

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF SEPTEMBER 8, 2004**

**EXPANSION OF PROVISIONAL MEASURES REQUESTED BY THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS WITH RESPECT
TO THE REPUBLIC OF VENEZUELA**

LUISIANA RÍOS ET AL. CASE (RADIO CARACAS TELEVISIÓN -RCTV-)

HAVING SEEN:

1. The November 27, 2002 Order of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") with respect to the State of Venezuela (Bolivarian Republic of Venezuela) (hereinafter "the State" or "Venezuela"), in which it decided:

1. To order the State to adopt, without delay, all necessary measures to protect the life and personal safety of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos and Argenis Uribe, employees of Radio Caracas Televisión (RCTV).
2. To order the State to allow the applicants to participate in planning and implementation of the protection measures and, in general, to inform them of progress regarding the measures ordered by the Inter-American Court of Human Rights.
3. To order the State to investigate the facts stated in the complaint that gave rise to the instant measures, with the aim of discovering and punishing those responsible.
4. To order the State to report to the Inter-American Court of Human Rights on the measures adopted to comply with the [...] Order, no later than December 12, 2002.
5. To order the Inter-American Commission on Human Rights to submit its comments on the report by the State to the Inter-American Court of Human Rights, within a week of being notified thereof.
6. To order the State, subsequent to its first report (*supra* operative paragraph four), to continue reporting to the Inter-American Court of Human Rights, every two months, on the Provisional Measures adopted, and to order the Inter-American Commission on Human Rights to submit its observations to said reports within six weeks of receiving them.

2. The February 20, 2003 Order of the Court, in which it decided:

1. To declare that the State has not implemented effectively the provisional measures ordered by the Inter-American Court of Human Rights in its Order of November 27, 2002.
2. To reiterate to the State the requirement that it adopt forthwith all necessary measures to protect the live and safety of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos and Argenis Uribe.
3. To reiterate to the State the requirement that it allow the petitioners to take part in the planning and implementation of the protection measures and, in general, informed the of progress regarding the measures ordered by the Inter-American Court of Human Rights.
4. To reiterate to the State the requirement that it investigate the facts stated in the complaint that gave rise to these measures in order to discover those responsible and punish them.

5. To call upon the State and the Inter-American Commission on Human Rights to take the necessary steps to create an appropriate mechanism to coordinate and monitor the aforementioned measures by March 21, 2003, at the latest.

6. To call upon the State to report to the Inter-American Court of Human Rights on the measures that it has adopted in compliance with [the] Order by February 28, 2003, at the latest.

7. To call on the Inter-American Commission on Human Rights to present to the Inter-American Court of Human Rights any comments that it deem[ed] appropriate within one week of notification of the State's report.

8. To call upon the State, following its communication of February 28, 2003 (*supra* fifth operative paragraph), to continue informing the Inter-American Court of Human Rights, every two months, on the provisional measures adopted and to call upon the Inter-American Commission on Human Rights to present its comments on these reports within six weeks of receiving them.

[...]

3. The November 21, 2003 Order of the Court, in which it decided, *inter alia*:

[...]

2. To reiterate the order to the State to adopt, forthwith, such measures as may be necessary to protect the lives and the right to humane treatment of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos and Argenis Uribe.

3. To order the State to adopt and maintain such measures as may be necessary to protect the life, the right to humane treatment and freedom of expression of Carlos Colmenares, Noé Pernía and Pedro Nikken, employees of the television broadcast station *Radio Caracas Televisión* (RCTV).

4. To order the State to allow participation of the beneficiaries in planning and implementation of the protection measures and, in general, to inform them of progress regarding the measures ordered.

5. To order the State to investigate the facts stated in the complaint that gave rise to the [...] measures, with the aim of discovering and punishing those responsible.

6. To order the State to report to the Inter-American Court of Human Rights on the measures it has taken to comply with the [...] Order, no later than November 28, 2003.

7. To order the Inter-American Commission on Human Rights to submit whatever comments it deem[ed] pertinent on the report by the State, within two weeks of being notified thereof by the Inter-American Court of Human Rights.

8. To order the State, subsequent to its first report (*supra* operative paragraph six), to continue reporting to the Inter-American Court of Human Rights, every two months, on the Provisional Measures adopted, and to order the Inter-American Commission on Human Rights to submit its observations on said reports within six weeks of being notified thereof by the Court.

[...]

4. The December 2, 2003 Order of the Court, in which it decided:

1. To reiterate that the State has not implemented effectively the different provisional measures ordered by the Inter-American Court of Human Rights in the [...] case.

2. To declare that the State has failed to comply with the obligation imposed on it by Article 68(1) of the American Convention on Human Rights.

3. To declare that the State failed to comply with the obligation to inform the Inter-American Court of Human Rights on the implementation of the measures it had ordered.

4. Should the current situation persist, to inform the General Assembly of the Organization of American States, in application of Article 65 of the American Convention on Human Rights, and Article 30 of the Statute of the Inter-American Court of Human Rights, of the State's failure to comply with the decisions of this Court.

5. To reiterate to the State the requirement that it adopt, forthwith, all necessary measures to protect the lives and safety of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos, Argenis Uribe, Carlos Colmenares, Noé Pernía and Pedro Nikken.

6. To reiterate to the State the requirement that it allow the petitioners to participate in the planning and implementation of the measures of protection and that, in general, it should inform them on progress regarding the measures decided by the Inter-American Court of Human Rights.

7. To reiterate to the State the requirement that it investigate the facts stated in the complaint that gave rise to the [...] measures in order to discover those responsible and punish them.

8. To call upon the State to inform the Inter-American Court of Human Rights about the measures it ha[d] adopted to comply with the Order by January 7, 2004, at the latest.

9. To call upon the Inter-American Commission on Human Rights to present to the Inter-American Court of Human Rights any comments it deem[ed] pertinent within 15 days of notification of the State's report.

10. To call upon the State, subsequent to the report referred to in the eighth operative paragraph, to continue informing the Inter-American Court of Human Rights, every two months, on the provisional measures adopted, and to call upon the Inter-American Commission on Human Rights to present its comments on these reports within six weeks of receiving them.

[...]

5. The May 4, 2004 Order of the Court, in which it decided

1. To find that the State of Venezuela, because it accepted its jurisdiction, is under the obligation to comply with the rulings of the Inter-American Court of Human Rights, which has the power, inherent to its authority, to oversee compliance with them.

2. To find, likewise, that the State of Venezuela has the obligation to implement the provisional measures ordered by the Court and to submit, according to the schedule set by the Court, the reports ordered, and that the authority of the Court also includes assessment of the reports submitted, and issuing instructions and rulings regarding compliance with its decisions.

3. To reiterate, applying Article 65 of the Convention, that the State failed to comply with the obligation to inform the Inter-American Court of Human Rights on the implementation of the measures it ordered.

4. To reiterate to the State that it must comply with the content of [the] December 2, 2003 ruling. In this regard, it must[...] adopt, forthwith, all necessary measures to protect the lives and safety of [...] Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos, Argenis Uribe, Carlos Colmenares, Noé Pernía [and] Pedro Nikken [...]

5. To reiterate to the State that it must comply with its obligation to investigate the facts stated in the complaint that gave rise to the [...] measures in order to discover those responsible and punish them.

6. To reiterate to the State that it must allow the petitioners to participate in the planning and implementation of the measures of protection and that, in general, it must inform of progress regarding the measures decided by the Inter-American Court of Human Rights.

7. To call upon the State to inform the Inter-American Court of Human Rights about the measures it ha[d] adopted to comply with the Order by June 15, 2004, at the latest.

8. To ask the beneficiaries of the provisional measures or their representatives to submit to the Inter-American Court of Human Rights, within 15 days from when they receive the report by the State, whatever comments they deem[ed] pertinent.

9. To ask the Inter-American Commission on Human Rights to submit to the Inter-American Court of Human Rights, within 20 days of when they receive the report by the State, whatever comments they deem[ed] pertinent.

10. To order the State, in addition to the report referred to in operative paragraph seven, to continue informing the Inter-American Court of Human Rights, every two months, on the provisional measures adopted, and to call upon the Inter-American Commission on Human Rights to present its comments on these reports within six weeks of receiving them. This Court also ask[ed] the beneficiaries of the provisional measures or their representatives to continue submitting their comments on said reports within four weeks of when they receive them.

[...]

6. The July 9, 2004 brief in which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the Inter-American Court, pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), 25 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure") and 74 of the Rules of Procedure of the Commission, a request for expansion of provisional measures in the Luisiana Ríos et al. case, in favor of all the journalists, management and other workers at Radio Caracas Televisión (hereinafter "RCTV") who are in its facilities or are associated with that journalistic endeavor. The original brief with said request for expansion and its annexes was received by the Secretariat of the Court on July 16, 2004.

7. The grounds given by the Commission in its request for expansion of provisional measures (*supra* Having Seen 6), summarized as follows:

a) on June 3, 2004 the National Electoral Council announced that they had sufficient signatures to hold a Presidential recall referendum, and this led to a number of violent commotions in various points of downtown Caracas by groups identifying themselves as followers of the President of the Republic. These disturbances led to the death of one person, at least two persons wounded, and attacks against the offices of the private media El Nacional, Así es la Noticia, and RCTV. The Metropolitan Mayor's Office was also attacked, and several vehicles were set on fire;

b) based on information supplied by the petitioners, a group of hooded individuals met on June 3, 2004 in front of the head office of RCTV. Even though there were two officers of the Dirección de los Servicios de Inteligencia y Prevención (DISIP) nearby, they made no inquiry into the presence of said group. The hooded individuals attacked the offices of RCTV with stones and firearms, some of them high caliber ones, and aimed their shots at those who looked out from the building that is the head office of

RCTV. Said attack lasted approximately one hour, during which time no police or security authorities intervened;

c) the petitioners reported that another group of individuals who were a block away from the head office of RCTV commandeered an ice cream transport truck, directed it full speed against the main door of RCTV, crashing against said door, damaging the security bars, the channel's door, the walls and the floor of the entrance. Three individuals also set fire to the motor of said truck, causing additional damage to the main door of the head office of RCTV;

d) the petitioners stated that: another group of individuals tried to disable and break two security cameras at the RCTV head office; a group of individuals met at the back door of RCTV and set a truck that belonged to another media on fire, and then went toward RCTV's door, shooting and yelling slogans in support of the President of the Republic and against the media;

e) the petitioners also stated that the RCTV workers who were outside the channel during their lunch hour were unable to enter the channel's head offices, and some of them were threatened by the attackers and were forced to seek refuge in nearby buildings. Roughly an hour after the beginning of the attack, the National Guard showed up to persuade the attackers to withdraw. However, the attackers threatened to come back, for which reason the journalists and other RCTV employees evacuated the head office, and only the staff needed to keep the station on the air remained inside the facilities; and

f) the set of facts "corroborates the extreme gravity and urgency of the situation and the danger of irreparable damage against the lives, right to humane treatment and freedom of expression of the journalists, management and other employees working at the head office of RCTV channel or associated with the journalistic operation" of said channel.

8. The testimony of Laura Castellanos, José Ibarra Molina, Pedro Nikken, and Noé Pernía, submitted as part of annex E to the Commission's request for expansion of provisional measures (*supra* Having Seen 6).

9. The July 12, 2004 note by the Secretariat of the Court (hereinafter "the Secretariat") in which, under instructions by the President, it granted the State until July 14, 2004 to send its comments on the request for expansion of provisional measures submitted by the Commission in the instant case (*supra* Having Seen 6). The State sent no observations on the matter.

10. The July 27, 2004 Order of the President of the Court in which, in consultation with all the judges of the Court, he decided:

1. To reiterate to the State that it must adopt, forthwith, all necessary measures to protect the lives and safety of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos, Argenis Uribe, Carlos Colmenares, Noé Pernía and Pedro Nikken, as well as the freedom of expression of the latter three.

2. To order the State to adopt, forthwith, all necessary measures to protect the lives, safety, and freedom of expression of all the journalists, management, and workers of the social communications firm Radio Caracas Televisión (RCTV), as well as those who are in the facilities of this social communications firm or who [we]re associated with the journalistic operation of RCTV.

3. To order the State to adopt, forthwith, such measures as may be necessary to protect the perimeter of the head offices of the social communications firm Radio Caracas Televisión (RCTV).

4. To reiterate to the State that it must fulfill its obligation to investigate the facts that gave rise to the provisional measures with the aim of identifying and punishing those responsible, as appropriate, including investigation of the facts that took place after the Court issue[d] its November 27, 2002 Order.

5. To reiterate to the State that it must allow the representatives of the beneficiaries to participate in the planning and implementation of the measures of protection and that, in general, it must inform them of progress regarding the measures decided by the Inter-American Court of Human Rights.

6. To order the State to report to the Inter-American Court of Human Rights within ten days of notification of the instant Order, on the steps it has taken to comply with it.

7. To ask the representatives of the beneficiaries of the provisional measures to submit to the Inter-American Court of Human Rights, within five days of notification of the report by the State, whatever comments they deem[ed] pertinent.

8. To ask the Inter-American Commission on Human Rights to submit to a the Inter-American Court of Human Rights, within seven days of notification of the report by the State, whatever comments it deem[ed] pertinent.

9. To order the State to continue reporting to the Inter-American Court of Human Rights, every two months, regarding compliance with the measures ordered, and to call upon the representatives of the beneficiaries of these measures to submit their comments on the State's bi-monthly reports, within one month of the date they are received, and the Inter-American Commission on Human Rights to submit its comments on said reports by the State within six weeks of when it receives them.

[...]

11. The August 13, 2004 brief and its annexes, in which the representatives of the beneficiaries of the measures submitted information on compliance with them. In said brief the representatives pointed out that:

a) they sent letters to various bodies and agents of the State with jurisdiction over citizen security and human rights protection, requesting compliance with said measures, and they expressed their intention to cooperate in planning and implementation of appropriate measures to protect the staff and the head offices of RCTV. However, they received no reply from any of the authorities of the State whom they contacted;

b) due to the lack of reply by the State, they filed an extraordinary request before the Thirty-third Court with oversight functions regarding criminal matters in Caracas, since it was the body that the 21st Prosecutor's Office, in response to a request by the representatives, had asked to notify the security bodies and competent authorities to provide the protection required. This led to issuing of official letters Nos. 841 and 843, respectively addressed to the 5th Regional Command of the National Guard and to the Metropolitan Police. A brief was also sent to the aforementioned 21st

Prosecutor's Office, reporting on adoption of the urgent measures ordered by the President of the Court on July 27, 2004;

c) RCTV has been kept from changing the shift of its operators at the channel's most important antennae station in Venezuelan territory. In this regard, they were required, with no legal or administrative basis, to be accompanied by a technician of the Comisión Nacional de Telecomunicaciones (hereinafter "CONATEL") to enter the grounds that are the property of RCTV and where those antennae are located. However, communications sent to CONATEL to try to comply with the requirement were ignored. Due to this situation, the operators are "practically prisoners in the antennae station, and it has not been possible to take water and food to them;"

d) through indirect means of restriction, the State has prevented RCTV from carrying out its function of fully informing the Venezuelan population; and

e) the bodies of the State with jurisdiction over the matter have not taken the necessary steps to: protect the lives, safety, and freedom of expression of the workers, management, and journalists of RCTV; protect the perimeter of RCTV; allow the petitioners to participate in and inform them of planning and implementation of measures of protection; and investigate the facts that gave rise to the provisional measures, including those that occurred after the Court issued its November 27, 2002 Order. Furthermore, the State has not fulfilled its obligation to report to the Court on steps taken.

12. The communication submitted by the State on September 6, 2004, in which it reported on the steps taken in the Luisiana Ríos et al. case. The State pointed out that on January 31, 2002 the Second and Seventy-fourth Prosecutors of the Public Prosecutor's Office of the Judicial Circumscription of the Metropolitan Area of Caracas were assigned to intervene in elucidation of the facts stated in the complaint filed in writing by Eduardo Sapene as Vice-President of Information and Opinion at Canal de Televisión Radio Caracas Televisión. Said prosecutors began the respective investigation. The aforementioned Second Prosecutor of the Public Prosecutor's Office "channeled the request for the respective Measures of Protection in favor of the employees of said television broadcasting company, through the High Prosecutor's Office of the Circumscription of the Metropolitan Area, which led to action by the latter Office, taking various actions to protect the lives and safety of the journalists and technicians of the television channel Radio Caracas Televisión." The State reported that on February 26 and March 15, 2002 the Thirteenth and Thirty-third Trial Courts with oversight functions in the Criminal Court Circuit of the Metropolitan Area of Caracas decided the aforementioned measures of protection, "assigning their implementation to various security bodies of the State, especially the Metropolitan Police, the Caracas Police, and the National Guard, among others." Said procedures were "expanded" by the Courts mentioned above on March 15, April 11, and October 20, 2002, "thus including both the facilities where the head office of the aforementioned television channel operates, and the microwave retransmission antennae that it uses." Since on April 23, 2004 the Inter-American Commission decided to extent the precautionary measures, on May 4, 2004 the Sixty-eighth Prosecutor of the Public Prosecutor's Office of the Judicial Circumscription of the Metropolitan Area of Caracas asked the High Prosecutor of the Public Prosecutor's Office of said judicial circumscription "to process the extension of the Measures of Protection before the respective judicial bodies" in favor of the employees, property

and facilities of the RCTV television channel. On May 6, 2004 the Thirty-third Trial Court with oversight functions in the Criminal Court Circuit of the Metropolitan Area of Caracas “ratif[ied] the measures decided before by the Thirteenth Trial Court with oversight functions in the Criminal Court Circuit of the Metropolitan Area of Caracas “in favor of the technical and managerial staff, reporters, facilities, and equipment” of RCTV, and the Metropolitan Police and the 5th Regional Command of the National Guard were assigned to carry them out. The State also indicated that “the investigation with respect to the instant case is in the investigative phase, in the course of which various useful and necessary steps have been taken to elucidate the facts and to establish liabilities[...], including, especially, the interviews with the applicants and approximately fifty (50) citizens[,...] conducting planimetric expert assessments[,] forensic medical examination of the witnesses, several technical expert analyses of objects gathered, and photographic records.”

CONSIDERING:

1. The State ratified the American Convention on August 9, 1977, and pursuant to Article 62 of that Convention, it recognized the adjudicatory jurisdiction of the Court on June 24, 1981.

2. Article 63(2) of the American Convention provides that:

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

3. With respect to this matter, Article 25(1) and 25(2) of the Rules of Procedure of the Court sets forth that,

[a]t any stage of the proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

[w]ith respect to matters not yet submitted to it, the Court may act at the request of the Commission.

[...]

4. Article 1(1) of the Convention states the obligation of the States Parties to respect the rights and freedoms recognized in that treaty and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.

5. In International Human Rights Law, provisional measures are not only precautionary in the sense that they maintain a legal situation, but fundamentally protective because they protect human rights, inasmuch as they seek to avoid irreparable damage to persons. Insofar as the basic requirements of extreme gravity and urgency are met, together with prevention of irreparable damage to persons, provisional measures become a true preventive judicial guarantee.¹

¹ See *Case of the Urso Branco Prison*. Provisional Measures. July 7, 2004 Order of the Inter-American Court of Human Rights, Considering four; Cases: *Liliana Ortega et al.*, *Luisiana Ríos et al.*, *Luis Uzcátegui*, *Marta Colomina* and *Liliana Velásquez*. Provisional Measures. May 4, 2004 Order of the Inter-

6. It is a responsibility of the State to adopt security measures to protect all persons under its jurisdiction. This duty is even more evident in connection with persons involved in proceedings before the bodies responsible for protection under the American Convention.

7. The precautionary measures adopted by the Inter-American Commission in favor of “the employees of the RCTV social communications broadcaster” have not had the desired effects and, instead, the facts that took place thereafter make it reasonable to presume that both the beneficiaries of the provisional measures ordered by the Court and all the journalists, managers, workers, and other persons who are in the facilities of the Radio Caracas Televisión (RCTV) social communications broadcaster” or who are associated with the journalistic operation of that broadcaster, are at grave risk.

8. Pursuant to the Orders of the Court (*supra* Having Seen 1 to 5 and 10), the State must: adopt measures to protect the lives and safety of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos, Argenis Uribe, Carlos Colmenares, Noé Pernía, and Pedro Nikken; take steps to protect the freedom of expression of the latter three; fulfill its obligation to investigate the facts that gave rise to the measures with the aim of identifying and punishing those responsible; allow participation of the petitioners in the planning and implementation of the measures of protection, and inform them of progress regarding the measures ordered by the Court, and submit the required reports before the Court.

9. Freedom of expression, enshrined in Article 13 of the Convention, is a cornerstone of the very existence of a democratic society and is indispensable for the development of public opinion. It is also a *conditio sine qua non* for the political parties, the labor unions, scientific and cultural societies, and in general those who want to influence collective life, to fully develop. It is, ultimately, a condition for the community to be sufficiently informed when it exercises its options. Therefore, it is possible to state that a society that is not well informed is not fully free.²

10. Social communication media contribute to realization of freedom of expression, so the conditions under which they function must be in accordance with the requirements of that freedom.³

American Court of Human Rights, Considering five; and *Case of the Urso Branco Prison*. Provisional Measures. April 22, 2004 Order of the Inter-American Court of Human Rights, Considering four.

² See *Herrera Ulloa Case*. July 2, 2004 Judgment. Series C No. 107, para. 112; *Luisiana Ríos et al. Case (Radio Caracas Televisión-RCTV-)*. Urgent Measures. July 27, 2004 Order of the President of the Inter-American Court of Human Rights, Considering nine; *Cases of the dailies “El Nacional” and “Así es la Noticia”*. Provisional Measures. July 6, 2004 Order of the Inter-American Court of Human Rights, Considering nine; and *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism* (Arts. 13 and 29 American Convention on Human Rights). Advisory Opinion OC-5/85 of November 13, 1985. Series A No.5, para. 70.

³ See *Luisiana Ríos et al. Case (Radio Caracas Televisión-RCTV-)*, *supra* note 2, Considering ten; *Cases of the dailies “El Nacional” and “Así es la Noticia”*, *supra* note 2, Considering ten; and *Compulsory Membership in an Association Prescribed by Law for the Practice of Journalism*, *supra* note 2, para. 34.

11. It is crucial for journalists who work for the media to enjoy the necessary independence and protection to fully perform their functions, since it is they who keep society informed, and this is an indispensable requirement for society to enjoy full liberty and to strengthen public debate.⁴

12. The Court has ordered protection of a plurality of persons who have not been named previously, but who are identifiable and can be determined, and who are in a situation of grave danger.⁵ To effectively ensure the rights set forth in the American Convention, the State Party has the obligation to protect all persons under its jurisdiction. This means, as the Court has said, that said general obligation applies not only with respect to the power of the State but also with respect to actions by private third parties.⁶

13. The Court deems it indispensable to reiterate the need to adopt measures of protection of the lives and safety of the beneficiaries of the provisional measures ordered by the Court to date (*supra* Having Seen 1 to 5 and 10).

14. Before adopting urgent measures, the President granted the State a term to submit its observations on the request for expansion of provisional measures filed by the Commission (*supra* Having Seen 9), and the State made no observations on the matter.

15. After examining the facts and circumstances that gave rise to the President's July 27, 2004 Order (*supra* Having Seen 10), as well as the information subsequently contributed by the representatives of the beneficiaries (*supra* Having Seen 11), the Court deems that there continues to be, *prima facie*, a threat both to freedom of expression and to the rights to life and safety of all the journalists, management, and workers of Radio Caracas Televisión, as well as those of other persons in the facilities of said broadcaster or who are associated with the journalistic operation of this broadcaster. The *prima facie* standard of assessment in a case and application of presumptions regarding the need for protection have led the Court several times to order provisional measures.⁷

16. In view of the considerations above, the Court deems that the measures adopted by the President in his July 27, 2004 Order must remain in force (*supra* Having Seen 10), for which reason it ratifies them to their full extent.

⁴ See *Herrera Ulloa Case*. July 2, 2004 Judgment. Series C No. 107, para. 119; and *Ivcher Bronstein Case*. February 6, 2001 Judgment. Series C No. 74, para. 150.

⁵ See *Cases of the dailies "El Nacional" and "Así es la Noticia"*, *supra* note 2, Considering eleven; *Case of the Sarayaku Indigenous People*. Provisional Measures. July 6, 2004 Order of the Inter-American Court of Human Rights, Considering nine; and *Case of the Kankuamo Indigenous People*. Provisional Measures. July 5, 2004 Order of the Inter-American Court of Human Rights, Considering nine.

⁶ See *Carlos Nieto et al. Case*. Provisional Measures. July 9, 2004 Order of the Inter-American Court of Human Rights, Considering nine; *Carpio Nicolle et al. Case*. July 8, 2004 Order of the Inter-American Court of Human Rights, Considering seven; and *Cases of the dailies "El Nacional" and "Así es la Noticia"*, *supra* note 2, Considering twelve.

⁷ See *Raxcacó et al. Case*. Provisional Measures. August 30, 2004 Order of the Inter-American Court of Human Rights, Considering ten; *Carlos Nieto et al. Case*, *supra* note 6, Considering seven; and *Cases of the dailies "El Nacional" and "Así es la Noticia"*, *supra* note 2, Considering seven.

17. The case that the Commission's request refers to is not being heard by the Court regarding the merits, and therefore adoption of provisional measures does not involve a decision on the merits of the dispute between the petitioners and the State. By adopting provisional measures, the Court is merely ensuring that it can fully exercise its mandate pursuant to the Convention in cases of extreme gravity and urgency that require measures of protection to avoid irreparable damages to persons.⁸

18. On September 6, 2004 the State submitted a brief in which it reported on the measures adopted in the Luisiana Ríos et al. case (*supra* Having Seen 12).

19. With respect to the measures to protect the lives, safety, and freedom of expression, and to protect the head offices of RCTV, the State mentioned in the aforementioned brief (*supra* Having Seen 12) that in 2002 "[m]easures of [p]rotection were adopted" regarding the lives and safety "of the journalists and technicians" of said broadcaster, as well as regarding "the facilities where said television channel's head offices operate, and the microwave retransmission antennae that it uses." Execution of said measures of protection was entrusted to "security bodies of the State [such as] the Metropolitan Police, the Caracas Police, and the National Guard." The State also noted that on May 4, 2004 the Sixty-eighth Prosecutor of the Public Prosecutor's Office of the Judicial Circumscription of the Metropolitan Area of Caracas was appointed to "process the extension" of the precautionary measures adopted by the Inter-American Commission in favor of the employees, property, and facilities of the RCTV television channel, and that on May 6, 2004 the Thirty-third Trial Court with oversight functions in the Criminal Court Circuit of the Metropolitan Area of Caracas, "ratifi[ed] the measures adopted before."

20. With respect to the investigation of the facts that gave rise to adoption of the provisional measures as well as of the urgent measures, in the aforementioned brief (*supra* Having Seen 12) the State indicated that "the investigation with respect to the instant case is in the investigative phase, in the course of which various useful and necessary steps have been taken to elucidate the facts and to establish liabilities[...], including, especially, the interviews with the applicants and approximately fifty (50) citizens[...], conducting planimetric expert assessments[,], forensic medical examination of the witnesses, several technical expert analyses of objects gathered, and photographic records."

21. The Court has appraised and taken into account the information submitted by the State in its September 6, 2004 report. Said report has also been forwarded to the Commission and to the representatives, who may make such observations as they deem pertinent, and these will be assessed by the Court at the appropriate time. However, the Court has noted that in said report (*supra* Having Seen 12) the State did not refer to the development of implementation of the aforementioned measures to protect the lives, safety, and freedom of expression, and to protect the head offices of RCTV, and it did not state whether they have been effective to protect said rights, or whether the representatives have been allowed to participate in the implementation of those measures.

⁸ See *Raxcacó et al. Case*, *supra* note 7, Considering eleven; *Carlos Nieto et al. Case*, *supra* note 6, Considering ten; and *Cases of the dailies "El Nacional" and "Así es la Noticia"*, *supra* note 2, Considering thirteen.

22. The provision set forth in Article 63(2) of the Convention makes it mandatory for the State to adopt the provisional measures ordered by this Court, since according to the basic legal principle of the international responsibility of the State, backed by international jurisprudence, the States must comply in good faith with their treaty obligations (*pacta sunt servanda*).

23. The State has the obligation to investigate the facts that gave rise to these provisional measures and to their expansion, with the aim of identifying those responsible and punishing them as appropriate.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

exercising the authority granted by Article 63(2) of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

DECIDES:

1. To ratify to its full extent the July 27, 2004 Order of the President of the Inter-American Court of Human Rights (*supra* Having Seen 10) and, therefore, to order the State to maintain the measures it has adopted and to adopt, forthwith, such measures as may be necessary to comply with said Order.

2. To reiterate to the State that it must adopt, forthwith, such measures as may be necessary to protect the lives and safety of Luisiana Ríos, Armando Amaya, Antonio José Monroy, Laura Castellanos, Argenis Uribe, Carlos Colmenares, Noé Pernía and Pedro Nikken, as well as the freedom of expression of the latter three.

3. To order the State to continue investigating the facts that gave rise to adoption of these provisional measures and their expansion, with the aim of identifying those responsible and punishing them as appropriate.

4. To reiterate to the State that it must allow the representatives of the beneficiaries to participate in planning and implementation of those measures, and in general to inform them of progress regarding the measures ordered by the Inter-American Court of Human Rights.

5. To order the State to continue reporting to the Inter-American Court of Human Rights, every two months, regarding compliance with the measures adopted, in accordance with Considering twenty-one.

6. To call upon the representatives of the beneficiaries of these measures to submit their comments on the bi-monthly reports by the State, within one month of when they receive them, and on the Inter-American Commission on Human Rights to submit its observations on said reports by the State within six weeks of when it receives them.

7. To notify the instant Order to the Inter-American Commission on Human Rights, to the representatives of the beneficiaries of these measures, and to the State.



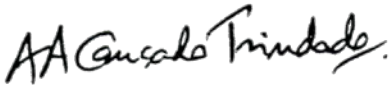
Sergio García-Ramírez
President



Alirio Abreu-Burelli



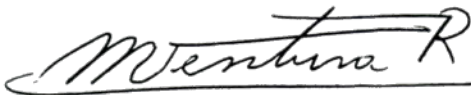
Oliver Jackman



Antônio A. Cançado Trindade



Cecilia Medina-Quiroga



Manuel E. Ventura-Robles



Diego García-Sayán



Pablo Saavedra-Alessandri
Secretary

So ordered,

A handwritten signature in black ink, consisting of a large, sweeping 'S' followed by a stylized 'G' and 'R'.

Sergio García-Ramírez
President

A handwritten signature in black ink, featuring a large, circular 'P' followed by a series of vertical strokes and a final flourish.

Pablo Saavedra-Alessandri
Secretary