

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF JUNE 27, 1996**

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

VOGT CASE

HAVING SEEN:

1. The petition of March 28, 1996 and its annexes, in which the Inter-American Commission of Human Rights (hereinafter "the Commission" or "the Inter-American Commission"), pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Article 24 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), submitted to the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") a request for provisional measures in regard to Father Daniel Joseph Vogt, in connection with case No. 11.497 currently before the Commission against the Government of the Republic of Guatemala (hereinafter "the Government" or "Guatemala").

2. That the reason for the Commission's request is that Father Daniel Joseph Vogt, a Catholic priest carrying out his evangelical work in the community of Rubelpec, El Estor, Izabal in the interior of Guatemala, has for more than a year and a half, owing to his pastoral work, been the victim of acts of harassment and persecution mainly in the form of a number of serious death threats, attempts on his life, and a series of false accusations linking him to offenses such as sedition and deforestation.

3. By virtue of the authority conferred on him by Article 24(4) of the Rules of Procedure, the President of the Court (hereinafter "the President") issued an Order of April 12, 1996 in which he decided:

1. To request that, in strict compliance with the obligation to respect and guarantee human rights which it accepted under Article 1(1) of the American Convention on Human Rights, the Government of the Republic of Guatemala adopt forthwith such measures as are necessary measures to protect the life and integrity of Father Daniel Joseph Vogt and avoid his suffering irreparable damage.

2. To request that the Government of the Republic of Guatemala investigate the events and punish those responsible.

3. To request that the Government of the Republic of Guatemala submit a report to the President of the Court every thirty days from the date of notification on any urgent measures it has taken, and that the Inter-American Commission on Human Rights submit to the Court its comments on that information within fifteen days of its receipt.

4. To submit this order for the Court's consideration and pertinent effects during its next regular session.

5. To summon the parties to a public hearing to be held at the seat of the Court on

June 26, 1996, at 4:00 p.m., so that the Court may hear their views on the events and circumstances that led to the request for provisional measures and to this Order.

The Order of the President was based on the following considerations:

3. That Article 1(1) of the Convention sets forth the obligation of the States Parties to respect the rights and freedoms recognized in that treaty and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.

4. That, as the Commission points out in its request for provisional measures, the background information presented in this case effectively constitutes "*a prima facie case of urgent and grave danger to Father Daniel Joseph Vogt's life and the integrity of his person.*"

5. That the Inter-American Commission has taken precautionary measures on three occasions, pursuant to Article 29 of its Regulations, and that they have not to date had the required effect, it has become a special circumstance making it incumbent on the President of the Court to request urgent measures to preserve Father Daniel Joseph Vogt's life and the integrity of his person and avoid irreparable damage to him.

6. That the Government has the obligation to prevent violations of human rights and to investigate the events that led to this request for provisional measures in order to identify those responsible and punish them appropriately so as to prevent any recurrence of the events.

4. On May 14, 1996 the Government presented to the Court its first report, in which it stated that no situation of extreme urgency existed in the Municipality of El Estor, "*since Father Daniel Joseph Vogt is living and moving about in this and other communities and even traveling abroad in all tranquillity.*"

5. The Commission's observations of May 30, 1996 on the Government's first report, in which it stated that "*Father Daniel Joseph Vogt's situation is still one of 'extreme gravity and urgency' ... It is of the utmost importance that the Government of Guatemala fully comply with the Orders of the Illustrious Court, adopting the necessary measures to protect Father Vogt's life and the integrity of his person.*"

6. That on June 25, 1996, the Government presented its second report, in which it stated that Father Daniel Joseph Vogt was still receiving the necessary protection:

so that the day and night patrols provided by the police department to protect Father Vogt are in effect ... communications are open between the police authorities and Father Vogt and the members of the El Estor Pro-Defense Committee, [and] as far as the proceedings connected with this case are concerned ... the investigation into the threats and harassment are going forward ... [also] the Second Court of First Instance was asked to issue a warrant for the arrest of Mr. Adrián Coc-Coc, accused of making the threats to the priest in question.

7. The public hearing held on June 26, 1996 at the seat of the Court and attended by:

for the Government of Guatemala:

Cruz Munguía Sosa, representative

for the Inter-American Commission on Human Rights:

David J. Padilla, attorney
Denise Gilman, attorney

Marcela Matamoros, assistant
Father Daniel Joseph Vogt, assistant

At that hearing attention was drawn to the fact that the Government had taken measures to protect Father Daniel Joseph Vogt's life and the integrity of his person. At the same time, the Commission maintained that those measures had not been adequate, particularly as regards the duty to investigate the threats denounced. The Commission stressed that the previous precautionary measures it had called for on September 30, 1994, June 16, 1995 and March 6, 1996 had been fruitless, for which reason it had submitted the request for provisional measures to the Court.

CONSIDERING:

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

2. That Article 63(2) of the Convention declares that:

[i]n 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 the Court has examined the circumstances and events that formed the basis of the President's April 12, 1996 Order, which this Court confirms, finding it to be consistent with the law and the merits of the proceedings.

4. That the Court, having studied the arguments of the Government and the Commission, observes that Guatemala has taken some measures to protect Father Daniel Joseph Vogt. The above notwithstanding, the Court considers that the measures to investigate the events have been neither adequate nor efficacious.

5. That, accordingly, it is necessary to request that the Government of Guatemala, as a vital aspect of its protective duty, take effective measures to investigate the events denounced and, where appropriate, punish the perpetrators.

6. That the Court stresses that the State has the obligation to investigate any situation in which the human rights protected by the Convention may have been violated. The obligation to investigate, as well as prevent and punish, must be assumed by the State as a legal duty and not merely as a formality.

7. That, in particular, the Commission has the obligation in every case to take measures to guarantee the life and physical integrity of all persons whose rights may be violated.

NOW, THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by virtue of the powers conferred on it in Article 63(2) of the American Convention on Human Rights and Article 24 of the Rules of Procedure of the Court,

DECIDES:

1. To ratify the Order of the President of the Inter-American Court of Human Rights of April 12, 1996.
2. To call upon the Government of the Republic of Guatemala:
 - a. To maintain the provisional measures on behalf of Father Daniel Joseph Vogt.
 - b. As a vital aspect of its protective duty, to take effective measures to investigate the events denounced and, where appropriate, punish the perpetrators.
3. To call upon the Government of Guatemala to continue to report every two months on the provisional measures taken.
4. To call upon the Inter-American Commission on Human Rights to submit to the Court its comments on that information not later than one month from the date of its receipt.

Héctor Fix-Zamudio
President

Hernán Salgado-Pesantes

Alejandro Montiel-Argüello

Oliver Jackman

Antônio A. Cançado Trindade

Manuel E. Ventura-Robles
Secretary

So ordered,

Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary