

**Order of the
Inter-American Court of Human Rights
of February 2, 2007
Request for Provisional Measures
Case of Bueno-Alves**

HAVING SEEN:

1. The brief of March 31, 2006, whereby the Inter-American Commission on Human Rights (hereinafter, "the Commission") brought charges against the Argentine Republic (hereinafter, "the State" or "Argentina") before the Inter-American Court of Human Rights (hereinafter, "the Court" or "the Tribunal"), regarding the case of Bueno-Alves.

2. The communication of July 20, 2006, whereby the alleged victim's representative (hereinafter, "the representative") filed her brief of requests, arguments and evidence (hereinafter, "the brief of requests and arguments").

3. The communication of September 26, 2006, whereby the State filed a brief containing its answer to the application and its observations to the brief of requests and arguments (hereinafter, the "answer to the application").

4. The Order of the President of the Court (hereinafter, "the President") of December 6, 2006, whereby, *inter alia*, he requested the State and the representative to send a list of three physicians and a list of three psychiatrists or psychologists so that he could appoint expert witnesses to prepare reports pursuant to said Order. Likewise, the President ruled that "all the expenses incurred in the preparation of the [expert witnesses'] reports will be borne by the State", as well as the cost of sending said reports to the Tribunal.

5. The note of the Court's Secretariat (hereinafter, "the Secretariat") of January 10, 2007, whereby the parties were notified of the President's decision to appoint a physician and a psychiatrist of those proposed by the State, and a physician and a psychiatrist of those proposed by the representative to prepare the reports requested on December 6, 2006 (*supra* Having seen paragraph 4).

6. The communication of January 22, 2007 and its appendix, whereby the representative informed, *inter alia*, that she had been the one who had notified the expert witnesses appointed by the President pursuant to the Order of December 6, 2006 (*supra* Having seen paragraph 4) and the Secretariat's note of January 10, 2007 (*supra* Having seen paragraph 5). Furthermore, the representative remarked that she had been the one who had taken delivery of the report (affidavit) prepared by said expert witnesses, the original versions of which she would send to this Court. Finally, she requested that provisional measures be adopted, in light of the alleged "situation of fear, ten[s]ion, anguish and uncertainty [caused] by [the] harassment inflicted on them by the State". To support this argument, the representative recounted facts which gave expression to concerns stated by one of the expert witnesses of the case,

by employees working at a notary public's office and by herself, in relation to the alleged harassment inflicted by State officials when requesting the original documents related to the expert witnesses' reports that had been prepared pursuant to an Order issued by this Tribunal in the instant case (*supra* Having seen paragraph 4). Specifically, she pointed out that "the certainty that risk existed and the pressure exerted by the State during so many hours caused panic and fear for the security of those who played different roles" in the preparation or certification of the expert witnesses' documents.

7. The communication of the State of January 22, 2007, whereby it informed that the representative "took delivery of the first certified copy of the notarial instrument without consulting anyone, and, in open contravention of operative paragraph 1 of the President's [Order] of December 6, 2006, whereby it was ordered that the reports be sent to the Tribunal by the State, she said she had 'sent the report by post to [the Court's] Secretariat".

8. The Secretariat's notes of January 23, 2007, whereby, following the instructions of the President of the Court, the representative was required to identify, on January 25, 2007 at the latest, those who, in her opinion, were the beneficiaries of the provisional measures she had requested. Likewise, following instructions of the President of the Court, the State and the Commission were required to submit their observations to the representative's request on January 30, 2007 at the latest.

9. The representative's communication of January 25, 2007, whereby she furnished the names of the persons in respect of whom she had requested the Tribunal to order the adoption of provisional measures, to wit: María del Socorro Nievas (expert witness), Germán Schenker (expert witness); Julio A. Ravioli (expert witness); Fernando Emilio Taragano (expert witness); Marcelo S. Senillosa (court clerk); José Foppoli (court clerk); Marcelo Saúl Senillosa (court clerk); Eduardo Senillosa (court clerk); Alejandra Irma Delgado (secretary at the notary public's office); Juan Francisco Bueno-Alves (alleged victim) and his "household", and Helena T. Afonso-Fernández (attorney).

10. The communication of January 29, 2007, whereby the State submitted its observations to the request for provisional measures (*supra* Having seen paragraph 6). In this regard, it expressed, *inter alia*, that "there are no objective or subjective elements enabling us to assert that there exist risks in relation to the life or physical integrity of the listed persons [...], which situation provides enough grounds for [the] Tribunal to reject said request".

11. The communication of January 30, 2007, whereby the Commission pointed out that "it had no observations to make".

CONSIDERING:

1. That Article 63(2) of the American Convention on Human Rights (hereinafter, "the Convention") provides that, "[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons", the Court may adopt such provisional measures as it deems pertinent, with regard to cases not yet submitted to it, and at the request of the Commission.

2. That, in relation to this matter, Article 25 of the Rules of Procedure provides that:

1. At any stage of the proceeding 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 whatever provisional measures it deems appropriate, pursuant to Article 63(2) of the Convention.

[...]

3. In contentious cases already submitted to the Court, the victims or alleged victims, their next of kin, or their duly accredited representatives, may present a request for provisional measures directly to the Court.

3. That this request for provisional measures was presented directly by the alleged victim's representative in a case already submitted to the Court, and is thus in keeping with Article 25 of the Rules of Procedure.

4. That provisional measures may be ordered as long as the background data submitted to the Court provide *prima facie* evidence that there exists a situation of extreme gravity and urgency and that irreparable damage to persons is imminent.¹

5. That after having examined the facts and circumstances on which this request was based, this Tribunal believes that in the instant case it is not possible to determine, on a *prima facie* basis, that the persons listed by the representative (*supra* Having seen paragraph 9) are in a situation of extreme gravity and urgency, or that their lives and personal integrity are threatened and at serious risk.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the authority conferred on it by Article 63(2) of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

DECIDES:

1. To dismiss, on grounds of inadmissibility, the request for provisional measures filed by the alleged victim's representative.

2. To request the Court's Secretariat to give notice of this Order to the State, the Inter-American Commission and the representative.

¹ Cfr. *Case of the 19 Tradesmen*. Provisional Measures. Order of the Inter-American Court of Human Rights of July 4, 2006, Considering paragraph five; *Case of the 19 Tradesmen*. Provisional Measures. Order of the Inter-American Court of Human Rights of April 28, 2006, Considering paragraph five, and *Case of Bámaca-Velásquez*. Provisional Measures. Order of the Inter-American Court of Human Rights of November 20, 2003, Considering paragraph ten.

Sergio García-Ramírez
President

Cecilia Medina-Quiroga

Manuel E. Ventura-Robles

Diego García-Sayán

Margarette May Macaulay

Rhadys Abreu-Blondet

Pablo Saavedra-Alessandri
Secretary

So ordered,

Sergio García-Ramírez
President

Pablo Saavedra-Alessandri
Secretary