

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF AUGUST 18, 2000**

**PROVISIONAL MEASURES REQUESTED BY THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
IN THE MATTER OF THE REPUBLIC OF GUATEMALA**

BLAKE CASE

HAVING SEEN:

1. The Order of the President of the Inter-American Court of Human Rights of August 16, 1995.
2. The Order of the Inter-American Court of Human Rights of September 22, 1995, which established
 1. To ratify the Order of the President of August 16, 1995, and request that the Government of the Republic of Guatemala maintain the provisional measures on behalf of: Justo Victoriano Martínez-Morales, Floridalma Rosalina López-Molina, Víctor Hansel Morales-López, Edgar Ibal Martínez-López, and Sylvia Patricia Martínez-López.
 2. To request that the Government of the Republic of Guatemala inform the Court, every three months, on the provisional measures adopted.
 3. To request that the Inter-American Commission on Human Rights send to the Court its observations on the reports of the Government of the Republic of Guatemala, within a month of receiving notification with respect thereof
3. The Order of the President of the Court of April 18, 1997, in which he decided
 1. To take note of the measures adopted by the State of Guatemala in compliance with the Order of the Court of September 22, 1995.
 2. To call on the State of Guatemala to expand the measures adopted to provide them to Justo Victoriano Martínez-Morales, Floridalma Rosalina López-Molina, Víctor Hansel Morales-López, Edgar Ibal Martínez-López, and Sylvia Patricia Martínez-López not only in their homes but outside of them.
4. The brief of the State of Guatemala (hereinafter the "State" or "Guatemala") received at the Secretariat of the Court on May 11, 2000, whereby it submits the ninth (*rectius* sixteenth) report concerning the provisional measures adopted by the Inter-American Court of Human Rights (hereinafter the "Court") in the Blake case. In this brief it states that, from the time that the Court rendered the provisional measures, the State has complied with them and has maintained the Court informed about the situation of Justo Victoriano Martínez-Morales, who, thus far, has not been the target of any threats or real danger in relationship with the instant case. In like manner, since it feels that the case that gave rise to the provisional measures is considered at an end before the Inter-American System; that the payment of indemnification has been made in favor of the Blake family; and that the courts have convicted one of the persons responsible for the death of Nicholas Chapman Blake, Guatemala requested the Court to lift the provisional measures adopted, and

to consider the State's obligation in that sense at an end, mainly on the matter of the reports that must be submitted periodically to the Court.

5. The brief of the Inter-American Commission on Human Rights (hereinafter the "Commission" or the "Inter-American Commission") of June 13, 2000, whereby it stated that it feels that, for the time being, the provisional measures rendered by the Court must continue "at least in the manner described by the State itself in its report, that is, through the system of constant communication between the Regional Office of COPREDEH and Mr. Justo V. Martínez; patrolling by the National Civil Police in the areas surrounding the home of Mr. Martínez; and communication between the latter and the Departmental Chief of the National Civil Police."

6. The note of the Secretariat of June 21, 2000, whereby, pursuant to instructions by the President of the Court, the Commission was asked to submit the reasons that served as a basis for the Commission to oppose the request by the State.

7. The brief of the Commission of July 10, 2000, in which it stated its belief that in the instant case there is no causal relationship between the payment of the indemnification that was determined by the Court, and the adoption of protection measures on behalf of Mr. Martínez and his family, that is, that said payment *per se* does not preclude at all the possibility of continued threats in the future. Furthermore, that, in view of the fact that several persons who participated in the criminal acts denounced by the Commission have not been yet investigated, the former considered that, for the time being, the provisional measures ordered should continue at least in the form described by Guatemala. Lastly, concerning the periodical reports that the State must submit to the Court, the Commission has no objection whatsoever to the submission thereof every six months.

8. The note of the Secretariat of August 15, 2000, whereby it requested that Guatemala submit all the information relative to the investigations carried out with respect to the threats against Mr. Justo Victoriano Martínez and his family, which gave rise to the adoption of the current provisional measures.

CONSIDERING:

1. That Guatemala is a State Party to the American Convention since May 25, 1978, and that it accepted the compulsory jurisdiction of the Court on March 9, 1987, pursuant to Article 62 of the American Convention on Human Rights.

2. That Article 63(2) of the Convention establishes that the Court may "adopt such provisional measures as it deems pertinent in matters it has under consideration," to which effect it requires that the cases be of "extreme gravity and urgency, and when necessary to avoid irreparable damage to persons [and that] with respect to a case not yet submitted to the Court, [the Court] may act at the request of the Commission."

3. That concerning this matter Article 25 of the Rules of Procedure establishes that

1. 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. That Guatemala has requested the Court to lift the provisional measures adopted in the instant case, since it considers that it has complied with them; it has maintained the Court informed on the situation of Justo Victoriano Martínez-Morales who –as it indicates—has not been, to date, the target of any threats or real danger whatsoever in relationship to the instant case; and since it considers that the latter has come to an end in its entirety before the Inter-American System. It furthermore requested that the obligation to report periodically to the Court on said measures be ended.

5. That the Inter-American Commission opposed said request on the grounds that there is no causal relationship between the adoption of the measures and the payment of the indemnification to the relatives of Mr. Blake. Also, with respect to the reports, it did not oppose the reporting by the State to the Court every six months.

6. That Article 1(1) of the Convention points out the obligation that the States Parties have to respect the rights and freedoms therein recognized, and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.

7. That, as an essential element of the duty to protect, the State has the obligation to investigate threats and acts of intimidation that may have been made and could be made against the persons protected and, in the event of their occurrence, to punish those responsible for the events that gave rise to the adoption of the provisional measures.

8. That the Court, through its Secretariat, has requested that the State submit all the information relative to the investigations carried out with respect to the threats that gave rise to the adoption of the current provisional measures on behalf of Mr. Justo Victoriano-Martínez and his family, whose delivery the Court shall be expecting.

9. That, in respect of the information requested from the State, this Court feels that, for the time being, the lifting of the provisional measures is not justified.

NOW, THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

Pursuant to Article 63(2) of the American Convention, and in exercise of the powers conferred on it by Article 25 of its Rules of Procedure,

DECIDES:

1. To request that the State of Guatemala maintain all the measures necessary to protect the lives and personal integrity of Justo Victoriano Martínez-Morales, Florida Rosa Rosalina López-Molina, Víctor Hansel Morales-López, Edgar Ibal Martínez-López, and Sylvia Patricia Martínez-López.

2. To request that the State of Guatemala inform the Court on the measures adopted to investigate the threats against said persons, in conformity with the

Secretariat's note in this respect, with the purpose of obtaining effective results that may lead to the identification of those responsible and their punishment.

3. To request that the State of Guatemala continue submitting its reports on the provisional measures adopted every six months, and that the Inter-American Commission on Human Rights submit its observations on said reports within six weeks of receiving them.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

Alirio Abreu-Burelli

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