

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF SEPTEMBER 19, 1995**

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

CARPIO NICOLLE CASE

The Inter-American Court of Human Rights, composed of the following judges:

Héctor Fix-Zamudio, President
Hernán Salgado-Pesantes, Vice President
Alejandro Montiel-Argüello, Judge
Máximo Pacheco-Gómez, Judge
Oliver Jackman, Judge
Alirio Abreu-Burelli, Judge
Antônio A. Cançado Trindade, Judge;

also present:

Manuel E. Ventura-Robles, Secretary, and
Ana María Reina, Deputy Secretary

delivers the following Order:

1. On June 1, 1995 the Inter-American Commission on Human Rights (hereinafter "the Commission" or the "Inter-American Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") a resolution adopted that same day concerning the Carpio Nicolle Case (Nº 11.333), which was being heard by the Commission. In that resolution the Commission requested that the Court order the provisional measures necessary to protect the life and physical integrity of five persons, family members of Mr. Carpio-Nicolle and officials, who through their work, have had some relation with the investigation of his death.

2. By means of the authority conferred by Article 24(4) of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), the President of the Court (hereinafter "the President") issued an Order of June 4, 1995 in which he decided:

1. To request that the Government of the Republic of Guatemala adopt without delay all necessary measures to effectively ensure the protection of the lives and personal integrity of the following persons: MARTA ELENA ARRIVILLAGA DE CARPIO, KAREN FISCHER DE CARPIO, MARIO LÓPEZ-ARRIVILLAGA, ÁNGEL ISIDRO GIRÓN-GIRÓN, and ABRAHAM MÉNDEZ-GARCÍA, and to investigate the threats and harassment of the persons named and to punish those responsible.

2. To request that the Government of the Republic of Guatemala adopt all necessary measures so that witnesses to the Carpio Case can testify, and so that the prosecutor in the case, Abraham Méndez-García, can fulfill his duties without pressure or

reprisals.

3. To request that the Government of the Republic of Guatemala inform the military authorities of the Military Zone to which the Civil Defense Committees of San Pedro Jocopilas answer, to instruct these Committees to refrain from taking any actions that would put the lives or personal integrity of the individuals named at risk.

4. To request that the Government of the Republic of Guatemala submit a report to the President of the Court every 30 days from the date of this Order, on the measures taken pursuant to this Order, so as to bring the information to the attention of the Court.

5. To instruct the Secretariat of the Court to transmit the reports presented by the Government of the Republic of Guatemala to the Inter-American Commission on Human Rights without delay, which shall then present its observations not later than fifteen days after receipt of the pertinent information.

6. To submit this Order for the Court's consideration and pertinent effects during its next regular session and, if it deems it appropriate, to hold a public hearing on this matter during that same period.

3. On June 30, 1995, the President decided to summon the Government of the Republic of Guatemala (hereinafter "the Government" or "Guatemala") and the Inter-American Commission to appear at a public hearing on September 16, 1995 so that the Court could hear the parties' respective viewpoints, before making a decision on the Commission's request.

4. On July 20, 1995, the Commission submitted to the Inter-American Court a request for expansion of the measures, ordered by the President on June 4 of this same year, to include Mrs. Lorraine Maric Fischer-Pivaral, sister of Mrs. Karen Fischer de Carpio. On July 26, 1995 the President issued an Order in which he decided:

1. To request that the Government of the Republic of Guatemala expand the urgent measures set forth in the Order of the President of June 4, 1995, to include Mrs. Lorraine Maric Fischer-Pivaral and to request that the Government investigate and punish those responsible for the events denounced by the Inter-American Commission on Human Rights.

2. To request that the Republic of Guatemala comply with the submission of the first report, as ordered in resolutory part 4 of the June 4, 1995 Order of the President, and include Mrs. Lorraine Maric Fischer-Pivaral in subsequent reports which must be submitted within the time-limits set in said Order.

5. On August 1, 1995, Guatemala submitted to the Inter-American Court a copy of its first report dated June 27, 1995, in which it enumerated the precautionary measures taken in response to the Inter-American Commission's request dated October 24, 1994 regarding the family members and other persons connected to the Carpio Nicolle Case. In that report it affirmed that on November 23, 1994 the Headquarters of the National Police ordered that the necessary security measures be provided to said persons. These measures were extended, at the request of the Commission, to the Prosecutor of the Justice Department, Mr. Abraham Méndez-García, who is in charge of the investigation in the case of Mr. Carpio-Nicolle's death. That same day, the Court transmitted the report to the Commission so that it could make any comments it considered relevant.

6. On August 3, 1995, the Government sent the Court a copy of its second report dated July 31, 1995 in which the Government informed the Court that a meeting had taken place on July 7 of this year, which was attended by Marta Elena Arrivillaga de Carpio, Karen Fischer de Carpio, Mario López-Arrivillaga and Abraham Méndez-García. At that meeting, the Minister of the Interior presented those named

with several proposals for their protection. They accepted the Government's proposal to provide persons for their individual protection, on the condition that each person to be protected designate his or her own security agents and that the Government assume the cost. These conditions were accepted by the Deputy Minister of the Interior. Despite their refusal to continue receiving protection from agents of the National Police, the Deputy Minister of the Interior ordered that patrols be maintained in the neighborhood of the offices of the newspaper "El Gráfico" and at the residence of Mrs. Marta Elena Arrivillaga de Carpio, widow of Carpio-Nicolle. The Government also announced that Mr. Mario López-Arrivillaga, nephew of Marta Elena Arrivillaga de Carpio and former member of parliament of the UCN party, has a National Police security agent at his service and that Mrs. Marta Elena Arrivillaga de Carpio has two security agents from the National Police since before the instatement of the present provisional measures. As to Mr. Ángel Isidro Girón-Girón, the report stated that he works with the Treasury Police in the Department of Totonicapán, but the Report did not specify on the measures that had been taken by the Government for his security.

7. In this second report the Government also revealed that on July 14, 1995 in compliance with the President's request, it had asked the Minister of National Defense to

circulate precise orders to the authorities of Military Zone Number 20, based in Santa Cruz del Quiché, El Quiché, to instruct the Voluntary Civil Defense Committees of San Pedro Jocopilas to refrain from taking any actions that would put at risk the life or personal integrity of any one of the persons

for whom provisional measures had been adopted.

8. On September 1, 1995 the Government sent the Court a copy of the third report in which it stated that the provisional measures taken on behalf of Marta Elena Arrivillaga de Carpio, Karen Fischer de Carpio, Mario López-Arrivillaga, Ángel Isidro Girón-Girón and Abraham Méndez-García continued in force and that those individuals had forwarded the names of the persons they wanted assigned to guard their personal safety. Subsequently the Minister of the Interior proceeded to contract the guards who had been designated. According to this report, Mrs. Marta Elena Arrivillaga de Carpio and Mrs. Karen Fisher de Carpio each have four persons assigned to their security and Mr. Abraham Méndez has been assigned two persons. Mr. Mario López-Arrivillaga refused the allocation of additional persons for his security. The Ministry of the Interior was awaiting the list of names of the persons who would be responsible for the security of Mrs. Lorraine Maric Fischer-Pivaral. In relation to the incident which befell Mrs. Fischer-Pivaral on July 7, 1995, giving rise to the expansion of provisional measures, the Government announced that the State Attorney General had initiated an investigation to which he assigned Prosecutor Alfonso Palacios. This report did not specify the security measures that the State had afforded to Mr. Ángel Isidro Girón-Girón.

9. The public hearing took place on September 16, 1995 at the seat of the Court. There appeared:

For the Government of Guatemala:

Vicente Arranz-Sanz, President of COPREDEH,
 Angel Comte-Cojulún, Director General of the National Police,
 Dennis Alonzo-Mazariegos, Executive Director of COPREDEH,

Cruz Munguía-Sosa, General Regional Coordinator of COPREDEH.

For the Inter-American Commission of Human Rights:

Claudio Grossman, delegate,
David J. Padilla, attorney,
Denise Gilman, attorney,
Ariel Dulitzky, assistant,
Marcela Matamoros, assistant.

10. On September 16, 1995, during the public hearing, the Commission presented to the Court a document dated February 8, 1995 from Prosecutor Abraham Méndez-García addressed to the Central Regional Director of the United Nations Verification Commission for Guatemala -MINUGUA- in which he reported that he had "been the object of surveillance, harassment, intimidation, and assault" as a result of his procedural role in the investigation of the Carpio Nicolle Case, and that he had informed the proper authorities of these facts. In view of the submission of this document, the Government requested that the Court grant it a period of time to make observations, which was granted.

Moreover, during the hearing the Government promised to make an appointment with Mr. Ángel Isidro Girón-Girón to verify the necessity of adopting provisional measures to protect his life and personal integrity.

WHEREAS:

1. That Guatemala is a Party to the American Convention on Human Rights in which Article 1(1) sets forth the obligation of the State Parties to respect the rights and freedoms recognized in that treaty and to ensure their free and full exercise to all persons subject to its jurisdiction, and that on March 9, 1987 Guatemala accepted the compulsory jurisdiction of this Court pursuant to Article 62 of the Convention;

2. That Article 63(2) of the Convention provides 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. That Guatemala is obligated in every case to preserve the life and integrity of those persons whose rights could be threatened;

4. That the Court considers that the measures taken by the President on June 4 and July 26 of the present year are necessary and should be ratified,

5. That the Government of Guatemala, through its representative, explicitly and repeatedly expressed during the hearing its willingness to maintain and ensure the effectiveness of the provisional measures ordered by the Court in this case.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

exercising the authority conferred on it by Article 63(2) of the American Convention

on Human Rights and Article 24 of its Rules,

DECIDES:

1. To confirm and to adopt as its own the urgent measures taken by the President in the Orders of June 4 and July 26, 1995.
 2. That these provisional measures will be in force for six months as of notification of this Order.
 3. To require the Government of the Republic of Guatemala to continue providing monthly information on the provisional measures taken.
 4. To require the Inter-American Commission on Human Rights to present to the Court its observations on the information submitted by the Government no later than fifteen days after its receipt.
 5. That the President of the Court will order additional pertinent measures, if necessary, depending on the facts put forth by the Commission at the September 16, 1995 hearing.
- Done in Spanish and English, the Spanish text being authentic, on this nineteenth day of September, 1995.

Héctor Fix-Zamudio
President

Hernán Salgado-Pesantes

Alejandro Montiel-Argüello

Máximo Pacheco-Gómez

Oliver Jackman

Alirio Abre-Burelli

Antônio A. Cançado Trindade

Manuel E. Ventura-Robles
Secretary