

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF AUGUST 12, 2000**

CLEMENTE TEHERÁN *ET AL.* CASE*

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter the "Court" or the "Inter-American Court") of June 19, 1998.
2. The Order of the Court of January 29, 1999, whereby it decided
 1. To require that the State of Colombia maintain the measures necessary to protect the lives and physical safety of Rosember Clemente Teherán, Armando Mercado, Nilson Zurita, Edilberto Gaspar Rosario, Dorancel Ortiz, Leovigildo Castillo, Santiago Méndez, Ziola Riondo, Saúl Lucas, José Guillermo Carmona, Celedonio Padilla, Eudo Mejía-Montalvo, Marcelino Suárez-Lázaro, Fabio Antonio Guevara, José Luis Mendoza, Misael Suárez-Estrada, Ingilberto M. Pérez, Martín Florez, Jacinto Ortiz-Quintero, Juan Antonio Almanza-Pacheco, José Carpio-Beltrán, and Luis Felipe Álvarez-Polo, in order to avoid irreparable damage to them, in strict conformity with the obligations to respect and guarantee human rights, which it undertook to fulfill under Article 1(1) of the American Convention on Human Rights.
 2. To require the State of Colombia to investigate the acts denounced that gave rise to the present measures, for the purpose of obtaining effective results which will lead to the discovery and punishment of those responsible.
 3. To require that the State of Colombia investigate the truthfulness of the possible connection of the persons protected by the provisional measures with illegal groups, especially the possible participation of Rosember Clemente Teherán (councilman), Juan Carlos Casado (mayor), and Marcelino Suárez (chief) in armed paramilitary groups.
 4. To require that the State listen to the opinions of the petitioners and inform them as to progress in the implementation of the measures ordered by the Court.
 5. To require that the State of Colombia, in its next report, include information on the measures adopted in relation to the operative paragraphs of the present Order.
 6. To require that the State of Colombia continue to submit its reports every two months on the provisional measures taken and that the Inter-American Commission on Human Rights present its observations to those reports within a period of six weeks of their receipt.
3. The writing of the Inter-American Commission on Human Rights (hereinafter the "Commission" or the "Inter-American Commission") of December 10, 1999, by means of which it requested the Court to lift the provisional measures ordered by the Court, since they "were no longer appropriate in light of Article 63(2) of the American Convention on Human Rights."

* Judge Sergio García-Ramírez informed the Court that, because of *force majeure*, he would be unable to be present at the deliberations and signing of this Order.

4. The tenth report of the State of Colombia (hereinafter the "State" or "Colombia") of January 14, 2000, by means of which it provided information on the situation of the beneficiaries of the measures, and information sent by the Office of the Prosecutor General of the Nation about four cases under investigation at the Human Rights Unit in connection with the instant case. In turn, the State presented a statement of Mr. Saúl Lucas, a beneficiary of the measures, where he affirmed he was not a victim of threats, and requested that his name be removed from the list of persons threatened.

5. The note of the Secretariat of the Court of January 21, 2000, by means of which it requested the Commission to provide information that would appropriately support its request (*supra* 3).

6. The writing of the Commission of January 28, 2000, by means of which it reiterated to the Court its request for the lifting of the provisional measures, and expressed that:

a) the request for provisional measures formulated March 18, 1998, was based on the reporting of serious acts of violence suffered by some members of the Zenú Indigenous Community between 1994 and 1998, which are a part of the context that gave rise to the opening of case N° 11.858 before the Commission;

b) from the time the measures were rendered, approximately 22 months ago, the Commission has been unable to verify the actual occurrence of new events that may justify maintaining the measures rendered by the Court; and

c) the petitioners have been unable to stay in touch with the persons protected by the measures, and have admitted that they are unable to produce the information required.

7. The communication from the President of the Court of February 2, by means of which he indicated to the Commission that the situation described by it

was a source of concern to the Tribunal, since it did not have reliable information through which it could be determined whether the situation of risk to the beneficiaries had ended or if, instead, it persisted.

In it, it requested, in order for the Court to have all elements necessary to take into consideration the basis for the request to lift the provisional measures, that the Commission inform in detail, once it established contact with the persons protected, on the status of the measures and the situation of said persons.

8. The note of the Secretariat of the Court of March 2, 2000, by means of which it requested that the Commission send its observations on the tenth report of the State (*supra* 4), and reiterated the request of the President of the Court (*supra* 7).

9. The eleventh report of Colombia, of March 15, 2000, whereby it stated that

[...] in relationship to the investigation of the homicide of Carlos Arturo Solano-Berma, Sergio Manuel Santero-Bacilo and Dagoberto Santero-Bacilo, on December 22 [1999], the imposition of the safety measure of preventive imprisonment [had been] order[ed] against Francisco Enrique Villalba-Hernández, for the offense of aggravated homicide in concurrence of homogeneous punishable acts and intent of homicide.

10. The note of the Commission of March 27, 1999 (*rectius* 2000), where it stated that

[...] due to the circumstances brought to the knowledge of the Honorable Court in the communications of November 5, 1999, December 10, 1999, and January 28, 2000, the Commission does not have the information necessary for the preparation of observations on the report of the Illustrious State of Colombia in the case under consideration. The Commission has reiterated its request for information to the petitioners, and shall send the corresponding observations as soon as it has the information necessary to formulate them.

11. The eleventh report of the State, of June 29, 2000, where it pointed out that in October 1998 the Protection Program of the Human Rights Office of the Ministry of the Interior delivered communications equipment, through H&S Comunicaciones Ltda, for the security and protection of the Zenú Indigenous Community. It also reported that in May 1999 the Risk Regulation and Evaluation Committee requested information from the National Police relative to the actions carried out by that organization to verify the operation of said equipment, which would be transmitted to the Court as soon as possible. Lastly, it added that, in accordance with the information provided by that Ministry, additional and specific requests for protection had not been received thereafter from the Zenú Indigenous Community.

CONSIDERING:

1. That Colombia is a State Party to the American Convention since July 31, 1973, and that on June 21, 1985 it accepted the jurisdiction of the Court.

2. That Article 63(2) of the American Convention provides that "in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons," the Court may, with respect to matters not yet submitted to its knowledge, at the request of the Commission, "adopt such provisional measures as it deems pertinent."

3. That in the terms of Article 25(1) of the Rules of Procedure of the Court,

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 Article 1(1) of the Convention points out the obligation that the State Parties have to respect the rights and freedoms recognized in that instrument, and to guarantee the free and full exercise thereof to all persons subject to their jurisdiction.

5. That it is the responsibility of the State to adopt security measures for all citizens, such commitment having to be even stricter in relationship to those persons who are involved in proceedings before organs of the inter-American human rights protection system, intended to determine whether rights provided for in the American Convention have been violated.

6. That the State and the Commission have the obligation to investigate and inform the Inter-American Court about the situation of the protected persons.

7. That neither the Inter-American Commission, nor the State, have submitted to the Court sufficient reasons to indicate that the “*situation of extreme gravity and urgency*” has ceased, whereby this Tribunal feels that the lifting of the provisional measures is not justified.

NOW, THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

In exercise of the powers conferred upon it by Article 63(2) of the American Convention on Human Rights, and 25 of its Rules of Procedure.

DECIDES:

1. To request that the State of Colombia maintain all the measures necessary to protect the life and personal integrity of Rosember Clemente Teherán, Armando Mercado, Nilson Zurita, Edilberto Gaspar-Rosario, Dorancel Ortiz, Leovigildo Castillo, Santiago Méndez, Ziola Riondo, Saúl Lucas, José Guillermo Carmona, Celedonio Padilla, Eudo Mejía-Montalvo, Marcelino Suárez-Lázaro, Fabio Antonio Guevara, José Luis Mendoza, Misael Suárez-Estrada, Ingilberto M. Pérez, Martín Florez, Jacinto Ortiz-Quintero, Juan Antonio Almanza-Pacheco, José Carpio-Beltrán, and Luis Felipe Álvarez Polo, in order to avoid irreparable damage to them, in strict conformity with the obligations to respect and guarantee human rights, which it undertook to fulfill under Article 1(1) of the American Convention on Human Rights.

2. To request that the State of Colombia continue investigating the facts denounced that gave rise to the current measures, with the purpose of obtaining effective results that may lead to the identification and punishment of those responsible.

3. To request that the Inter-American Commission on Human Rights submit to the Inter-American Court of Human Rights detailed information concerning the status of the provisional measures and the situation of all persons protected, once it establishes contact with them.

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

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

Alirio Abreu-Burelli

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Caçado Trindade
President

Manuel E. Ventura-Robles
Secretary