

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
JUNE 3, 1999**

**PROVISIONAL MEASURES ORDERED BY THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
IN THE MATTER OF THE REPUBLIC OF GUATEMALA**

COLOTENANGO CASE

HAVING SEEN:

1. The June 22, 1994 order of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") whereby:

1. [It] require[d] the Government of Guatemala to adopt without delay measures to protect the right to life and the personal integrity of PATRICIA ISPANEL MEDIMILLA, MARCOS GODÍNEZ PÉREZ, NATIVIDAD GODÍNEZ PEREZ, MARIA SALES LOPEZ, RAMIRO GODÍNEZ PÉREZ, JUAN GODÍNEZ PÉREZ, MIGUEL GODÍNEZ DOMINGO, ALBERTO GODÍNEZ, MARÍA GARCÍA DOMINGO, GONZALO GODÍNEZ LÓPEZ, ARTURO FEDERICO MÉNDEZ ORTIZ and ALFONSO MORALES JIMÉNEZ.

2. [It] request[ed] the Government of Guatemala to adopt all necessary measures to ensure that the aforementioned persons may continue to reside at or return to their homes in Colotenango, providing them the assurances that they shall not be persecuted or threatened by agents of the Government or by individuals.

[...];

2. The Court's December 1, 1994 order extending the provisional measures adopted and expanding them to include Mrs. Francisca Sales Martín;

3. The Court's February 1, 1996 order requesting the State of Guatemala (hereinafter "the State") that, in addition to the measures already taken, it establish mechanisms to control and police the civil patrols operating in Colotenango;

4. The Court's April 16, 1997 decision to order the State to maintain the provisional measures in the instant case as long as the extremely grave and urgent situation that led to the adoption of provisional measures persisted;

5. The Court's September 19, 1997 order wherein

[...]

2. [It] call[ed] upon the State of Guatemala to expand the measures adopted in this Case for the purpose of ensuring the right to life and physical integrity of Andrés Ramos-Godínez, Rafael Vásquez-Simón, Juan Mendoza-Sánchez, Julia Gabriel-Simón, Miguel Morales-Mendoza, Lucía Quila-Colo and Fermina López-Castro.

3. [It] call[ed] upon the State of Guatemala to investigate the facts denounced by the Inter-American Commission on Human Rights and publish those responsible.

[...];

6. The application filed by the Inter-American Commission on Human Rights (hereinafter "the Commission") on May 19, 1999, wherein it reported the following:

a. In 1998, twelve former civil patrolmen were sentenced to twenty-five years' imprisonment for the murder of Mr. Juan Chanay Pablo and for numerous other human rights violations committed against citizens of the community of Colotenango; they were taken to a prison facility where security was inadequate, and

b. While on a protest march on April 30, 1999, a group of some 600 former patrolmen arrived at Huehuetenango and marched to the facility where the former civil patrolmen were being held. There they suddenly began to brandish clubs, machetes, chainsaws and other tools, which they then used to break into the facility and released the patrolmen.

7. The State's brief of May 31, 1999, wherein it confirmed the information reported in the Commission's application (*supra* 6) and stated the following:

a. On May 13, 1999, the Attorney General's Office reported that on the very day the twelve patrolmen escaped, it immediately took statements from those members of the National Police who were guarding the facility at the time and ordered the Chief of the National Police to search the area around the departmental capital of Huehuetenango in order to find and apprehend the escapees. However, with so few police officers and no patrol cars, any patrol work was out of the question;

b. The COPREDEH delegate in Huehuetenango, Vayron Roderico Herrera Mérida -whose job is to accompany officials of the National Police on their periodic visits to those for whom measures have been ordered by the Court- was told by townspeople sympathetic to the former patrolmen that he would be killed if he showed his face in Colotenango;

c. Through COPREDEH, the State is currently examining alternative ways it can continue to carry out the provisional measures ordered by the Court, since the presence of the National Police or COPREDEH officials could set off serious incidents in the community of Colotenango, and

CONSIDERING:

1. That Article 63(2) of the American Convention provides that "[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons," the Court may, if requested by the Commission, adopt such provisional measures as it deems pertinent in cases not yet submitted to the Court";

2. That under Article 25.1 of the Court's Rules of Procedure:

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 appropriate, pursuant to Article 63(2) of the Convention.

3. That Article 1(1) of the Convention sets forth the States Parties' duty to respect the rights and freedoms recognized therein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms;

4. That by virtue of the Court's orders of June 22 and December 1, 1994, and September 19, 1997, the State has the obligation to adopt the measures needed to preserve the life and safety of those persons on whose behalf the Court ordered provisional measures;

5. That the "*case of extreme gravity and urgency*" that persists warrants continued enforcement of the provisional measures adopted and called for in the Court's orders of June 22 and December 1, 1994 and September 19, 1997;

6. That the briefs submitted by the Commission and the State on May 19 and 31, 1999, respectively, contain information that suggests that the risk to the safety of the persons being protected has escalated since the events of April 30, 1999. The Court therefore considers that alternative mechanisms need to be adopted for continued compliance with the provisional measures ordered;

7. That the State must take all appropriate steps to involve the claimants in planning and executing the Court-ordered measures, so that the latter may be provided diligently and effectively; and

8. That the State's obligation to investigate threats and intimidation experienced by persons under its protection is an essential part of the duty to protect,

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

based on Article 63(2) of the Convention and Article 25 of its Rules of Procedure,

DECIDES:

1. To call upon the State of Guatemala to continue the measures required to protect the life and safety of the persons on whose behalf the Inter-American Court of Human Rights ordered provisional measures in its decisions of June 22 and December 1, 1994, and September 19, 1997.

2. To call upon the State of Guatemala to investigate the events that led to the adoption of those provisional measures, with a view to ascertaining the identity of those responsible and punishing them.

3. To call upon the State of Guatemala to urgently report on the alternative mechanisms necessitated by the events of April 30, 1999, and adopted in order to effectively carry out the provisional measures ordered by the Inter-American Court of Human Rights.

4. To call upon the State of Guatemala to involve the claimants in the planning and execution of the measures referred to in the preceding paragraph and, in general, to keep them informed of the progress made with the measures ordered by the Inter-American Court of Human Rights.

5. To call upon the State of Guatemala to continue to file reports on the provisional measures every two months, and to request the Inter-American Commission on Human Rights to submit its observations on those reports within six weeks of receiving them.

Hernán Salgado-Pesantes
President

Antônio A. Cançado Trindade

Máximo Pacheco-Gómez

Oliver Jackman

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Hernán Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary