

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF JANUARY 29, 2001**

PROVISIONAL MEASURES

PANIAGUA MORALES *ET AL.* CASE

HAVING SEEN:

1. The proceedings in the Paniagua Morales *et al.* case being processed before the Inter-American Court of Human Rights (hereinafter "the Court"), and the transcription of the statement made by Manuel de Jesús González Chinchilla during the public hearing on reparations in the instant case, held by the Court at its seat on August 11 and 12, 2000.

2. The brief of the Inter-American Commission on Human Rights (hereinafter "the Commission"), received on January 26, 2001, in which it informed the Court about "a disturbing attack against the witness, Manuel González", the previous December 25, as a result of which the latter was hit by two bullets and, to date, despite a complaint to the authorities, there is no information about those responsible for this act. Accordingly, the Commission requests the Court to call on the State of Guatemala "to submit information urgently on the investigation into the said attack, the measures adopted so that this is conducted rapidly and efficiently, and the results obtained."

CONSIDERING:

1. That Guatemala has been a State Party to the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") since May 25, 1978, and accepted the obligatory jurisdiction of the Court on March 9, 1987.

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 adopt such provisional measures as it deems pertinent in the matters it has under consideration.

3. That, in the words of Article 25.1 of the Rules of Procedure of the Court:

[a]t 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, from this provision, it is clear that the Court may act on its own motion, in cases of extreme gravity and urgency to avoid irreparable damage to persons. The Court has done so previously¹. In the instant case, this implies safeguarding the life and personal safety of Manuel de Jesús González Chinchilla.

¹ (Cf. *Loayza Tamayo case*. Provisional Measures. Order of the President of the Inter-American Court of

5. That Article 1.1 of the Convention indicates the obligation of States Parties to respect the rights and freedoms embodied in the Convention and to guarantee their free and full exercise to all persons subject to their jurisdiction

6. That the information submitted in this case reveals the existence of a situation of risk to the life and personal safety of Manuel de Jesús González Chinchilla. This situation could be related to the fact that, recently, Mr. González Chinchilla was a witness in the Paniagua Morales *et al.* case. The Court also takes into consideration, the pattern of violence that has been confirmed in the case, and also in other cases processed before the Court concerning Guatemala, and the *modus operandi* of Mr. González Chinchilla's attackers.

7. The standard for *prima facie* evaluation of a case and the application of presumptions when there is a need for protection have led this Court to order provisional measures on different occasions².

8. That, in its jurisprudence, this Court has protected witnesses who have made statements before the Court, by adopting provisional measures³.

Human Rights of December 13, 2000, seventh considering clause; *Constitutional Court case*. Provisional Measures. Order of the President of the Inter-American Court of Human Rights of April 7, 2000. Series E No. 2, sixth considering clause; *Velásquez Rodríguez, Fairén Garbi and Solís Corrales, and Godínez Cruz cases*. Provisional Measures. Order of the Inter-American Court of Human Rights of January 15, 1988. Series E No. 1, fourth and fifth considering clauses.)

² (*Cf., inter alia, Loayza Tamayo case*. Provisional Measures. Order of the President of the Inter-American Court of Human Rights of December 13, 2000, seventh considering clause; *Ivcher Bronstein case*. Provisional Measures. Order of the Inter-American Court of Human Rights of November 23, 2000, fifth considering clause; *Peace Community of San José de Apartadó case*. Provisional Measures. Order of the President of the Inter-American Court of Human Rights of October 9, 2000, fourth considering clause. *Haitians and Dominicans of Haitian Origin in the Dominican Republic case*. Provisional Measures. Order of the Inter-American Court of Human Rights of August 18, 2000, fifth and ninth considering clause; *Constitutional Court*. Provisional Measures. Order of the President of the Inter-American Court of Human Rights of April 7, 2000. Series E No. 2, seventh considering clause; Order of the Inter-American Court of Human Rights of November 17, 1999, Provisional Measures in the *Digna Ochoa y Plácido et al. case*, fifth considering clause; Order of the Inter-American Court of Human Rights of June 3, 1999, Provisional Measures in the *Cesti Hurtado case*, fourth considering clause; Order of the Inter-American Court of Human Rights of May 27, 1999, Provisional Measures in the *James et al. case*, eighth considering clause; Order of the Inter-American Court of Human Rights of June 19, 1998, Provisional Measures in the *Clemente Teherán et al. case*, fifth considering clause; Order of the President of the Inter-American Court of Human Rights of July 22, 1997, Provisional Measures in the *Alvarez et al. case*, fifth considering clause; Order of the President of the Inter-American Court of Human Rights of August 16, 1995, Provisional Measures in the *Blake case*, fourth considering clause; Order of the President of the Inter-American Court of Human Rights of July 26, 1995, Provisional Measures in the *Carpio Nicolle case*, fourth considering clause; Order of the President of the Inter-American Court of Human Rights of June 4, 1994, in the *Carpio Nicolle case*, fifth considering clause; Order of the Inter-American Court of Human Rights of December 7, 1994, Provisional Measures in the *Caballero Delgado and Santana case*, third considering clause; and Order of the Inter-American Court of Human Rights of June 22, 1994, Provisional Measures in the *Colotenango case*, fifth considering clause).

³ (*Cf., inter alia, Bámaca Velásquez case*. Provisional Measures. Order of the Inter-American Court of Human Rights of August 29, 1998. Series E No. 2; *Bámaca Velásquez case*. Provisional Measures. Order of the President of the Inter-American Court of Human Rights of June 30, 1998. Series E No. 2; *Blake case*. Provisional Measures. Order of the Inter-American Court of Human Rights of April 18, 1997. Series E No. 2;

9. That, in this respect, as the Court has already stated, "it is the responsibility of the State to adopt measures of security to protect all the persons who are subject to its jurisdiction; this obligation becomes even more evident in regard to those who are associated with proceedings before the supervisory organs of the American Convention."⁴

10. That, in addition to their essentially preventive nature, the purpose of provisional measures in international human rights law is to provide effective protection for fundamental rights, inasmuch as they seek to avoid irreparable damage to persons.

11. That the Paniagua Morales *et al.* case, is at the reparations stage before the Court.

12. That the situation described by the Commission in relation to Manuel de Jesús González Chinchilla is of extreme gravity and urgency and fits the requirements of Article 63.2 of the American Convention, and this makes it necessary to adopt provisional measures to avoid irreparable damages.

13. That Guatemala has the obligation to investigate the facts that motivated the adoption of provisional measures in order to identify those responsible and impose the pertinent sanctions.

THEREFORE;

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

Blake case. Provisional Measures. Order of the Inter-American Court of Human Rights of September 22, 1995. Series E No. 1; *Caballero Delgado and Santana case*. Provisional Measures. Order of the Inter-American Court of Human Rights of December 7, 1994. Series E No. 1; *Velásquez Rodríguez, Fairén Garbi and Solís Corrales, and Godínez Cruz cases*. Provisional Measures. Order of the Inter-American Court of Human Rights of January 15, 1988. Series E No. 1).

⁴ (Cf. *Loayza Tamayo case*. Provisional Measures. Order of the President of the Inter-American Court of Human Rights of December 13, 2000, ninth considering clause; *The Peace Community of San José de Apartadó case*. Provisional Measures. Order of the Inter-American Court of Human Rights of November 24, 2000, tenth considering clause; *Haitians and Dominicans of Haitian Origin in the Dominican Republic case*. Provisional Measures. Order of the Inter-American Court of Human Rights of November 12, 2000, sixth considering clause; *The Peace Community of San José de Apartadó case*. Provisional Measures. Order of the President of the Inter-American Court of Human Rights of October 9, 2000, eighth considering clause; *Haitians and Dominicans of Haitian Origin in the Dominican Republic case*. Provisional Measures. Order of the Inter-American Court of Human Rights of September 14, 2000, sixth considering clause; *Haitians and Dominicans of Haitian Origin in the Dominican Republic case*. Provisional Measures. Order of the Inter-American Court of Human Rights of August 18, 2000, eleventh considering clause; *Constitutional Court case*. Provisional Measures. Order of the Inter-American Court of Human Rights of August 14, 2000, ninth considering clause; *Constitutional Court case*. Provisional Measures. Order of the President of the Inter-American Court of Human Rights of April 7, 2000. Series E No. 2, ninth considering clause; and *Digna Ochoa y Plácido et al. case*. Provisional Measures. Order of the Inter-American Court of Human Rights of November 17, 1999. Series E No. 2, seventh considering clause).

in the exercise of the powers conferred on it by Article 63.2 of the American Convention on Human Rights and Article 25 of its Rules of Procedure:

DECIDES:

1. To call on the State of Guatemala to adopt all necessary measures to protect the life and safety of Manuel de Jesús González Chinchilla.
2. To call on the State of Guatemala to investigate the facts indicated and report on the situation of the said person, and on the measures adopted to comply with this Order, by February 8, 2001, at the latest.
3. To call on the State of Guatemala, to present reports on the provisional measures adopted in this cases every two months from the date of notification of this Order, and on the Inter-American Commission on Human Rights to submit its comments on these 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