29, 1998, considering clause 6, and *Matter of Giraldo Cardona et al. Provisional Measures regarding the Republic of Colombia*. Order of the Inter-American Court of Human Rights of February 8, 2013, considering clause 5.

a) Implementation of the provisional measures and the situation of risk

9. Subsequent to the Order of the Court, the State submitted a report regarding the agreements reached, through a work meeting held on April 23, 2013, in which the beneficiary and high-ranking authorities of the State, at both the federal and local level, participated. During the aforementioned meeting, the parties agreed, *inter alia*, that:

- a. FIRST.- Within a period of one month, the [State should articulate] a proposal for a campaign of dissemination and recognition of the work performed by human rights defenders in the context of a democratic state, [to be assessed by the parties].
- b. SECOND.- Within eight days, the [State] [should submit], for assessment by the beneficiary, a technical report produced by experts on the installation [of] security infrastructure and technical measures at the Women's Human Rights Center and the place of residence of the beneficiary, to establish a timeline for its subsequent installation.
- c. THIRD.- [The State should conduct] a review of the code blue system (emergency buttons) located at the Women's Human Rights Center and at the intersection of La Junta and Juarez avenues and of the public security camera located at the intersection of Juarez and Pacheco avenues, as well as the street lighting in the surrounding area of the Center, in order to permanently ensure their proper functioning.
- d. FOURTH.- [The State], as a measure to ensure the immediate communication of the beneficiary, [would] manage the delivery of two sets of radio communication systems, as well as the installation of a panic button on the mobile equipment designated for this purpose.
- e. FIFTH.- [The State should provide the beneficiary] escort services by accredited police forces [...] when traveling to various areas of Chihuahua [...].
- f. SIXTH.- [The State appointed] Attorney Jaime Tonathiu Cano, Secretariat of Public Security to the Attorney General, as a high-level official, with the capacity to make decisions and react immediately, to serve as a 24-hour contact in case of an emergency.
- g. SEVENTH.- [The State undertook to implement] daily police patrols in the CEDEHM, in conjunction with logs or register forms [...] to be signed off by the staff of the Center, in order to ensure [compliance].
- h. EIGHTH.- In order to identify the beneficiaries of the provisional measures, the [State] [would] forward the appropriate official letters to the authorities involved.
- i. NINTH.- With respect to the events that occurred on April 4, [2013] (*infra* paragraph 11) on the premises of the CEDEHM, [the State, through a specialized unit, would perform the investigations] in order to reinforce the exhaustion of the lines of investigation with the most certainty, as well as of the various [investigation] [f]iles where the beneficiary and members of the CEDEHM appear as victims.

[...]

10. In this regard, the State detailed several of the actions taken with respect to each of the items discussed at the work meeting, indicating, respectively, that:

- a. it created the Department of Public Policy on Human Rights, whose main purpose is the promotion of cross-cultural respect for human rights at the various levels of

government as well as the establishment of the "Protection Mechanism for Human Rights Defenders and Journalists," recognized by law since June 25, 2012;

- b. it annexed the specialized technical report on the security of the place of residence of the beneficiary and the CEDEHM. Furthermore, through correspondence dated August 23, 2013, it reported that "specialized security personnel were in the process of installing [the] technical security system[s] in the place of residence of the beneficiary and the CEDEHM;
- c. regarding the review of the code blue system (emergency buttons), it affirmed that on February 22, 2013, the review of the equipment was completed by the Government of the state of Chihuahua. The review indicated that the button works properly, and it was determined that it would be reviewed biweekly thereafter. The same took place with regards to the security camera, as it was possible to observe it is functioning properly and the review of this device was recorded on DVD;
- d. the necessary arrangements have been carried out for the delivery of the radio communications equipment with an integrated panic button, and therefore, it would report on compliance with this measure as appropriate;
- e. an official letter (FEAVOD7116/2013) was communicated to the Attorney General of the state of Chihuahua, in which the Director General of the State Police was instructed to provide escort services at the request of the beneficiary;
- f. the beneficiary "has been" in contact with the Secretariat to the Attorney General of the state of Chihuahua, and it noted that, following the attacks against the CEDEHM facilities that took place on April 4, the official immediately visited the center and facilitated the necessary precautions, which included the installation of safety glass;
- g. the operational activities of continuous patrols in the vicinity of the CEDEHM have been carried out "pursuant to the terms agreed upon with the beneficiary";
- h. the determination as beneficiary of the provisional measures has been communicated to the "relevant authorities," and the corresponding official letters have been delivered to Ms. Castro Rodríguez, and
- i. the investigation was being handled by the local Public Prosecutor's Office and would be discussed in depth at the next monitoring session, convened, pursuant to the August 23, 2013 brief, to take place within the first week of September of 2013.

11. The representatives stated that, on April 4, 2013, "the CEDEHM staff found the windows on one side of the building shattered; [...] caused by six hits [...] with stones, ceramics, and asphalt [...] that reached the furniture in the interiors of the offices [...] the mechanisms of immediate response [...], which [had been] installed in the interior and exterior of the facility, were activated; however, there was no response" from the authorities (Municipal Police), due, allegedly, to system failures. They added that the events occurred two days after meeting with members of the State on the implementation of the precautionary measures granted by the Commission in favor of other defenders. As such, they indicated that the events were "a clear attack against the work performed by the [CEDEHM] in the climate of impunity that exists in the State."

12. Similarly, by communication dated July 19, 2013, the representatives noted that the information presented by the State was "insufficient as to the plan of implementation and failed to list the progress on some aspects that are essential for the prevention of future attacks." Moreover, they warned that most of the agreements reached at the work meeting on April 23, 2013 were in the stage of implementation, and that there has not been a significant effort to reduce the risk faced by the beneficiary. In a precise and timely

manner, they commented on each one of the agreements reached at the aforementioned work meeting as follows:

- a. they hoped that the agreements discussed would materialize sooner rather than later since the State had pledged to present a proposal for the outreach campaign on the recognition of the work of human rights defenders "by no later than May 23, 2013." Moreover, they pointed out that it was not clear what structural measures the State was conducting to recognize the work of human rights defenders, what they consist of and how they effectively contribute to the security and personal integrity of the beneficiary;
- b. they stated that besides the code blue system (emergency buttons) that had been installed at the offices of the CEDEHM organization and the residence of the beneficiary, no additional device or safety mechanism had been installed;
- c. as a result of the April 4, 2013 attack on the premises of the CEDEHM, the code blue system (emergency buttons) was activated. However, they did not obtain any response. Municipal public security personnel subsequently arrived at the organization and clarified that they had not received the information due to failures in the system and, as such, they have undergone periodic reviews. As for the security cameras, they mentioned that they have not received information regarding their operation, since, in the preceding month of "February, when the vehicle of one of the members of the CEDEHM was stolen, they were informed that the cameras had not recorded the incident due to the fact that they were not working at the time";
- d. to date, they have not received the two radio communication systems with the integrated "panic button" that the State undertook to provide;
- e. with respect to the escort services to the beneficiary by public security officers, they stated that "[t]hey would appreciate it if the State were to promptly submit all related information to the beneficiary and her representatives," since the State reported that it had already forwarded the official letters to the local authorities by which it had requested that such service be provided to her;
- f. the official contact designated for emergencies was Attorney Fausto Javier Tagle, Special Prosecutor for Services to Crime Victims, who had visited the CEDEHM facilities on April 4, 2014 where the attacks occurred, and where the glass had been installed. However, they added that the foregoing prosecutor showed animosity toward the beneficiary, since, during a work meeting regarding the matter of Alvarado Reyes, he made negative comments about her;
- g. as an annex to the report, they included a log registering the surveillance patrols that public security officers carry out at the CEDEHM facilities, which demonstrates that they showed up on six occasions in the month of May, two in June, and three in July. Thus, based on the log, it appears that less than one visit per week take place;
- h. "there is no effective method to by which to inform all of the authorities at the three levels of government [...] about the decisions of the inter-American system organisms." As such, they stated that it was necessary for the State to detail which authorities were provided with the information related to this matter, and if the police forces and municipal authorities were included, since the report the State submitted does not clarify who the "relevant authorities" are and if the communications were by official letter; nevertheless, they acknowledged that the Secretariat of Government issued an official letter to the beneficiary recognizing the present measure; and
- i. the beneficiary has not been informed by the State regarding the progress in the investigations of any of the threats and assaults reported to the local Prosecutor's Office. On the contrary, they received verbal information from the Special Prosecutor

for Services to Crime Victims, in the sense that the events reported were related to “isolated [incidents] of general crime,” although there is no investigation to support these assertions.

13. The Court recalls that in order to determine whether a situation of extreme gravity and urgency exists, in order to avoid irreparable damage, it is possible to assess the set of political, historical, cultural factors or circumstances, or those of any other nature, which affect the beneficiary or place him or her in a situation of vulnerability at a particular time and expose him or her to violations of his or her rights. This situation may increase or decrease over time depending on innumerable variables.⁶ Moreover, the Court has held that a set of factors or circumstances may exist that reveal serious aggression against a particular group of people, which places them in a situation of extreme gravity and urgency and of suffering irreparable damage. In this extreme situation, for example, a series of serious attacks against the group to which the beneficiary belongs that would allow one to reasonably infer that the latter will also be attacked, may justify the granting of provisional measures, even without a direct recent threat to that beneficiary.⁷

14. The Court appreciates the efforts of the State aimed at the implementation of the measures of integral protection in favor of Luz Estela Castro Rodríguez to guarantee her life and personal integrity, accepting responsibility for its role in the matter demonstrated by the work meetings with the beneficiary and her representatives and the various agreements reached to provide effective protection to the beneficiary, in compliance with the decisions of this Court.

15. Nevertheless, based on the information provided by the representatives, the Court finds that the situation of risk facing Luz Estela Castro Rodríguez has not yet vanished, nor have certain of the measures ordered been complied with, as they present problems of effectiveness, in particular, regarding those related to the personal protection of the beneficiary.

16. In this sense, being that the situation of risk to the beneficiary persists, it is necessary to maintain the present measures. Therefore, in agreement with the beneficiary or her representatives, the State shall conduct an assessment regarding her current situation of risk and implement the effective and necessary measures to counteract such risk and protect her life and personal integrity. The State shall also inform the Court in this regard.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the authority granted by Article 63(2) of the American Convention on Human Rights and Articles 27 and 31 of the Court’s Rules of Procedure,

DECIDES TO:

⁶ Cf. *Matter of Carpio Nicolle*, *supra*, Considering clause 26, and *Matter of Castro Rodríguez regarding México*. Order of the Inter-American Court of Human Rights of February 13, 2013, considering clause 10.

⁷ Cf. *Matter of Carpio Nicolle*, *supra*, Considering clause 27, and *Matter of Castro Rodríguez*, *supra*, considering clause 11.

1. Require the State to maintain the measures adopted, as well as implement, immediately, the necessary and effective measures to protect the rights to life and personal integrity of Luz Estela Castro Rodríguez.
2. Require the State to take appropriate steps to ensure that the measures of protection provided for in the present Order are planned and implemented with the participation of the beneficiary thereof or her representatives, so that the referenced measures are diligently and effectively provided and that, in general, they are kept informed of the progress made in their implementation.
3. Require the State to submit a complete and detailed report regarding the actions performed to comply with the provisional measures ordered and to conduct an assessment regarding the current situation of risk, in accordance with Considering paragraph 16 of the instant Order by no later than November 1, 2013.
4. Require the State to continue reporting to the Inter-American Court of Human Rights every three months, from the date of submission of its last report, on the provisional measures adopted.
5. Request the representatives of the beneficiary to present their observations within four weeks from notification of the reports of the State. Likewise, to request the Inter-American Commission on Human Rights to present its observations on the aforementioned reports of the State within a period of two weeks from the date of receipt of the observations of the representatives.
6. Require the Secretariat to serve notice of the present Order to the State of Mexico, the Inter-American Commission on Human Rights, and the representatives of the beneficiary.

Diego García-Sayán
President

Manuel E. Ventura Robles

Alberto Pérez Pérez

Eduardo Vio Grossi

Roberto F. Caldas

Humberto Antonio Sierra Porto

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary