

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF AUGUST 26, 2010**

**PROVISIONAL MEASURES
REGARDING COLOMBIA**

CASE OF THE 19 TRADESMEN V. COLOMBIA

HAVING SEEN:

1. The Judgment on the merits, reparations, and costs (hereinafter, the "Judgment") delivered by the Inter-American Court of Human Rights (hereinafter the "Inter-American Court," the "Court" or the "Tribunal.") on July 5, 2004.

2. The Orders delivered by the President of the Court on July 30, 2004; April 28, 2006; and, February 6 2007, as well as the orders of the Inter-American Court on September 3, 2004; July 4, 2006; May 12, 2007; and, July 8, 2009. In its most recent order, the Tribunal decided:

4. To continue supervising the fulfillment of [the State's] obligation to guarantee the life, integrity, and security of Carmen Rosa Barrera Sánchez, Lina Noralba Navarro Flórez, Luz Marina Pérez Quintero, Miryam Mantilla Sánchez, Ana Murillo de Chaparro, Suney Dinora Jauregui Jaimes, Ofelia Sauza de Uribe, Rosalbina Suárez de Sauza, Marina Lobo Pacheco, Manuel Ayala Mantilla, Jorge Corzo Vivescas, Alejandro Flórez Pérez, Luz Marina Pinzón Reyes, and their families, according to that indicated in Operative Paragraph eleven of the Judgment, within the framework of the implementation of provisional measures [...].

5. To reiterate to the State of Colombia that it must maintain any measures it has already adopted and to adopt, forthwith, the necessary measures to protect the rights to life and personal integrity of Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, Valeria Rodríguez Saravia, William Rodríguez Quintero, Sandra Belinda Montero Fuentes, Juan Manuel Ayala Montero, and María Paola Casanova Montero, as well as that of Salomón Flórez Contreras, Luis José Pundor Quintero, and their respective families. The State must offer participation to the beneficiaries or their representatives [in order that they] may take part in the planning and implementation of the measures and, in general, remain informed of progress in their execution [...].

6. To declare that provisional measures ordered by the Inter-American Court for the benefit of Ms. Ana Diva Quintero de Pundor and her next of kin ha[d] been rescinded by reason of their having left Colombia [...].

7. To require the State and the representatives to present, before August 7, 2009, the information indicated in Considering clauses 95 and 96 of [the] Order [concerning the dangerous situation in which the beneficiaries find themselves, the measures and means of protection implemented by the State, as well as the names of the next of kin of the beneficiaries Salomón Flórez Contreras and Luis José Pundor Quintero, who were in need of protective measures].

[...]

3. The briefs of August 10 and November 23, 2009, as well as those of February 17, April 27, and June 24, 2010, whereby the Republic of Colombia (hereinafter the "State" or "Colombia") informed on the progress made in its implementation of provisional measures and presented requests for abatement with respect to some beneficiaries of the same.

4. The briefs of July 17 and November 6, 2009, as well as those of March 5, May 13, July 4, and July 16, 2010, whereby the representatives of the beneficiaries (hereinafter the "representatives") presented their observations on the State's brief and on additional information regarding the implementation of the present provisional measures, including on the State's requests for abatement.

5. The briefs of August 27, 2009, as well as those of June 10 and July 30, 2010, whereby the Inter-American Commission on Human Rights (hereinafter the "Inter-American Commission" or the "Commission") stated its observations on the information presented by the State and the representatives concerning the implementation of the present provisional measures.

6. The notes of September 2, November 9, and November 27, 2009, as well as those of February 1 and February 23, 2010, whereby the Secretariat of the Court (hereinafter the "Secretariat" or "Registrar"), following the instructions of the President of the Tribunal, reminded the representatives that they were required to present certain information requested by the Court in its Order of July 8, 2009 (*supra* Having Seen 2), or to present their respective observations to the State's briefs before the expiration of the allotted deadline.

CONSIDERING THAT:

1. Colombia became a state party to the American Convention on Human Rights (hereinafter the "American Convention" or the "Convention") on July 31, 1973, and acknowledged the jurisdiction of the Inter-American Court in accordance with Article 62 of the Convention on June 21, 1985.

2. Article 63(2) of the Convention stipulates that the Court may order provisional measures when three conditions are met, namely: i) "extreme gravity"; ii) "urgency"; and, iii) when seeking "to avoid irreparable harm to persons." These three conditions coexist and must be present in every situation where the intervention of the Tribunal is required. By the same token, the abovementioned conditions must continue to exist in order for the Court to maintain the protection ordered. If one of them is no longer in force, it falls upon the Tribunal to assess the need to continue with the protection ordered.¹

3. Article 63(2) of the Convention confers an obligatory character to the State's adoption of any provisional measures this Tribunal may order, given that basic principles of international law, backed by international case law, provide that states must fulfill their legal obligations in good faith (*pacta sunt servanda*).²

¹ Cf. *Case of Carpio Nicolle. Provisional Measures regarding Guatemala*. Order of the Inter-American Court of Human Rights of July 6, 2009, Considering clause fourteen; *Case of García Prieto et al. Provisional Measures regarding El Salvador*. Order of the Inter-American Court of Human Rights of February 3, 2010, Considering clause two.

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 six; *Matter of Alvarado*

These orders imply a special duty to protect the beneficiaries of the measures, as long as they are in force, and any breach thereto may trigger international liability on the part of the State.³

4. According to international human rights law, provisional measures have both a precautionary and a fundamentally tutelary character inasmuch as they protect human rights while also seeking to avoid irreparable harm to persons. The measures may be applied only when three basic requirements are fulfilled: extreme gravity, urgency, and necessity for the prevention of irreparable harm to persons. In this way, provisional measures become a true jurisdictional guarantee of a preventive nature.⁴

5. In the exercise of its authority with respect to provisional measures, the Court shall only give due consideration to arguments that are strictly and directly related to the requirements of extreme gravity, urgency, and the prevention of irreparable harm to persons. Thus, when deciding whether to maintain provisional measures in effect, the Tribunal must analyze if the situation of extreme gravity and urgency that prompted the initial granting of the measures persists, or examine whether new circumstances equally as grave and urgent call for the measures' continued enforcement. Any other matter may only be put before the Court by way of presenting a contentious case.⁵

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6. In accordance with Order of the Court of July 8, 2009, the State must, *inter alia*, adopt the provisional measures necessary in order to protect the right to life and personal integrity of: (i) Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, Valeria Rodríguez Saravia, William Rodríguez Quintero, (ii) Sandra Belinda Montero Fuentes, Juan Manuel Ayala Montero and María Paola Casanova Montero, as well as Salomón Flórez Contrera, Luis José Pundor Quinter, and their respective next of kin.

1. Regarding the situation of the beneficiaries Yimmy, Wilmar, and William Rodríguez Quintero and their families

Reyes et al. Provisional Measures regarding Mexico. Order of the Inter-American Court of Human Rights of May 26, 2010, Considering clause five; and, *Matter of the Forensic Anthropology Foundation. Provisional Measures regarding Guatemala.* Order of the President of the Court of July 21, 2010, Considering clause four.

³ Cf. *Case of Hilaire, Constantine, Benjamin, et al. v. Trinidad and Tobago. Merits, Reparations, and Costs.* Judgment of the Inter-American Court of Human Rights of June 21, 2002. Series C No. 94, paras. 196-200; *Matter of the Mendoza Prisons. Provisional Measures regarding Argentina.* Order of the Inter-American Court of Human Rights of March 30, 2006, Considering clause ten; and, *Case of the 19 Tradesmen v. Colombia. Monitoring Compliance with Judgment and Provisional Measures regarding Colombia.* Order of the Inter-American Court of Human Rights of July 8, 2009, Considering clause ninety.

⁴ Cf. *Case of "La Nación" Newspaper. Provisional Measures regarding Costa Rica.* Order of the Inter-American Court of Human Rights of September 7, 2001, Considering clause four; *Matter of Alvarado Reyes et al., Provisional Measures regarding Mexico,* *supra* note 2, Considering clause four; and, *Matter of the Forensic Anthropology Foundation,* *supra* note 2, Considering clause five.

⁵ *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 six; *Matter of Juan Almonte Herrera et al. Provisional Measures regarding the Dominican Republic.* Order of the Inter-American Court of Human Rights of May 25, 2010, Considering clause six; and, *Case of the Caracazo. Provisional Measures regarding Venezuela.* Order of the Inter-American Court of Human Rights of May 28, 2010, Considering clause seven.

1.1 Concerning the protective measures implemented in favor of the beneficiaries

7. Regarding the measures of protection, the State informed that the security measures previously agreed upon with the beneficiaries at their meeting on August 11, 2009, have been implemented “effectively, timely, and continuously” by the National Police. The State further indicated that the security measures in question include a security service made up of ten men for the provision of a single station with three soldiers, each divided among three shifts of eight hours each. These men are also in charge of monitoring the outside of Yimmy Rodríguez Quintero’s house. In addition, the State indicated that the police had reinforced surveillance of the municipality of Ocaña, where the beneficiaries reside and which is under the watch of the remaining seven officers, who “must patrol the residences of the Rodríguez Quintero brothers,” and see to providing escorts for Yimmy Rodríguez Quintero. Likewise, the State asserted that this surveillance is headed up by a superintendent who serves as police liaison to the Rodríguez Quintero brothers and other family members and is in charge of coordinating security when the beneficiaries go out of town, but only “provided [such services] are previously requested by the beneficiaries.”⁶ The State additionally informed the Court that in the nighttime hours, a motorized patrol conducts monitoring operations of Yimmy Rodríguez Quintero’s residence and ensures the proper functioning of the base of operations. The State also said that in July 2009, it had delivered eight instances of support for temporary and permanent relocations.

8. In the matter of the beneficiaries’ participation in the planning and implementation of the measures, the State indicated that in the meeting held on August 11, 2009, the State agreed to further monthly meetings with the beneficiaries with the aim of monitoring compliance with the obligations assumed by the National Police. In this respect, the last joint meeting about which the State informed this Tribunal took place on March 16, 2010, because when a later meeting had been called on March 25, 2010, the beneficiaries did not attend. Likewise, the State showed that for the sake of bettering communication between the National Police and the beneficiaries, the Chief of Human Rights in the police command of North Santander possessed a cellular device, “for the purpose of being able to communicate with the commander of the police precinct in the area where the Rodríguez Quintero family lives. The commander also has a dedicated cellular communications device at his disposal.”

9. With regard to the security measures, the representatives indicated that the support approved for the beneficiaries in July 2009, did not cover expenses for moving their personal property, for which the State informed them that they then had to “send a letter to the Ministry describing both the point of origin, the ultimate destination where [they needed to] move the property, and the date on which it [would] take place.” To the beneficiaries, this manner of response “did not speak to the urgency and nature of the protection requested.” Furthermore, the beneficiaries explained that such requirements as imposed by the State “expos[ed] them to an even greater risk that was getting progressively worse day after day,” and that “it practically oblige[d] their next of kin to refuse the measure [i.e. support for relocating their personal property].” They further indicated that, for that reason, in their July 17, 2009, communication, they

⁶ According to the State’s report of April 27, 2010, this superintendent acted as a link between the police and Mr. Yimmy Rodríguez Quintero and coordinated the beneficiaries’ movements “*outside the city’s perimeter*.” However, in a previous report from November 17, 2009, the State had indicated that this superintendent, at that time known as ‘padrino’ (due to the program being called ‘Plan Padrino’), was in charge of coordinating movements “*within the city’s urban perimeter*,” given that the area outside the perimeter was under the control of the district police commander.

requested that the State improve its implementation of these security measures and facilitate access to the mechanisms already in place.

10. The representatives expressed their sentiment that the protective measures adopted to date had not proven effective, and based on the objectionable situation faced by the Rodríguez Quintero family, they requested that the Court both maintain the provisional measures in place in their favor and require the State to commit to "clear and effective actions in order to protect the [Rodríguez Quintero] brothers[, with the aim of] guaranteeing that the National Police would not continue harassing and intimidating them." Similarly, the representatives poignantly noted that the risk the beneficiaries faced was a direct consequence of "government agents who happen to be precisely the ones in charge of their protection."

11. The Commission emphasized the need to maintain protective measures in place and for open communication "in an environment of coordination and cooperation between the beneficiaries and the State so as to achieve a more complete implementation of the provisional measures."

1.2 Regarding the continued existence of conditions of extreme gravity, urgency, and the need to avoid irreparable harm

12. Regarding the risks faced by the beneficiaries, the State informed that the Director of Human Rights for the Ministry of Justice and the Interior, by way of the communications of May 26 and July 31, 2009, requested that studies be undertaken to assess the security situation confronting the beneficiaries Yimmy, Wilmar, and William Rodríguez Quintero, the results of which would be delivered to the Court once available.

13. In addition, the State insisted that the Rodríguez Quintero family has acted in such a way as to put their own life and personal integrity at risk, and that the protective security measures implemented for their benefit continue to retain their effectiveness. As an example, the State signaled different occasions on which the beneficiaries had left the municipality of Ocaña without previously informing the police in charge of their protection. Others included instances in which some beneficiaries had been found intoxicated in public. One in particular concerned when Mr. Yimmy Rodríguez Quintero allegedly loaned the firearm he had been given for his own security to a third party, subjecting himself and others to imminent danger. Generally, there have been other situations as well in which the beneficiaries have not followed the recommendations of the security agents charged with implementing the protective measures.

14. For their part, the representatives indicated that on December 17, 2009, they received a letter from the Ministry of Justice and the Interior by which they were "tersely" informed that Yimmy, Wilmar, and William Rodríguez Quintero faced an "extraordinary risk," which was to be communicated to the Committee on Regulation and Risk Assessment that oversees precautionary and provisional measures. Nonetheless, the representatives highlighted that despite the amount of time that had elapsed, they had not received the results of any risk assessment nor had they been invited to any meeting or otherwise made aware of what measures were to be taken as a result of any findings therein.

15. The representatives indicated that tensions between the beneficiaries and the government agents in charge of providing for their security not only existed but continued as a result of "accusations and [the accompanying] stigmatization made by some officers." The representatives stated that Mr.

Yimmy Rodríguez Quintero had provided information against members of the National Police who according to him “had insinuated that he was involved with certain paramilitary groups and [they had threatened him].” The representatives expressed that these facts were worrying, especially because the present provisional measures were granted in order to “denounce the [alleged] ties that members of the National Police in Ocaña may have with criminal outfits.” Additionally, the representatives indicated that the State has not provided any information on the investigations into the acts committed against the Rodríguez Quintero family as provided for in the procedure for provisional measures, and the representatives insisted that “the State’s quick response in investigating, trying, and punishing the responsible parties would have a substantial impact on the situation to which the Rodríguez Quintero brothers and their families continue to be exposed.” In particular, the representatives provided information related to alleged further intimidation and threats:

- a. On a approximately July 5, 2009, the beneficiary Yimmy Rodríguez Quintero received a pamphlet, allegedly from a guerrilla group, that attempted to link him to paramilitary groups and marked him as a “military objective.” They highlighted that this alleged threat was found by the beneficiary himself underneath the front door to his house one morning, despite the presence of police officers that were supposed to be watching that very location.
- b. On November 6, 2009, two “agents from SIJIN (Subdivisions of the Judicial Police) of Ocaña,” showed up in plain clothes at Yimmy Rodríguez Quintero’s residence asking to see his brother, William. The experience caused Yimmy “to feel intimidated by the words and general attitudes of these two agents.”
- c. On May 14, 2010, two members of the National Police of Ocaña “arbitrarily” captured William Rodríguez Quintero. The representatives indicated that these officers did not present an arrest warrant but nonetheless proceeded to take William’s photograph and fingerprint profile. In the face of these facts, the representatives expressed deep concern, given that in the days preceding the death of Jhon Carlos Rodríguez Quintero, a National Police patrol had taken his photo as well.⁷ The representatives insisted that irregularities had in fact occurred during William’s detention, and Yimmy Rodríguez Quintero filed a compliant with the Solicitor General’s office in Ocaña to that effect. The representatives further requested that the State be required to produce information as to the status of any disciplinary action in the matter, considering that the beneficiary did not receive any such information when filing the complaint.
- d. On June 15, 2010, the beneficiary Yimmy Rodríguez Quintero informed the representatives that the State “ha[d] not renewed his permit to carry a firearm.” They declared that the beneficiary expressed his concern that by virtue of not having his paperwork in order, the National Police might capture him and charge him with illegally carrying a firearm.

16. Regarding the facts underlying the representatives’ legal complaint, the State indicated that the aforementioned events of May 14, 2010, “were not an attempt on the life of Mr. [William] Rodríguez, nor a situation amounting to a threat that could affect the security of [the Rodríguez Quintero brothers],” but rather in actuality it constituted the fulfillment of an arrest warrant issued by the Third Municipal Criminal Court of Ocaña for the alleged offense of theft. The State explained that on that date officials from the Criminal Investigation Unit of

⁷ Cf. *Case of the 19 Tradesmen v. Colombia*. *Monitoring Compliance with Judgment and Provisional Measures regarding Colombia*, *supra* note 3, Considering clause eighty-seven.

the Ocaña Judicial Police went to the residence of William Rodríguez Quintero to serve the arrest warrant against him and, finding him in public, “execute[d] his capture and immediately read him his rights.” According to the State, the officials were clearly marked as members of the Judicial Police. The officials then transferred Mr. William Rodríguez Quintero to the Ocaña Basic Criminal Investigation Unit where he signed an attestation of fair treatment. The State similarly stressed that this arrest had its own judicial check on legality because the following day on May 15, 2010, the hearing on the legality of the arrest was held in which “neither Mr. [William] Rodríguez nor the delegate from the Public Ministry were said [...] to have found objections to the [legality of this arrest and capture].” Consequently, the State reiterated that “at no point, as a consequence of Mr. [William] Rodríguez’s capture, was the life or physical integrity of any of the Rodríguez Quintero brothers at risk.”

17. Additionally, the State provided information on investigations conducted because of other events reported by the beneficiaries or their representatives. Regarding the complaint lodged against the alleged intimidating visit on the part of officers from the Ocaña Judicial Police on November 6, 2009, the State indicated in its brief of April 27, 2010, that the investigation was under the authority of the Ocaña prosecutor’s office, who had undertaken investigative activities and had already made out two suspects, both National Police officers.⁸ The State added that the Ocaña prosecutor’s office had requested an interview with the alleged victims but, according to the State, they evaded their investigator’s repeated requests for information. Furthermore, the State provided information as to the ongoing investigations into the grenade attack of May 19, 2009. In that regard, the State said that this investigation was the responsibility of the First Special Prosecutor of Cúcuta and that it would be carried out jointly, for procedural connectedness, with the investigation begun into the death of Mr. Jhon Carlos Rodríguez Quintero. The State added that in August 2009, Mr. Yimmy Rodríguez Quintero had requested that the Solicitor General’s office transfer investigative responsibilities for that case to the Human Rights and International Humanitarian Law Unit. A response from the Solicitor General was forthcoming.

18. For its part, the Commission considered that by virtue of the extraordinary risk “in which the State had determined the Rodríguez Quintero family members were exposed,” as well as the fact that portions of information presented by the parties were contradictory, it was necessary to maintain the provisional measures in place. The Commission also stressed that the State’s submissions did not constitute the “concrete and detailed information [requested as to] each beneficiary nor [...] the risk assessment previously sought by the [...] Court.” Thus, the Commission indicated that “[t]he implementation of these protective measures, together with an investigation into the origin of the extraordinary risk that the beneficiaries face,” were crucial to avoiding the occurrence of irreparable harm to the Rodríguez Quintero family.

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⁸ In a previous report dated November 23, 2009 (*supra* Having Seen clause three), the State had declared that said police agents “at no point threatened or intimidated Yimmy Rodríguez, but were only following orders as part of a criminal investigation headed by the Solicitor General’s office against William Rodríguez Quintero for the crime of theft.” Nonetheless, the State indicated that “for the sake of transparency” and in fulfillment of its obligation in the face of a complaint, it sent a report to the office of Complaint Assessment and Reporting so that they could study to feasibility of initiating a disciplinary investigation.

19. The Court takes note of the steps taken by the State for the implementation of provisional measures in favor of the Rodríguez Quintero family. The Court similarly appreciates the commitments made by the state security agencies in the context of the present measures.

20. However, the Tribunal observes that a lack of communication between the authorities and the beneficiaries persists, despite specific agreements between the parties to cooperate. This is evident mainly in the contradictory information proffered by both sides before the Court.

21. The Court likewise notes that despite the state authorities' pledge to hold monthly meetings with the beneficiaries (*supra* Considering clause 8), of the information submitted to the Court, it becomes apparent that the most recent meetings took place in March 2010, and that at the last of these the beneficiaries were not in attendance. It is unknown to this Court why no further meetings were held after this date. The Court highlights the importance of these meetings or any other form of communication between state authorities and the beneficiaries that helps to guarantee the effective planning and implementation of the protective measures in question. Therefore, the Commission urges the State to take all necessary steps to keep the beneficiaries and their representatives informed about progress in the planning and implementation of the measures ordered by the Court and, if at all possible, to collaborate in this process.

22. Regarding the particular dangerous circumstances facing the beneficiaries, the Court recalls that in its Order of July 8, 2009, it requested that the parties present "concrete and detailed information with respect to the beneficiaries' situation."⁹ That information was to contain "a risk assessment, as well as what constituted specific and adequate means by which to enforce the protective measures."¹⁰

23. The Tribunal notes that despite the aforementioned, the information alleged by the parties is not sufficient to permit an adequate evaluation of the extent of the hazards facing the beneficiaries, nor to discern the effectiveness of the State's protective measures in their favor. Particularly, the Court stresses that despite the State's having requested risk assessment studies and apparently having determined the existence of an "extraordinary" risk confronting the beneficiaries (*supra* Considering clauses 12 and 14), the results of these studies have never been put before the Tribunal, nor has there been any mention made of them on the part of the State. The Court values the information presented by Colombia with respect to the measures of protection it has implemented, but notes that this information cannot be analyzed properly without the corresponding risk assessment. The information the State has provided simply does not permit one to conclude with certainty whether, in the present circumstances, the security measures the State has implemented have turned out to be useful, effective, and timely.

24. It is likewise a source of concern for this Tribunal that the representatives have not submitted to it the information it has requested (*supra* Having Seen clause 27) and that in their observations on the State's briefs they have not referred specifically to the effectiveness of the measures the State has thus far implemented.

⁹ *Case of the 19 Tradesmen v. Colombia. Monitoring Compliance with Judgment and Provisional Measures regarding Colombia, supra* note 3, Considering clause ninety-five.

¹⁰ *Case of the 19 Tradesmen v. Colombia. Monitoring Compliance with Judgment and Provisional Measures regarding Colombia, supra* note 3, Considering clause ninety-five.

25. However, the Tribunal considers that, by virtue of the apparent "extraordinary" risk the Rodríguez Quintero brothers face and the agreement between the parties regarding the maintenance of provisional measures in the brothers' favor, there persists a *prima facie* situation of extreme gravity and urgency that could lead to irreparable harm to Messers Rodríguez Quintero and their families. The Court also observes that the truth of certain facts alleged by the representatives such as the supposed threat received on July 5, 2009, and the allegedly intimidating visit of November 6, 2009 (*supra* Considering clauses 15(a) and 15(b)), has not been sufficiently clarified, despite the events having occurred while the State's special security measures were in effect.

26. Thus, this Court considers it necessary to maintain the provisional measures currently in effect in order to protect the life and personal integrity of Wilmar Rodríguez Quintero, Yimmy Efrain Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, Valeria Rodríguez Saravia, and William Rodríguez Quintero.

27. Lastly, owing to the aforementioned considerations, the Tribunal finds it necessary that both, the State and the representatives, present detailed and complete information on the beneficiaries' situation within the time frames established in the Operative Paragraphs of the present Order. In particular, the Court requests that the State submit to it information on any risk assessment studies that have been carried out, accompanied by documentation supporting the study and its results as well as the specific security measures that should be implemented in accordance with these results. In order for this to occur, the beneficiaries and the representatives must give the State their full cooperation. The Court also asks that the representatives submit their observations regarding the protective measures the State has thus far implemented in fulfillment of the current provisional measures.

28. Additionally, the Court asks that the Commission and the representatives submit their observations to the State's assessments within the time frame established for that purpose.

2. Regarding the situation faced by Salomón Flórez Contreras, Sandra Belinda Montero Fuentes, Luis José Pundor Quintero, and their respective families

29. The representatives reported that the beneficiaries Salomón Flórez Contreras, Sandra Belinda Montero Fuentes, Luis José Pundor Quintero, and their families expressed their desire not to participate in an eventual risk assessment study "owing to the lack of trust they feel towards any member of the army and police." In particular, regarding these three beneficiaries and their families, they indicated that:

- a. Salomón Flórez Contreras, by means of a telephone conversation with his wife, informed the representatives that he and his family had not had any recent problems with their personal security and that, for this reason, they did not wish to have any contact whatsoever with members of the army or the police.
- b. Sandra Belinda Montero Fuentes, also over the telephone, informed the representatives that she had not had any particular problems with her personal security either, and thusly, "in [that] moment she was at peace and did not require protection." Regarding her family, she indicated that her daughter, Sandra Katerine Ayala Montero, had decided to leave the country because of threats she received in 2004; meanwhile her youngest daughter, María Paula Casanova Montero, was living with her while her

son, Juan Manuel Ayala Montero, was a student in the city of Bucaramanga. None reported fearing for their safety.

- c. Luis José Pundor Quintero, also over the telephone, informed the representatives that because of the threats he and his family had received and the lack of any sort of investigation as to their origin, they had decided to leave the country. The representatives furthermore indicated that in May 2010, the family was residing illegally in another country, and that they had expressed their wish to return to Colombia even though they continued to fear for their lives.

30. By virtue of the information presented by the representatives, the State requested an abatement of the provisional measures with respect to these three beneficiaries and their families. The State argued that the beneficiaries' unwillingness to entertain the security measures the State was offering constituted a waiver of the same. Additionally, with respect to each of them, the State considered that:

- a. Salomón Flórez Contreras and his family were in a situation that had returned to normal; therefore, they did not meet the basic requisites for provisional measures.
- b. Sandra Belinda Montero Fuentes and her family were no longer faced with the situation of extreme gravity and urgency that prompted the measures in the first place.
- c. Given that Luis José Pundor Quintero and his family were located outside of the country, there did not exist a real possibility of effectively implementing a scheme of protection and security for them.

31. The Commission noted the representatives' remarks regarding Salomón Flórez Contreras, Sandra Belinda Montero Fuentes, and their families, for which "[the Commission] did not make any observations as to the State's request for abatement." Regarding the beneficiary Luis José Pundor Quintero and his family, the Commission observed that a lack of security had led to the international displacement of the Pundor Quintero family, because of which it viewed the State's request for abatement as "improper." Nonetheless, because the representatives presented no observations to the State's repeated requests for abatement of the provisional measures, the Commission "underst[ood] that it [was the] [beneficiaries'] will not to continue with the security measures[, because of which] it did not have any particular observations as to the State's request," "absent information from the representatives to the contrary."

32. The Court calls to mind the fact that the practical effectiveness of provisional measures depends, in large part, on the existence of a real possibility that they eventually come to be implemented.¹¹ Likewise, the Court finds it prudent to reiterate that provisional measures are of an exceptional nature: they are mandated as a way of providing much-needed protection, and once they have been ordered they must remain in place for as long as the Court finds that the basic requisites of extreme gravity, urgency, and the need to prevent irreparable harm are present.¹²

¹¹ Cf. *Case of Caballero Delgado and Santana V. Colombia. Provisional Measures regarding Colombia*. Order of the Inter-American Court of Human Rights of July 4, 2006, Considering clause thirteen; *Case of Caballero Delgado and Santana V. Colombia. Provisional Measures regarding Colombia*. Order of the Inter-American Court of Human Rights of February 3, 2010, Considering clause sixteen.

¹² *Case of the Constitutional Court V. Peru. Provisional Measures regarding Peru*. Order of the Inter-American Court of Human Rights of March 14, 2001, Considering clause three; *Matter of Adrián Meléndez Quijano et al. Provisional Measures regarding El Salvador*. Order of the Inter-American Court

33. In this regard, the Court observes that the beneficiaries Salomón Flórez Contreras and Sandra Belinda Montero Fuentes expressly rejected the possibility of taking part in the State's risk assessment study that was to help determine the most appropriate measures for their protection (*supra* Considering clause 29). Thus, the Court notes the beneficiaries' remarks indicating that neither their lives nor their physical integrity are in danger at the present time. Additionally, the Tribunal notes that neither the representatives nor the Commission have put forth arguments supporting the continuation of provisional measures in favor of the beneficiaries.

34. Consequently, the Tribunal deems that the initial elements justifying the adoption of provisional measures in favor of Salomón Flórez Contreras, Sandra Belinda Montero Fuentes, and their respective families, no longer apply. For this reason, the Tribunal thinks it wise to proceed with their abatement.

35. Regarding the beneficiary Luis José Pundor Quintero, the Court observes that his current geographic location is outside the State of Colombia. Concurrent with this observation, the Court notes the representatives' affirmations that the beneficiary wishes to return to Colombia and that he left to become an illegal alien in another country only because of the risks he would have continued to face had he stayed in Colombia (*supra* Considering clause 29(c)). Nonetheless, the Court points out that the representatives failed to offer sufficient, precise, and detailed information on this issue, nor did they make arguments relevant to the possible persistence of a situation of extreme gravity and urgency affecting the beneficiary and his family.

36. The Tribunal calls to mind that, in principle, when a beneficiary of provisional measures leaves the State that was supposed to protect him in order to reside in another state, the provisional measures he once enjoyed are rendered null.¹³ However, the Court notes that it has received information attesting to Mr. Luis José Pundor Quintero's desire to return to Colombia. Thus, the Tribunal sees it as necessary that the representatives or Mr. Luis José Pundor Quintero himself provide information as to the genuine likelihood and disposition of the beneficiary and his family to return to Colombia and receive state protection. As a result, during the time that Mr. Luis José Pundor Quintero and his family continue to reside away from Colombia, and until they affirm their wish to return to Colombia, the precise dates in which they plan to do so, and their wish to receive state protection, the provisional measures in their favor will remain inchoate. Thus, the Court requests that the representatives submit to the Court complete and detailed information relating to the beneficiaries' possible return to Colombia before the deadline stipulated in Operative Paragraph seven of the present Order.

of Human Rights of February 2, 2010, Considering clause thirteen; and, *Case of García Prieto et al. Provisional Measures regarding El Salvador*, *supra* note 1, Considering clause nine.

¹³ Cf. *Matter of Lysias Fleury. Provisional Measures regarding Haiti*. Order of the Inter-American Court of Human Rights of November 25, 2008, Considering clause eighteen; *Case of the 19 Tradesmen v. Colombia. Monitoring Compliance with Judgment and Provisional Measures regarding Colombia*, *supra* note 3, Considering clause eighty-one.

THEREFORE:**THE INTER-AMERICAN COURT OF HUMAN RIGHTS,**

in the exercise of its powers conferred by Article 63(2) of the American Convention of Human Rights and Articles 27 and 31 of its Rules of Procedure,¹⁴

RESOLVES:

1. To continue supervising the fulfillment of the State's obligation to guarantee the life, physical integrity, and security of Carmen Rosa Barrera Sánchez, Lina Noralba Navarro Flórez, Luz Marina Pérez Quintero, Miryam Mantilla Sánchez, Ana Murillo Delgado de Chaparro, Suney Dinora Jáuregui Jaimes, Ofelia Sauza Suárez de Uribe, Rosalbina Suárez Bravo de Sauza, Marina Lobo Pacheco, Manuel Ayala Mantilla, Jorge Corzo Viviescas, Alejandro Flórez Pérez, Luz Marina Pinzón Reyes, and their respective families, according to Operative Paragraph eleven of the Judgment, within the framework of the implementation of provisional measures and in conformity with this Court's Order of July 8, 2009.

2. To require the State of Colombia to maintain the measures it has thus far adopted and to adopt, without delay, those measures necessary to protect the rights to life and physical integrity of Wilmar Rodríguez Quintero, Yimmy Efraín Rodríguez Quintero, Nubia Saravia, Karen Dayana Rodríguez Saravia, Valeria Rodríguez Saravia, and William Rodríguez Quintero. In order to do so, the State must provide the beneficiaries or their representatives with the opportunity to participate in the planning and application of the measures and, in general, to keep them informed as to progress made in their timely implementation.

3. To abate the provisional measures adopted in favor of Salomón Flórez Contreras, Sandra Belinda Montero Fuentes, and their respective next of kin, in conformity with the facts established in Considering clauses 33 and 34 of the present Order.

4. To abate, in conformity with the facts established in Considering clause 36 of the present Order, the provisional measures ordered by this Court in favor of Luis José Pundor Quintero and his family for as long as they continue to reside outside the State of Colombia.

5. To request that the State present to the Court at some time before November 11, 2010, a detailed and exhaustive report on the implementation of the present measures, as well as the information required in Considering clause 27 of the present Order.

6. To request that, after the State makes its presentation of the report referenced in the previous Operative Paragraph, it continue to periodically brief the Court on the implementation of the present provisional measures every two months, beginning from the month in which the first report is presented.

7. To request that the representatives of the beneficiaries submit their observations on the State's report referred to in Operative Paragraph five within two weeks after having received it. The representatives are further asked to include the information required in Considering clauses 27 and 36 of the present Order.

¹⁴ The Rules of Procedure of the Inter-American Court of Human Rights, adopted during the LXXXV Ordinary Period of Sessions from November 16 to November 28, 2009.

8. To request that the Inter-American Commission submit its observations on both the State's report referred to in Operative Paragraph five, as well as the representatives' observations on the same, within four weeks after having received it.

9. To request that the representatives present their timely observations on the State's reports referred to in Operative Paragraph six within four weeks after each report's arrival; and, to request that the Inter-American Commission present its observations on the same state reports within six weeks of each report's arrival.

10. To require that the Secretary of the Court notify the State of Colombia, the Inter-American Commission on Human Rights, and the representatives of the beneficiaries of the content of the present Order.

Diego García-Sayán
President

Leonardo A. Franco
Robles

Manuel E. Ventura

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary