CONCURRING OPINION OF JUDGE EDUARDO VIO GROSSI
JUDGMENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS
OF NOVEMBER 24, 2011
CASE OF THE BARRIOS FAMILY *v.* VENEZUELA
(Merits, Reparations and Costs)

With his vote, the undersigned has concurred with the judgment indicated above, but wishes to place on record that, since this is the "final and non-appealable judgment"[1] that has effectively concluded this case in which the Inter-American Court of Human Rights (hereinafter "the Court") adopted provisional measures while it was "hearing" it,[2] its competence with regard to those provisional measures has precluded and, in future, it is only incumbent on the Court "to monitor" compliance with the said judgment.[3]

In this regard, and if it is considered that the said measures should continue beyond the judgment, then the judgment should have established that the obligation of the State concerned to guarantee "that the injured party be ensured the enjoyment of his right or freedom that was violated,"[4] logically also included the obligation to adopt the pertinent measures to "avoid irreparable damage to persons"[5] related to the case that has been decided and that, for this reason, is no longer submitted to the "consideration" of the Court. In this way, those measures would have been incorporated into this "final and non-appealable judgment," so that they would not only have shared its binding nature, but also compliance with them could have been monitored as part of the judgment and, consequently, as if the judgment had not closed the case, and not as if it referred to a different and even an autonomous case.

The most detailed grounds for this position, which considers that the strict respect by the Court for the norms that regulate it is a requirement *sine qua non* for the due safeguard of human rights, is to be found in both the Dissenting Opinions, in the same sense that the undersigned issued on July 15, 2011, with regard to the orders of the Court concerning the "*Provisional measures with regard to the Republic of Colombia, Case of Gutiérrez Soler v. Colombia"* of June 30, 2011; "*Provisional measures with regard to the United Mexican States, Case of Rosendo Cantú et al. v. Mexico"* of July 1, 2011, and "*Provisional measures with regard to the Republic of Honduras*, *case of Kawas Fernández v. Honduras"* of July 5, 2011, and also in the brief concerning the same orders, that the undersigned submitted to the Court on August 17, 2011.

Eduardo Vio Grossi
Judge

Pablo Saavedra Alessandri
Secretary

1 Article 67 of the American Convention on Human Rights.
2 Article 63(2) of the Convention.
3 Article 69 of the Court's Rules of Procedure. See the undersigned's Concurring Opinions on the orders on compliance with judgment in the cases of Blanco Romero *et al. v.* Venezuela, and Servellón García *et al. v.* Suriname, of November 2011.
4 Article 63(1) of the Convention.
5 Article 63(2) of the Convention.