

**DECISION OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
JANUARY 27, 1993**

**PROVISIONAL MEASURES REQUESTED BY THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
IN THE MATTER OF PERÚ**

CHIPOCO CASE

The Inter-American Court of Human Rights, composed of the following judges:

Héctor Fix-Zamudio, President
Sonia Picado-Sotela, Vice President
Rafael Nieto-Navia, Judge
Alejandro Montiel-Argüello, Judge
Hernán Salgado-Pesantes, Judge
Asdrúbal Aguiar-Aranguren, Judge

also present,

Manuel E. Ventura-Robles, Secretary, and
Ana María Reina, Deputy Secretary

adopts the following Decision:

1. On November 23, 1992, pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and 24 of the Rules of Procedure (hereinafter "the Rules") of the Inter-American Court of Human Rights (hereinafter "the Court"), the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") submitted to the Court a request for provisional measures in Case 11.083 which is before the Commission and concerns Mr. Carlos Chipoco.

2. According to that communication, the Government of Perú has filed criminal charges against Mr. Carlos Chipoco before the 43rd Special Prosecutor of Lima for alleged "*activities in support of subversion in the United States.*" Cause N° 136-92 of the 43rd Criminal Court of Lima was opened as a "*criminal proceedings against a group of Peruvians who reside or have traveled abroad, for allegedly committing the crime of justification of terrorism against the state.*" This cause was filed on the basis of a report of the Servicio de Inteligencia Nacional (National Intelligence Service) which mentions the names of several persons and institutions allegedly involved in "*activities in support of subversion in the United States,*" among them Mr. Carlos Chipoco. The charges are founded upon various acts committed abroad such as "*maintaining contacts with human rights organizations, with false information, in which they denigrate the Armed Forces and the Police and other State institutions related to the struggle against subversion.*" This report was adopted by the General

Secretariat, the Office of Legal Affairs of the Ministry of Foreign Relations and by the Special Provincial Prosecutor of the 43rd Special Prosecutor's Office. The Court ordered the confirmation of the identity of the accused, including Mr. Chipoco, the specification of the alleged acts, for the purpose of amending the "*indictment*", and their immediate arrest.

3. According to the Commission, the allegations are serious because if Mr. Chipoco is identified as one of the accused, his arrest could be ordered, and under the new anti-terrorist legislation, a finding of guilty could lead to his loss of Peruvian nationality and a prison sentence of more than twenty years. This is more serious because the trial is secret and summary, conducted within strict time limits by the so-called "faceless judges", and may be held in the absence of the defendant. Mr. Chipoco is in the United States of America where he is an international consultant in human rights and, should he return to Perú, would run the risk of being imprisoned with leaders and activists of the terrorist groups whose acts he has publicly condemned. This would constitute a grave threat to his right to life and the integrity of his person which are recognized by the Convention. According to the Commission, the Government wants to punish, penalize and intimidate those who utilize international procedures and courts for the protection of human rights.

4. In the opinion of the Commission, the need for urgent measures is to avoid the indictment being "*returned without an exhaustive investigation and without having afforded the accused or his representatives an opportunity to prepare his defense.*"

5. By communication of November 30, 1992, the Commission asks the Court to convoke "*a public hearing on the request for provisional measures.*"

6. In exercise of his authority under Article 24(4) of the Rules, the President of the Court (hereinafter "the President") handed down an Order on December 14, 1992, which contains the following Decision:

1. Based upon the foregoing considerations, it is not appropriate at this time to ask the Government of Perú to take urgent provisional measures.
2. To submit the request presented by the Inter-American Commission to the Court at its next regular period of sessions, so it may adopt the appropriate measures pursuant to Article 63(2) of the Convention.

The Order was made known to the Commission and the Government.

WHEREAS:

1. By Order of December 14, 1992, the President decided not to adopt urgent measures, the Court shall now determine whether provisional measures are appropriate under Article 63(2) of the Convention and Article 24(2) of its Rules.

2. The instant case concerns a matter which is not presently before the Court, but rather before the Commission, and the latter has not submitted information to the Court sufficient to support the adoption of such measures, which requires the Commission to have gathered preliminary evidence to support a presumption of the truth of the allegations and of a situation whose grave seriousness and urgency could cause irreparable harm to persons.

3. Thus, it is inappropriate at this time for the Court to adopt the provisional measures requested by the Commission or to hold a public hearing on the matter.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

RESOLVES:

1. Not to adopt, at the present time, the provisional measures re-quested by the Commission and provided for under Articles 63(2) of the Convention and 24 of its Rules.

Done in Spanish and in English, the Spanish text being authentic. Read at the seat of the Court in San José, Costa Rica, on January 27, 1993.

Héctor Fix-Zamudio
President

Sonia Picado-Sotela

Rafael Nieto-Navia

Alejandro Montiel-Argüello

Hernán Salgado-Pesantes

Asdrúbal Aguiar-Aranguren

Manuel E. Ventura-Robles
Secretary