

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS*
OF JULY 5, 2006**

**REQUEST FOR PROVISIONAL MEASURES SUBMITTED BY THE INTER-
AMERICAN COMMISSION ON HUMAN RIGHTS
REGARDING THE REPUBLIC OF COLOMBIA**

MATTER OF MERY NARANJO *ET AL.*

HAVING SEEN:

1. The brief of July 3, 2006, and its attachments, in which the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Court"), pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and 25 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), a request for provisional measures for the State of Colombia (hereinafter "the State" or "Colombia") to adopt the necessary measures to protect the life and personal integrity "of Mery Naranjo [Jiménez] and her family and to investigate the acts perpetrated against her and [María del] Socorro Mosquera [Londoño]."¹

2. The Commission presented the following facts, *inter alia*, in relation to the request for provisional measures:

- a) Mery Naranjo Jiménez and María del Socorro Mosquera Londoño are human rights defenders. Mery Naranjo Jiménez has become prominent as a community leader of Commune XIII in Medellín (*infra* Having seen paragraph b)), and she is President of the Community Action Committee of Las Independencias District III. María del Socorro Mosquera Londoño is well known as a community leader and defender of the human rights of the women and children of the Las Independencias District and she is President of the Las Independencias Women's Association. These two women "have constantly denounced State representatives and agents for their alleged participation in serious human rights violations in [Commune XIII]." Regarding their work, the Commission indicated that, as a result of massive displacement and political violence in the State, "feminine leadership" has

* Judges Oliver Jackman and Diego García-Sayán informed the Court that, due to reasons beyond their control, they would be unable to take part in the deliberation and signature of this Order.

¹ In the brief requesting provisional measures the name María del Socorro Mosquera Londoño or Socorro Mosquera Londoño is used without distinction for the person in favor of whom the Commission has requested the adoption of provisional measures. The Court understands that the same person is referred to and, in this Order, it will use the name María del Socorro Mosquera Londoño.

- increased, often as a result of the growth of the informal sector and the increase of poverty, the prostitution of young women, and indigence;
- b) The activities of the two women, as human rights defenders, have been carried out in Commune XIII in Medellín. The population of this Commune is made up principally of fragmented families, many of them victims of enforced displacement. The districts that compose this zone and, in general, those established as a result of the displacement process, do not have the infrastructure or legal permits to satisfy basic residential services, and are known as "sub-normal districts," and
 - c) Commune XIII is located in an area with a history of conflict, in which police authorities have had little control and in which urban militias have been active; the latter are guerrilla cells for urban operations that exercised social control in Commune XIII. During 2002, several military operations were conducted in this Commune to eliminate the militia. There have been reports that, following these military operations, and after the elimination of the militia, the communes were infiltrated by paramilitary groups.
3. The alleged facts on which the request for provisional measures is based are described below. They include:
- a) On October 6, 2004, in the presence of Mery Naranjo Jiménez, Ana Teresa Yarce, who was the Oversight Officer (*Fiscal*) of the Community Action Committees, was murdered while working in Commune XIII. Mery Naranjo Jiménez sought refuge in a convent in the Commune and on October 19, 2004, received threats that members of paramilitary groups would take action against her children and grandchildren;
 - b) On October 22, 2004, the Inter-American Commission adopted precautionary measures in favor of Mery Naranjo Jiménez and María del Socorro Mosquera Londoño, among others, in order to safeguard their life and personal integrity; it requested the State to coordinate the precautionary measures it would adopt with the beneficiaries, and to investigate the facts;
 - c) On February 14, 2006, the Commission was informed that, the previous day, a Command of soldiers from the National Army and paramilitary forces armed and in civilian clothing had entered the home of Mery Naranjo Jiménez, violently and without a court order, and fired shots at the child, Luisa María Escudero Jiménez, the niece of Mery Naranjo Jiménez, who had been injured. The Departmental Police came to Mrs. Naranjo Jiménez's home and prevented the detention of Mrs. Naranjo Jiménez and her family, but allowed "the aggressors to leave without taking any action." These facts were reported to the Offices of the Attorney General and the Medellín Public Prosecutor;
 - d) On February 16, 2006, a group of soldiers again visited Mery Naranjo Jiménez's home and, when she refused to speak to them, they waited about 15 minutes and then left;
 - e) In the context of the precautionary measures, on January 12, 2005, February 17, February 28 and March 17, 2006, the State reported on the actions adopted, and mentioned the following, among others:
 - i. A follow-up meeting with the beneficiaries, Mery Naranjo Jiménez and María del Socorro Mosquera Londoño;
 - ii. The opening of investigations related to the threats and acts against these women;
 - iii. The provision of medical assistance to "the injured [child], who is out of danger," and

- iv. The re-establishment of the protection of Mrs. Naranjo Jiménez and her family "under the direct and personal responsibility of the National Police."
 - f) On April 6, 2006, the Commission was informed that Mery Naranjo Jiménez and María del Socorro Mosquera Londoño were without protection and that, even though the members of the Army who took part in the search of Mrs. Naranjo Jiménez's house had been identified and individualized, the Office of the Medellín Public Prosecutor had not brought any charges. The Commission was also informed that the risk study of Mrs. Mery Naranjo Jiménez had concluded that her situation was "normal; that is [similar to] that of any other citizen"; consequently, she could not benefit from protection measures from the Ministry of the Interior, and
 - g) On April 11, 2006, the Commission requested the State to provide information on the precautionary measures adopted and, at the date of the request for these provisional measures, July 3, 2006, this information had not been forwarded.
4. The arguments of the Commission to justify its request for provisional measures, which include those summarized below:
- a) The death of Ana Teresa Yarce (*supra* Having seen paragraph 3(a)) confirms the extreme gravity of the situation of the community leaders in Commune XIII;
 - b) Even though the State has adopted measures of protection in favor of Mrs. Naranjo Jiménez and Mrs. Mosquera Londoño, the protection granted has not been adequate to safeguard the life of these persons and "the initial threats have materialized in very serious acts against their physical integrity, designed to deprive them of their life," and
 - c) The precautionary measures ordered by the Commission had been the object of a "risk study" and, based on the results, which identified Mery Naranjo Jiménez as a person with a "normal risk level," State agencies refused to implement protection measures.
5. The request of the Inter-American Commission for the Court, based on Article 63(2) of the American Convention, to require the State to adopt all necessary measures to safeguard the life and personal integrity of Mery Naranjo Jiménez and her next of kin: Juan David Naranjo Jiménez (son), Alejandro Naranjo Jiménez (son), Erika Johann Gómez (daughter-in-law), Heidi Tatiana Naranjo Gómez (granddaughter), Sandra Janeth Naranjo Jiménez (daughter), Sebastián Naranjo Jiménez (grandson), María Camila Naranjo Jiménez (granddaughter), Aura María Amaya Naranjo (granddaughter), Alba Mery Naranjo Jiménez (daughter), Javier Augusto Torres Durán (son-in-law) and Esteban Torres Naranjo (grandson), and also of María del Socorro Mosquera Londoño. In this regard, the Commission requested that:
- a) This protection should be personal, permanent and specialized. The persons assigned to provide the protection should possess the relevant qualifications and have the appropriate training and equipment to respond to a possible attack;
 - b) The security units that have been denounced by Mery Naranjo Jiménez must not take part in her protection;
 - c) Mery Naranjo Jiménez lives near her family, in a house that, although it has independent parts, consists of one unit; consequently, the most appropriate course of action would be to protect this residence and, to this end, the State

- should facilitate the participation of the beneficiaries in the planning of the protection;
- d) María del Socorro Mosquera Londoño is “currently displaced and, owing to the existing danger, does not plan to return to the district.” Consequently, the appropriate measures would include a genuine investigation into the acts perpetrated and the threats she has received in order to eliminate the risk of irreparable damage, and that the State adopt all possible measures to ensure that she receives the attention called for by her status as a displaced person;
 - e) The State conduct a genuine, complete and prompt investigation into the acts of aggression against the beneficiaries; individualize those responsible and impose the corresponding sanctions, and
 - f) The State report on progress in the adoption of the measures.

CONSIDERING:

1. That Colombia has been a State Party to the American Convention on Human Rights since July 31, 1973, and accepted the compulsory jurisdiction of the Court on June 21, 1985.
2. That Article 63(2) of the Convention establishes that “in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons,” at the request of the Commission, the Court may adopt such provisional measures as it deems pertinent, in matters that are not yet submitted to its consideration.
3. That, in this regard, 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.
 2. With respect to matters not yet submitted to it, the Court may act at the request of the Commission.

[...]

 6. The beneficiaries of urgent measures or provisional measures ordered by the President may address their observations on the report made by the State directly to the Court. The Inter-American Commission of Human Rights shall present observations to the State’s report and to the observations of the beneficiaries or their representatives
4. That, under domestic legal systems (domestic procedural law) in general, the purpose of provisional measures is to preserve the rights of the parties in dispute, ensuring that the judgment on merits is not prejudiced or prevented by their actions *pendente lite*.
5. That, under international human rights law, provisional measures are not merely preventive, in that they preserve a juridical situation, but rather they are essentially protective, since they protect human rights, inasmuch as they seek to avoid irreparable damage to persons. Provided that the basic requirements of extreme

gravity and urgency and the prevention of irreparable damage to persons are met, provisional measures become a real jurisdictional guarantee of a preventive nature.²

6. That Article 1(1) of the Convention embodies the obligation of States Parties 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.

7. That the adoption of provisional measures does not imply a decision on the merits of the dispute that exists between the petitioners and the State. By adopting provisional measures, the Court is merely ensuring that it can exercise its mandate faithfully, pursuant to the Convention, in cases of extreme gravity and urgency that require measures of protection to avoid irreparable damage to persons.

8. That the States should grant effective and sufficient guarantees to the defenders of human rights so that they may carry out their activities freely, and should pay particular attention to actions that limit or hinder their work, since this work makes a positive and complementary contribution to the State's efforts pursuant to its position as guarantor of the rights of those subject to its jurisdiction.³

9. That, from the information provided by the Commission, it is clear that, despite certain measures of protection adopted by the State in the context of the precautionary measures ordered by the Commission (*supra* Having seen paragraph 3(e)), a situation persists of extreme gravity and urgency and possible irreparable damage to the rights to life and personal integrity of Mery Naranjo Jiménez, her children Juan David, Alejandro, Sandra Janeth, Alba Mery, all Naranjo Jiménez, her daughter-in-law Erika Johann Gómez, her son-in-law Javier Augusto Torres Durán, and her grandchildren Heidi Tatiana Naranjo Gómez, Sebastián Naranjo Jiménez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo and Esteban Torres Naranjo, and of María del Socorro Mosquera Londoño (*supra* Having seen paragraph 5).

10. That, also, according to the information provided by the Inter-American Commission, the child, Luisa María Escudero Jiménez, niece of Mrs. Naranjo Jiménez, who was in her house, received a shot allegedly fired by members of a Command of soldiers of the National Army and paramilitary forces on February 14, 2006 (*supra* Having seen paragraph 3(c)). Despite this, the Commission did not ask the Court to adopt provisional measures in favor of the child. Given the situation described, the Court finds that the life and personal integrity of Luisa María Escudero Jiménez are at risk.

² Cf. *Matter of the Yare I and Yare II Capital Region Penitentiary Center. Provisional Measures*. Order of the Inter-American Court of Human Rights of March 30, 2006, fifth considering paragraph; *Matter of the Monagas Judicial Confinement Center ("La Pica"). Provisional Measures*. Order of the Inter-American Court of Human Rights of February 9, 2006, fifth considering paragraph, and *Matter of the Forensic Anthropology Foundation. Provisional Measures*. Order of the President of the Inter-American Court of Human Rights of April 21, 2006, fifth considering paragraph.

³ Cf. *Matter of the Monagas Judicial Confinement Center ("La Pica"). Provisional Measures*, *supra* note 2, fourteenth considering paragraph; *Matter of Grandson Palma. Provisional Measures*. Order of the Inter-American Court of Human Rights of July 9, 2004, eighth considering paragraph, and *Matter of Lysias Fleury. Provisional Measures*. Order of the Inter-American Court of Human Rights of December 2, 2003, tenth considering paragraph.

11. That the standard for the *prima facie* assessment of a case and the application of presumptions in the face of the need for protection have led the Court to order measures on different occasions.⁴

12. That the information presented by the Commission (*supra* Having seen paragraphs 2, 3 and 4) shows, *prima facie*, that the precautionary measures have not produced the required effects and that Mery Naranjo Jiménez and her family and María del Socorro Mosquera Londoño and the minor, Luisa María Escudero, are in a situation of extreme gravity and urgency, because their lives and personal integrity continue to be threatened and in grave danger. Consequently, in light of the provisions of the American Convention, the Court finds it necessary to protect these persons by means of provisional measures. In this regard, it requests the Inter-American Commission and the representatives of the beneficiaries to inform the Court about the current situation of the child, Luisa María Escudero, so that it can duly evaluate whether to maintain the provisional measures in her favor.

13. That, based on the information provided by the Commission, the Court considers that the State should ensure permanent surveillance of the place of residence of Mery Naranjo Jiménez and her family (*supra* Having seen paragraph 5(c)).

14. That the Commission indicated that María del Socorro Mosquera Londoño was "currently displaced and, owing to the existing danger, does not plan to return to the district" (*supra* Having seen paragraph 5(d)). Accordingly, the Court finds it necessary for the State to ensure and provide the necessary conditions for her to return to her home and to adopt all necessary measures to protect her life and personal integrity. If she does not wish to return home, the Inter-American Commission and the representatives of the beneficiaries are requested to provide the Inter-American Court with information on the location of Mrs. Mosquera Londoño so that the State may provide the appropriate protection in the place where she resides.

15. That the State has the obligation to investigate the facts that gave rise to this request for provisional measures and, if applicable, identify those responsible and impose the corresponding sanctions.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

pursuant to 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 require the State to adopt forthwith the necessary measures to protect the rights to life and personal integrity of the following persons: Mery Naranjo Jiménez

⁴ Cf. *Matter of Yare I and Yare II Capital Region Penitentiary Center. Provisional Measures*, *supra* note 2, twentieth considering paragraph; *Matter of the Monagas Judicial Confinement Center ("La Pica"). Provisional Measures*, *supra* note 2, twenty-second considering paragraph, and *Matter of the Forensic Anthropology Foundation. Provisional Measures*, *supra* note 2, tenth considering paragraph.

and her next of kin, Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Javier Augusto Torres Durán, Heidi Tatiana Naranjo Gómez, Sebastián Naranjo Jiménez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo and Esteban Torres Naranjo, and also María del Socorro Mosquera Londoño.

2. To require the State to adopt forthwith the necessary measures to protect the rights to life and personal integrity of Luisa María Escudero Jiménez.

3. To require the Inter-American Commission on Human Rights and the beneficiaries or their representatives to provide the Inter-American Court of Human Rights with information on the current situation of the child, Luisa María Escudero, within ten days of notification of this Order so that the Court may duly evaluate whether to maintain the measures adopted in her favor.

4. To require the State to ensure that the measures of protection are not provided by the "security units" which, according to the beneficiaries, were involved in the reported facts; consequently, the beneficiaries or their representative should participate in the designation of those who will provide security.

5. To require the State to provide the permanent protection measures necessary to ensure security for the residence of Mery Naranjo Jiménez and her family, in the terms of the thirteenth considering paragraph of this Order.

6. To require the State to adopt the necessary measures for María del Socorro Mosquera Londoño, who has been forced to move, to return home safely, and to adopt all necessary measures to protect her life and personal integrity. If she cannot return home, the Inter-American Commission on Human Rights and the beneficiaries or their representative are required to inform the Inter-American Court of Human Rights of the location of Mrs. Mosquera Londoño, within ten days of notification of this Order, so that the State can provide the appropriate protection in her place of residence.

7. To require the State to investigate the facts that gave rise to the adoption of these provisional measures and, if applicable, identify those responsible and impose the corresponding sanctions.

8. To require the State to take the necessary steps to ensure that the measures of protection decided in this Order are planned and implemented with the participation of the beneficiaries or their representative, so that these measures are provided diligently and effectively and, in general, they are kept informed about progress in the implementation of the measures.

9. To require the State to report to the Inter-American Court of Human Rights on the measures it has adopted to comply with this Order within ten days of its notification.

10. To request the beneficiaries of these measures or their representative to present any observations they deem pertinent to the Inter-American Court of Human Rights within five days of notification of the State's report.

11. To request the Inter-American Commission on Human Rights to present any observations it deems pertinent to the Inter-American Court of Human Rights within seven days of notification of the State's report.

12. To request the State, following the report indicated in the ninth operative paragraph, to continue reporting to the Inter-American Court of Human Rights every two months on the provisional measures adopted, and to require the beneficiaries of these measures or their representative, and also the Inter-American Commission on Human Rights, to submit their observations within four and six weeks, respectively, of notification of the State's reports.

13. To request the Secretariat to notify this Order to the Inter-American Commission on Human Rights, the representative of the beneficiaries of these measures, and the State.

Sergio García Ramírez
President

Alirio Abreu Burelli

Antônio A. Cançado Trindade

Cecilia Medina Quiroga

Manuel E. Ventura Robles

Pablo Saavedra Alessandri
Secretary

So ordered,

Sergio García Ramírez
President

Pablo Saavedra Alessandri
Secretary