

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF AUGUST 26, 2002**

**PROVISIONAL MEASURES REGARDING
THE REPUBLIC OF COSTA RICA**

"LA NACIÓN" NEWSPAPER CASE

HAVING SEEN:

1. The facts stated in the "Having seen" paragraphs of the December 6, 2001 Order of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court").
2. The September 7, 2001 Order of the Court, in which it decided:
 1. To order the State of Costa Rica to adopt forthwith those measures necessary to suspend the entry of Mauricio Herrera Ulloa's name in the Judiciary's Record of Convicted Felons until such time as the bodies of the inter-American system for the protection of human rights have arrived at a final decision on his case.
 2. To order the State of Costa Rica to suspend the order for *La Nación* to publish the "Therefore" portion of the conviction handed down by the San José First Circuit Criminal Trial Court on November 12, 1999, and to suspend the order to create a "link" at the *La Nación Digital* website between the disputed articles and the operative part of that court ruling.
 3. To order the State of Costa Rica to inform the Inter-American Court of Human Rights, within 30 days of notification of this Order, of the measures it has taken pursuant to the order, and to call upon the Inter-American Commission on Human Rights to submit its observations on that report within 30 days of receiving it.
3. The brief filed on July 30, 2002, in which the Ministry of Foreign Affairs of the State of Costa Rica (hereinafter "the State" or "Costa Rica") forwarded the rogatory letter issued on June 27, 2002 by the Examining Justice of the Criminal Court of the First Judicial Circuit of San José. According to the letter rogatory, on June 17, 2002 the Trial Court of the First Judicial Circuit of San José ordered that the Inter-American Court be consulted about "whether the Provisional Measures adopted then in the case of the daily '*La Nación*' refer [to] the whole judgment, both criminal and civil, or whether they refer only to the criminal judgment."

CONSIDERING:

1. Costa Rica has been a State Party to the American Convention since April 8, 1970, and it accepted binding jurisdiction of the Court on July 2, 1980.
2. Article 63(2) of the Convention stipulates that:

In 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. Regarding this matter, Article 25(1) of the Rules of Procedure of the Court provides that:

At 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.

4. In International Human Rights Law, provisional measures are not only preventive, insofar as they maintain a juridical situation, but fundamentally protective because they protect human rights. Provided that the basic requirements of extreme gravity and urgency are met, together with that of avoiding irreparable damage to persons, provisional measures become a true preventive jurisdictional guarantee.

5. Due to the existing doubts and circumstances, the Court deems it necessary to specify the provisional measures ordered by the Court.

6. In its brief requesting provisional measures, the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") requested that the Court order the State to stay execution of the November 12, 1999 conviction decided by the Criminal Trial Court of the First Circuit in San José, Costa Rica, until the Commission has reached a final decision on the merits of this matter or until the Inter-American Court has rendered judgment.

7. The November 12, 1999 judgment of the Criminal Trial Court of the First Circuit in San José decided: 1) to convict the accused on four counts of libel; 2) to order a forty-day fine on each of the four counts, to be paid by Mauricio Herrera Ulloa, at a rate of ₡2,500.00 (two thousand five hundred colones) per day, for a total fine of 160 days which, when the rule for appearance in court was applied, was "reduced to three times the greatest fine," in other words, a fine of 120 days for a total of ₡300,000.00 (three hundred thousand colones); 3) to find for the plaintiff in the civil damages suit, ordering Mauricio Herrera Ulloa and the newspaper *La Nación*, as jointly and severally liable, to pay moral damages of ₡60,000,000.00 (sixty million colones) as compensatory damages for the stories reported in *La Nación* on March 19, 20 and 21 and December 13, 1995; 4) to order Mauricio Herrera to publish the "Therefore" section of the court's ruling in the newspaper *La Nación*, in the section titled "*El País*", using the same size and typeface used in the articles against which the suit was brought; 5) to order *La Nación* to break the existing online link at *La Nación Digital* between the surname Przedborski and the articles that prompted the complaint; 6) to order *La Nación* to establish a link in *La Nación Digital* between the articles that prompted the complaint and the operative part of the judgment; and 7) to order Mauricio Herrera and the daily *La Nación* to pay court costs of ₡1,000.00 (one thousand colones) and ₡3,810,000.00 (three million eight hundred ten thousand colones) in personal expenses;

8. In its September 7, 2001 Order, the Court ordered only the following three provisional measures:

- a) to order the State of Costa Rica to adopt forthwith those measures necessary to suspend the entry of Mauricio Herrera Ulloa's name in the Judiciary's Record of Convicted Felons until such time as the bodies of the inter-American system for the protection of human rights have arrived at a final decision on his case;
 - b) to order the State of Costa Rica to suspend the order for *La Nación* to publish the "Therefore" portion of the conviction handed down by the San José First Circuit Criminal Trial Court on November 12, 1999; and
 - c) to order the State of Costa Rica to suspend the order to create a "link" at the *La Nación Digital* website between the disputed articles and the operative part of that court ruling.
9. In view of the query by the State, and as part of the required follow-up on measures ordered by the Court, it is appropriate to specify that the measures set forth by the latter in its September 7, 2001 Order refer only to three of the points ordered by the Criminal Trial Court of the First Circuit in San José, specifically the following:
- to point 1), with the aim of annulling the entry of Mauricio Herrera Ulloa's name in the Judicial Record of Convicted Felons until a final decision has been reached on the case by the bodies of the inter-American human rights system;
 - to point 4), with the aim of suspending the order to publish in the daily "*La Nación*" the "Therefore" section of the conviction decided by the Criminal Trial Court of the First Circuit in San José on November 12, 1999; and
 - to point 6), to suspend the order to establish a "link", in *La Nación Digital*, between the Articles referred to in this action and the operative paragraphs of the aforementioned judgment.

The measures ordered by the Court seek to obtain the effects stated above, independently of the civil, criminal, or other projections of points 1), 4), and 6) of the aforementioned judgment by the Criminal Trial Court of the First Circuit of San José.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

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

DECIDES:

- 1. To stipulate that the provisional measures ordered refer specifically to:
 - a) taking, without delay, whatever steps are required to annul the entry of Mauricio Herrera Ulloa's name in the Judiciary's Record of Convicted Felons

until a final decision is reached on this case by the bodies of the inter-American human rights system;

b) suspending the order to publish in the daily "*La Nación*" the "Now Therefore" section of the conviction decided by the Criminal Trial Court of the First Circuit of San José on November 12, 1999; and

c) suspending the order to establish a "link", in *La Nación Digital*, between the articles referred to in the action and the operative paragraphs of that judgment.

2. To stipulate that the aforementioned provisional measures were decreed to attain the effects stated in the ninth Whereas of that Order, independently of the civil, criminal, or other projections of points 1), 4), and 6) of the aforementioned judgment by the Criminal Trial Court of the First Circuit in San José.

3. To order the State of Costa Rica, within one month of notification of the instant resolution, to report to the Inter-American Court of Human Rights on compliance with the provisional measures, and likewise for the Inter-American Commission on Human Rights to submit its observations on that report within 30 days of the date they are received.

Antônio A. Cançado Trindade
President

Alirio Abreu-Burelli

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary