

**Order of the  
Inter-American Court of Human Rights  
of November 25, 2008**

**Provisional Measures Regarding Venezuela**

**In the Matter of "*El Nacional*" and "*Así es la Noticia*" Newspapers**

**HAVING SEEN:**

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Court," "the Inter-American Court" or "the Tribunal") adopted on July 6, 2004, whereby it ordered:

1. To call upon the State to adopt forthwith the measures necessary to safeguard and protect the life, person, and freedom of expression of Sergio Dahbar, Ramón José Medina, Enrique Otero, Rafael Lastra, Ibéyise Pacheco, Patricia Poleo, Marianela Salazar, Henry Delgado, Alex Delgado and Edgar López, and any other persons at the facilities of the "*El Nacional*" and the "*Así es la Noticia*" newspapers or anyone associated with the operation of those newspapers.

2. To call upon the State to adopt forthwith the necessary measures to provide perimeter protection at the offices of the "*El Nacional*" and "*Así es la Noticia*" newspapers.

3. To call upon the State to investigate the facts that necessitated adoption of these provisional measures in order to identify those responsible and impose the appropriate punishments.

4. To call upon the State to allow the beneficiaries of these measures to participate in their planning and implementation and, in general, to keep them informed of the progress made with execution of the measures ordered by the Inter-American Court of Human Rights.

[...]

2. The briefs of October 6, 2004 to May 21, 2008, whereby the State reported on the implementation of the provisional measures in the instant case.

3. The briefs of November 12, 2004 to September 2, 2008, whereby the representatives of the beneficiaries of the provisional measures (hereinafter "the representatives"), submitted their comments on the reports filed by the State (*supra* Having Seen Clause Number 2).

4. The briefs of November 19, 2004 to October 13, 2008, whereby the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") filed its comments on the reports filed by the State (*supra* Having Seen Clause Number 2).

5. The July 17, 2007 note by the Secretariat of the Court (hereinafter "the Secretariat"), whereby, following instructions by the President of the Court

(hereinafter "the President"), it requested the representatives to submit information regarding:

- a) The current use of the premises the "*Así es la Noticia*" newspaper occupied;
- b) A listing of all the beneficiaries of the [...] provisional measures, with the pertaining reasons why such persons should continue to be protected under the [...] provisional measures;
- c) An explanation of the motive they ha[d] to consider that the beneficiaries' right to freedom of expression [was] at risk, as per Article 63(2) of the American Convention, and
- d) To justify, with the pertinent updated backing documents, how it [was] that the conditions of extreme gravity and urgency render[ing] perimeter protection of the "*El Nacional*" newspaper necessary persist[ed].

Likewise, the State was requested to provide information relating to:

- a) The measures it [had] adopted in order to adequately implement the provisional measures, and
- b) Its comments on the aggressions the representatives complained a reporter with the "*El Nacional*" newspaper had suffered on March 15, 2007.

Finally, the Commission was requested to report to the Court on the procedural stage in which the proceedings regarding the instant matter were.

6. The brief of August 28 2007, in which the Inter-American Commission reported that "the provisional measures mentioned do not have a directly related petition pending before the Commission."

7. The briefs of August 30 and 31 2007, in which the State and the representatives, respectively, presented information in relation to the Secretariat's request (*supra* Having Seen Clause 5).

8. The December 6, 2007 note from the Secretariat whereby, following instructions by the President, it requested the State to forward updated information on the implementation of the provisional measures and to comment on the alleged new acts of violence perpetrated against "*El Nacional*" staff members in March and August, 2007. Such request was repeated on February 19, April 3 and May 14, 2008.

9. The brief of May 21 2008, in which the State presented information regarding the Secretariat's request (*supra* Having Seen Clause 8).

10. The Secretariat's note of July 30 2008, in which, following instructions from the Presidency, it requested the State information regarding the implementation of the provisional measures and it requested the representatives to inform "whether the extreme gravity and urgency to avoid irreparable damage, which led to the adoption of the current measures, persist."

11. The brief of September 2 2008, in which the representatives presented their observations regarding the information requested by the Secretariat (*supra* Having Seen Clause 10).

12. The brief of October 13 2008, in which the Inter-American Commission presented observations regarding the information put forth by the representatives.

**CONSIDERING:**

1. That Venezuela has been a State Party to the American Convention on Human Rights (hereinafter, "the Convention" or the "American Convention") since August 9, 1977, and that, under Article 62 thereof, it accepted the jurisdiction of the Court on June 24, 1981.

2. That the provision established in Article 63(2) of the Convention renders it mandatory for the State to adopt the provisional measures this Tribunal may order for, under the basic principle of the law on the international responsibility of States, upheld by international case law, States are required to fulfill their international treaty obligations in good faith (*pacta sunt servanda*)<sup>1</sup>.

3. That the jurisdiction of the Court is determined upon the necessary existence of a grave and urgent situation that could produce irreparable damage to the rights of persons.

4. That the instant measures were ordered upon the *prima facie* assessment of a threat to the rights to life, personal integrity, and freedom of expression of the beneficiaries under the Court Order issued on July 6, 2004, bearing in mind, *inter alia*, the alleged "attacks on the premises of [...] the 'El Nacional' and 'Así es la Noticia' newspapers" which took place on June 3, 2004, by "a group of citizens belonging to the *Movimiento Bolivariano 200* and the so-called *Círculos Bolivarianos*;" the alleged "verbal aggressions made on several occasions by the President of the Republic;" the alleged placement, on February 1, 2002, of "an explosive device" at the door of the 'Así es la Noticia'" newspaper, the alleged physical attack press photographers Henry Delgado and Edgar López would have suffered, and the alleged threats received by Alex Delgado.

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5. That the representatives indicated that the journalistic product "*Así es la Noticia*" is no longer in circulation and that in what used to be its headquarters a company owned by *Editora El Nacional* ("*El Nacional*" Publishing House), called "*Tu Kiosko TEN, C.A.*" is operating. Likewise, they indicated that of the staff that used to work for the "*Así es la Noticia*" newspaper only two persons remain, and now they work for a new journalistic product belonging to "*El Nacional*".

6. That the State pointed out that the "*Así es la Noticia*" newspaper was no longer in operation and that the business of the company now active at the premises

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<sup>1</sup> 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 number Six; *Case of Caballero Delgado and Santana v. Colombia*, Provisional Measures regarding Colombia, Order of the Inter-American Court of Human Rights of February 6, 2008; considering clause number Fifteen, and *Matter of Millacura Llaipén et al.* Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 6, 2008, considering clause number 9.

where the *"Así es la Noticia"* newspaper used to have its headquarters is not included among the journalistic concerns mentioned in the first paragraph of the "Resolves" section in the Order by the Inter-American Court.

7. That in its last brief the Commission only dwelt on the situation of the *"El Nacional"* newspaper, for the newspaper *"Así es la Noticia"* is not "currently in operation."

8. That from the briefs the parties submitted it transpires that the *"Así es la Noticia"* newspaper is no longer in circulation. Consequently, the provisional measures ordered in favor of the persons active in such newspaper are now pointless. Thus, the Tribunal will only consider the persons individualized in the Order issued on July 6, 2004 and those on the premises of the communications organ *"El Nacional"* or related thereto.

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9. That regarding the implementation of the provisional measures ordered by the Court, the State pointed out that:

- a) "On July 16, 2004 the *Juzgado Segundo de Primera Instancia en Funciones de Control del Circuito Judicial Penal del Área Metropolitana de Caracas*, [...] awarded protection measure[s] in favor of the beneficiaries mentioned in the July 6, 2004 Order], as well as in favor of [the persons located on the premises of the mass media, and appointed the *Policía Metropolitana* (Metropolitan Police) and the *Guardia Nacional* (National Guard) to implement them," and
- b) on January 26, 2005 the aforementioned Court awarded the positioning of police sentries at all the newspaper facilities twenty-four hours a day, by stationing a police unit at the entrance to the premises of the *"El Nacional"* newspaper. Likewise, the same Court extended the protection measure awarded the premises to include the protection of the citizens Miguel Enrique Otero, Sergio Dahbar, Ramón José Medina and Rafael Lastra and provided a daytime security escorting detail for the protection of Ibéyise Pacheco, Marianella Salazar and Patricia Poleo. Furthermore, protection of the press photographers Henry Delgado, Alexander Delgado and Edgar López was ordered and a national campaign aimed at promoting respect for journalists was proposed. With respect to the foregoing, the State submitted records to evidence patrolling during March, August and September, 2006, as well as during February, June, July, August, October, November and December, 2007 and January, 2008;

10. That the representatives pointed out that:

- a) in spite of the measures awarded, the *Policía Metropolitana de Caracas* (Caracas Metropolitan Police) and the *Guardia Nacional* (National Guard) did not duly carry out such orders, for during some periods there was no patrolling or on occasions perimeter protection was insufficient, as it is pointed out in reports issued in 2007 by the Security Manager with the newspaper;

- b) that the records submitted by the State do not amount to effective patrolling, as such protection is aimed more at reducing the high crime rate in the area than at protecting the facilities and as during many working hours there is no police agent in the area;
- c) that the records submitted by the State from October, 2007 to January, 2008 "lack all legitimacy, [...] for the supervision forms [...] dated January 01, 03, 04, 06, 09, 11, 12, 14, 16, 17, 19, 20 and 22 of October 2007 were signed by [...] the citizen Martín Cúvelo. [However, the aforementioned citizen,] on May [20], 2007, [...] lost his life;"
- d) that protection was limited to the life and personal integrity of the individuals concerned, but no measure was adopted to protect their freedom of expression.

11. That the Commission pointed out, *inter alia*, that the State did not provide information regarding the measures for protecting the beneficiaries when they are away from the newspaper premises and stated its concern for the contradictory manner in which such measures were implemented, specifically it observed that "the contradictions the beneficiaries mention regarding the supervision forms produced as evidence are worth worrying about and are set in the wider framework of the allegation that possibly the current provisional measures are not being effectively implemented [...]."

12. That the Court finds that the main protection measure implemented by the State was the one regarding the perimeter protection of the newspaper "El Nacional" headquarters.

13. That this Tribunal values the efforts deployed by the State on account of the judicial orders issued in 2004 and 2005 (*supra* Considering Clause 9). However, the Tribunal considers with the utmost concern the allegations by the representatives that such measures were not duly implemented, for "patrolling was not effective" and furthermore that the records covering from October, 2007 to January, 2008, submitted by the State, are signed by a supervisor who, according to the representatives, would have died, something which the State did not deny.

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14. That at the February 26, 2005 oral hearing held before the aforementioned court (*supra* Considering Clause 9), the State informed about the participation and decision-making power afforded to the beneficiaries. Furthermore, on March 19, 2007 the State proposed a meeting to "hear, assess and process the proposals" the beneficiaries might want to put forward. Subsequently, the State requested the lifting of the current provisional measures (*infra* Considering Clause 21).

15. That the representatives pointed out that "although it is true that on January 26, 2005 a hearing was held, more than [...] two years" have gone by "since such meeting" without there having been held "any other hearing for the purpose of continuing to participate in implementing the measures."

16. That the Commission urged the State to coordinate with the instrumentalities in charge of implementing the provisional measures, as well as with the beneficiaries thereof, in order to create a means in which they can participate, as well as be kept informed regarding the planning and implementing of the current provisional measures.

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17. That as concerns aggressions against the beneficiaries, the representatives indicated that:

- a) on October 17, 2004 there were verbal aggressions by the President of the Republic against the "*El Nacional*" newspaper, wherein he called it "coup-monger" and of a "conspiratorial attitude" and he called Miguel Enrique Otero a "fascist;"
- b) between June and November of 2005 some newspapers described as "pro-government" issued opinion pieces and articles that were part of a campaign to dishonor the newspaper "*El Nacional*";
- c) on March 15, 2007 an "*El Nacional*" press photographer would have been "attacked [physically and verbally] by a group of [taxi motor bikers]" while he was "covering a protest of theirs in front of Miraflores Palace (the Presidential Palace), suffering blows and verbal aggressions in the process of such motor bikers trying to prevent him from reaching the location in order to carry out his press activities;"
- d) on August 22, 2007 Vanessa Gómez Quiroz, a "*Tu Kiosko TEN, C.A.*," journalist would have suffered physical aggression. The press article produced by the representatives reports as follows:

A group of government followers [...] and another one supportive of opposition sectors came to blows and kicking at the door of the *Juzgado Superior 3º Civil and Contencioso Administrativo de Caracas* (Caracas Third Civil and Administrative Disputes Superior Court) during a constitutional hearing. Both groups were outside the Tribunal waiting for the judicial proceedings against a [member of the House of Deputies] to end. In the course of the brawl eight persons got beaten [...]and] the journalists covering the judicial act were attacked by Chavism followers. The *RCTV Internacional* reporting team [...] bore the worst of the brunt [...]. *RCR* and *El Nacional* journalists Mardolei Prin and Vanessa Gómez Quiroz were also beaten. The event took place under the indifferent gaze of the *alguaciles* (bailiffs) in charge of court security and of Miranda State Government policemen in uniform, y

- e) on July 25, 2008 a media communicator and "*El Nacional*" correspondent who was on duty covering some journalistic news, would have been detained, for seven hours, by *Dirección de los Servicios de Inteligencia y Prevención (DISIP)* (Intelligence and Prevention Services Bureau) agents and removed to the Barinas Police Headquarters due to the fact that he was carrying documents on alleged irregularities that would relate to a larceny that had happened at the home of a nephew of the President of the Republic.

18. That the representatives indicated that Sergio Dahbar, Rafael Lastra and Ibéyise Pacheco, “even though they still are beneficiaries under the provisional measures ordered, do not render any of their services to the *El Nacional* newspaper.” The latest information submitted by the representatives in connection with beneficiary Ibéyise Pacheco, relates to a brief dated April 9, 2007, wherein it is pointed out that this journalist would have been subjected to “accusations [...] and aggressions by high-ranking Government officials” that “amount to indirect and direct mechanisms threatening her right to life and to personal integrity, for the pattern in such matters has been that such legal and/or verbal aggressions by high-ranking Government officials usually come along with physical aggressions.” The accusations to which the representative made reference had taken place during the year 2002;

19. That in all the briefs filed by the representatives, when the situation of peril for the life, the personal integrity and the freedom of expression of the beneficiaries is outlined, allusion is made to a context of harassment against journalistic action criticizing or reporting on misdeeds in Governmental conduct.

20. That when requested to produce a listing of all the beneficiaries under the provisional measures, along with the explanations of why such persons should continue to be protected (*supra* Having Seen Clause 5), the representative submitted two listings, one including 792 persons and another one with 16 persons – coinciding with the “*El Nacional*” staff membership – with no clear explanation as to why all of such 808 persons must be given protection. Furthermore in July, 2008 it was requested to extend the provisional measure to the “*El Nacional*” facilities at its *Los Cortijos* premises, alleging that the provisional measure “was ordered in favor of the company regardless of location.”

21. That the State pointed out that “the situation which prompted implementing the measures is no longer the same” and that the measures adopted “have been effective, for thereby repetition of the events leading to their implementation have been prevented.” On September 24, 2007 the State added that “the facts highlighted during the year 2004, stemming from the manifest intolerance prevailing in those days, have ceased.”

22. That the Commission stated that events such as those having occurred on March 15 and on August 22, 2007 and on July 25, 2008 (*supra* Considering Clauses 17), “indicate that the situation of extreme gravity and urgency persists” and that “the provisional measures continue to be necessary.” Likewise, regarding the verbal aggressions against “*El Nacional*” in 2004 and 2005, the Commission pointed out that “certain speeches by certain high-ranking officials of the State against specific mass media in polarized contexts could be construed as enticement to aggression [...]. Name-calling such as that hereinbefore described could have the purpose of scaring the mass communicator and the journalists active therein, thus generating self-censorship or fear to be identified as media workers on account of possible reprisals.”

23. That this Court has established that the provisional measures are not only precautionary but also protective.<sup>2</sup> The precautionary nature of the provisional

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<sup>2</sup> Cf. *Matter of the newspaper “La Nación.”* Provisional Measures regarding Costa Rica. Order of the

measures is connected to the framework of international adversarial cases. In such sense, these measures are intended to preserve those rights, which are at risk until the controversy is finally settled. Its purpose is to ensure the integrity and effectiveness of the decision on the merits and in this way, avoid the litigious rights being impaired, situation that may adversely affect the useful purpose of the final decision. The provisional measures make it possible for the State in question, in this sense, to comply with the final decision and, if applicable, to go ahead with the reparations so ordered.<sup>3</sup>

24. That as to the protective nature of the provisional measures, this Court has pointed out that, providing the basic requirements of extreme gravity and urgency as well as avoidance of irreparable damage of people are met, provisional measures are transformed in a true judicial guarantee of precautionary nature, since they protect human rights inasmuch as they are intended to avoid irreparable damage to persons.<sup>4</sup>

25. That when provisional measures are the matter, the Court must consider only and strictly those arguments directly related to the extreme gravity and urgency, and the need to avoid irreparable damage to persons. All other fact or argument may only be considered and determined by the Court when it is disposing of a contentious case on the merits<sup>5</sup>.

26. That in the year 2004 the Court found that a situation of extreme gravity had been created by the aggression against the “*El Nacional*” and “*Así es la Noticia*,” newspapers, relating to sizable attacks and evident dangerousness, such as bombing “*Así es la Noticia*” and carrying out a severe attack on the “*El Nacional*” facilities (*supra* Considering Clause 4).

27. That although on October 17 2004 the President of the Republic made comments against the newspaper “*El Nacional*” and Mr. Miguel Enrique Otero (*supra* Considering Clause 17), there is no information regarding similar comments that occurred after this date against the newspaper “*El Nacional*” specifically or any of its workers. In the same way, although there is information regarding an alleged “campaign to dishonor” in the year 2005 (*supra* Considering Clause 17), there is no information after this that indicates a similar context of hostility regarding the beneficiaries of the measures directly.

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Inter-American Court of Human Rights of September 7, 2001, considering clause number four; *Matter of Urso Branco Prison*. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of May 2, 2008, considering clause number 4, and *Matter Carlos Nieto Palma and others*. Provisional Measures Regarding Venezuela. Order of the Inter-American Court of Human Rights of August 5, 2008, considering clause number four.

<sup>3</sup> Cf. *Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center*. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of February 8, 2008, considering clause number 7.

<sup>4</sup> Cf. *Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center*, *supra* note 4, considering clause number eight.

<sup>5</sup> Cf. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. August 20, 1998 Order by the Court, considering clause number Six; *Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center*, *supra* note 4, considering clause number ten, and *Matter of the Urso Branco Prison*, *supra* note 2, considering clause number five.



28. That from 2006 to 2008 the representatives refer to a general context of aggressions against journalists in Venezuela and of direct and indirect freedom of expression restrictions. However, the only facts directly relating to the alleged attacks against *"El Nacional"* are the attacks against a press photographer on March 15, 2007 and against a journalist on August 22, 2007, and the detention of a correspondent on July 25, 2007 (*supra* Considering Clauses 17).

29. That with reference to the attack against the press photographer, the Court observes that, according to the information submitted to the Tribunal, the physical aggression developed in the course of a protest by taxi motor bikers, a situation not alleged to be closely connected with the political polarization situation in the framework of which the facts leading to the adoption of the provisional measures ordered by the Court came about.

30. That with reference to the attack against a journalist on August 22, 2007, the Tribunal observes that the aggression was suffered in the framework of a brawl where alleged government followers clashed with alleged opponents thereof and in the course of which *RCTV*, *RCR* and *El Nacional* journalists were attacked. No evidence has been produced before this Court on which it could reach a conclusion as to whether such aggressions resulted from the conflict and confrontation situation of the brawl itself, or whether, on the contrary, it was an attack specifically aimed at the *"El Nacional"* newspaper or its employees, and from such a standpoint, to relate such facts with the situation of extreme gravity ascertained at the time the 2004 provisional measures were issued.

31. That with reference to the detention of an *"El Nacional"* journalist by DISIP members, the Court considers that even though it as an event that could be classed as a working limitation to the practice of journalism, determinations of such kind can only be made in the framework of contentious cases coming before the Inter-American System. Furthermore, this fact alone does not justify by itself that provisional measures for the *"El Nacional"* newspaper staff of more than 800 persons be continued.

32. That, consequently, despite the alleged aggression and harassment instances put forth in connection with three provisional measures beneficiaries between 2007 and 2008, the Tribunal considers there is no information or material to evidence persistence of a situation of extreme gravity and urgency to avoid irreparable damage to the life and integrity of the 808 persons that may be found on the *"El Nacional"* mass media premises or that may be related to its journalistic operation. Likewise, the allegations on direct and indirect restrictions relating to freedom of expression must be considered in the framework of a contentious case and not in the mentioned context of extreme gravity that provisional remedies seek to address.

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33. That regarding the obligation to investigate the facts that motivated the adoption of provisional remedies, the State informed the Court that:

- a) regarding the detonation of an explosive device close to the "Así es la Noticia" newspaper that occurred on January 31, 2002, the Office of the Public Prosecutor commenced the pertaining investigation, undertaking several procedures. On June 25, 2007 the *Fiscalía Quincuagésima de la Circunscripción Penal del Área Metropolitana de Caracas* (Caracas Metropolitan Area Criminal District Prosecuting Office Number Fifty) issued a decree whereby the case was closed by the prosecution;
  - b) regarding the damages to both the newspapers' headquarters that occurred in 2004, the Office of the Public Prosecutor commissioned the *Fiscalía Sexagésima Segunda y Centésima Vigésima Tercera de la Circunscripción Judicial del Área Metropolitana de Caracas* (Caracas Metropolitan Area District Prosecuting Offices Number Sixty-Two and Number One Hundred and Twenty-Three), which undertook procedures such as: visual inspection, photographic fixation, the requirement to have a facial composite performed; photographs related to the facts were procured, expert procedures were carried out to obtain fingerprints and a listing of the affected vehicles. On October 23, 2007 the aforementioned prosecuting offices issued a decree whereby the proceedings were closed by the prosecution;
  - c) regarding the events on August 21, 2007, during which journalist Vanessa Gómez was wounded, the *Fiscalía Centésima Vigésima Quinta del Ministerio Público de la Circunscripción Judicial del Área Metropolitana de Caracas* (Caracas Metropolitan Area Judicial District Office of the Public Prosecutor's Prosecuting Office Number One Hundred and Twenty-Five) was commissioned. In the course of such investigation, actions such as examinations by forensic physicians and interviews, among others, were carried out, and
  - d) with reference to the aggressions against the press photographer, that occurred on March 15, 2007, information was requested from the Office of the Public Prosecutor.
34. That the representatives pointed out that:
- a) The procedures undertaken by the Office of the Public Prosecutor are insufficient, inasmuch as they do not establish who the perpetrators of the investigated acts were and therefore they represent but a formal compliance. There are both photos and videos of the events where the facts took place, wherein the perpetrators are perfectly identifiable, and
  - b) the State has neither informed about the action taken to identify those responsible, nor about the outcome thereof.
35. That the Commission stated it was concerned about the circumstance that two of the cases opened to investigate into the facts leading to adopt the provisional measures are closed without it having been possible neither to identify those responsible nor to submit them to the pertaining punishment. With respect to the foregoing, the Commission considered that the State has the obligation to investigate

the facts leading to the provisional measures as a preventive action and as a guarantee for the non-repetition thereof.

36. That the Court has pointed out that an alleged failure to investigate by a State does not necessarily, in itself, amount to a circumstance of extreme gravity and urgency justifying that provisional measures be maintained<sup>6</sup>. With respect to the foregoing, when a situation of extreme gravity and urgency was evidenced, the Court ordered the facts wherefrom it arose to be investigated. However, the violations to the Convention that may derive from the alleged lack of effectiveness in the investigations must be considered in the respective contentious case and not in the framework of the provisional measures,<sup>7</sup> unless the failure to investigate be clearly linked to an extreme peril for life and personal integrity.

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37. That given the lack of information about the extreme gravity and urgency to avoid irreparable damage to life and personal integrity, it proceeds to lift the provisional measures adopted in the instant matter.

38. That the Tribunal warns that lifting the instant provisional measures does not mean that the State has fully complied with Orders issued by the Court in the context of such measures.

39. That independently of whether the provisional measures ordered by the Tribunal in the instant matter are in force or not, the State has the constant and permanent duty to comply with the general obligations that derivate from Article 1(1) of the Convention to respect the rights and freedoms recognized therein and to ensure to all persons subject to its jurisdiction the free and full exercise thereof<sup>8</sup>. Similarly, the Court recalls that the press should not be subject to any illegal or arbitrary restriction that affects freedom of searching, receiving and diffusing information.

**THEREFORE,**

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

In exercise of its authority under Article 63(2) of the American Convention on Human Rights and Article 25 of its own Rules of Procedure,

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<sup>6</sup> Cf. *Case of the Constitutional Court*. Provisional Measures regarding Peru. Order of the Inter-American Court of Human Rights of March 14, 2001, considering clause number Four. *Matter of Pilar Noriega*. Provisional Measures regarding the United Mexican States. Order of the Inter-American Court of Human Rights of February 6, 2008, considering clause Number 14, and *Case of the Gómez-Paquiyaui Brothers*. Provisional Measures regarding Peru. Order of the Inter-American Court of Human Rights of May 3, 2008, considering clause number Seven.

<sup>7</sup> Cf. *Matter of Children Deprived of Liberty in the "Complexo do Tatuapé" of FEBEM regarding Brazil*. Order of the Inter-American Court of Human Rights of July 3 2007, considering clause sixteen.

<sup>8</sup> Cf. *Case of Velásquez Rodríguez*. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, considering clause number three; *Matter of Urso Branco Prison*, supra note 2, considering clause number nineteen, and *Matter Carlos Nieto Palma*, supra note 2, considering clause number three.

**Resolves:**

1. To lift the provisional measures ordered by the Inter-American Court of Human Rights in its July 6, 2004 Order, and deem them to have ended.
2. To request the Secretariat of the Court to serve notice of the instant Order upon the State of Venezuela, upon the Inter-American Commission for Human Rights and upon the representatives of the beneficiaries of these measures.
3. To close the file.

Done in San Jose, Costa Rica on November 25, 2008 in Spanish and in English, the Spanish text being authentic.

Cecilia Medina Quiroga  
President

Diego García-Sayán

Sergio García Ramírez

Manuel E. Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alesandri  
Registrar

So ordered,

Cecilia Medina Quiroga  
President

Pablo Saavedra Alessandri  
Registrar