

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF FEBRUARY 1, 1996**

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

COLOTENANGO CASE

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") of May 18, 1995, the operative part of which provides as follows:

1. To extend until February 1, 1996, the provisional measures ordered pursuant to the Court's decision of June 22, 1994, and expanded pursuant to the decision of December 1, 1994, on the Colotenango Case.

2. To request that the Government of Guatemala submit credible information to the Court every 45 days as of the date of this Order, regarding the effective results of the measures adopted in the course of said term.

3. To request that the Inter-American Commission on Human Rights inform the Court of any fact or circumstance that it deems important to the execution of such measures.

4. To instruct the Secretariat of the Court to transmit the information it receives from the Government of Guatemala to the Inter-American Commission on Human Rights in order that the latter may submit its observations to the Court within the following 30 days. Likewise, to transmit to the Government of Guatemala any reports it receives from the Commission in order to obtain the Government's observations within a similar period.

2. The reports of the Government of the Republic of Guatemala (hereinafter "Guatemala" or "the Government") submitted to the Court on July 3, 1995, and expanded by the reports submitted on July 7, August 21, September 29, and November 20, of 1995, and January 23, 1996, respectively, in which the Government informed the Court as to the measures adopted in accordance with operative paragraphs 2 and 4 of the Order of the Inter-American Court of May 18, 1995.

3. The written observations of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") to the Government's reports, received by the Inter-American Court on September 16 and October 31, 1995, and on January 30, 1996, also in accordance with operative paragraphs 2 and 4.

4. The Guatemalan brief submitted on January 28, 1996, seeking an Order from the Court terminating the provisional measures with effect from February 2, 1996,

since

they have been maintained in force for NINETEEN (19) MONTHS, and as the requirement of Extreme Gravity and Urgency invoked by the Commission does not exist, it has become imperative, by reason of the temporary nature of the measures, that they be annulled, since to prolong them indefinitely would be to distort their inherent character. (Capitalized in the original).

5. The letter sent to the Commission on May 20, 1995, by the President of the Court, in which, in reference to this case and at the instance of the full Court, he urged that the Commission,

should examine the possibility of submitting for the consideration of the Court any case in which circumstances of extreme gravity and urgency persist for a prolonged period of time, since the Court is not in possession of sufficient direct knowledge of the facts and of the surrounding circumstances to permit it to come to the most appropriate decision.

CONSIDERING:

1. That the extension of the provisional measures prescribed in operative paragraph 1 of the Order of May 18, 1995, comes to an end on February 1, 1996.

2. That up to the present the Government has punctually supplied reports detailing actions which it has taken in fulfilment of the directives of the Inter-American Court, as well as documents intended to demonstrate that in the Municipality of Colotenango there are no "*circumstances of extreme gravity that put at risk the life and personal integrity of the inhabitants of Colotenango.*"

3. That the Commission maintains that, although the imposition of provisional measures has offered

some level of security to the thirteen persons protected, [the Government] has not fully complied with the orders of the Court and with its duty to guarantee the security of the persons protected [and that a] situation of extreme gravity and urgency continues to exist.

4. That the basis of the rule in Article 63(2) of the Convention is the presumption that a request by the Commission for provisional measures is grounded in the understanding that when it has completed its processing of the case before it, that case will be submitted to the jurisdiction of the Court. This follows from the interpretation of the phrase in that provision which reads: "*[w]ith respect to a case not yet submitted to the Court, it may act at the request of the Commission.*" (Emphasis added).

5. That in connection with the provisional measures in the Chunimá Case, the Court has already set out the criteria to be applied in a matter such as the present one. It stated that in regard to provisional measures in matters which have not been submitted to this Court, it is incumbent on the Commission to take all necessary steps to examine the possibility of submitting to the jurisdiction of the Court any case in which circumstances of extreme gravity and urgency persist for a prolonged period of time, since the Court is not in possession of sufficient direct knowledge of the facts and of the surrounding circumstances to permit it to come to the most appropriate decision.

6. That in light of the above, the President, in his letter of May 20, 1995, to the

Inter-American Commission, requested that it examine the possibility of submitting the case to the jurisdiction of the Court.

7. That according to the Commission, certain measures taken by the Government, *"have had a positive effect for the persons involved in the Colotenango Case, especially in recent months when the Commission has not learned of any grave situations of harassment."*

8. That although the various steps taken by the Government towards fulfilment of the directives contained in the Orders on provisional measures have led to a noteworthy decrease in the number of acts of intimidation by members of the civil patrols, the Court nevertheless, in view of its protective responsibility, deems it appropriate to maintain the provisional measures in force until such time as there is certainty that no irreparable damage will be done to the lives and physical integrity of the 13 persons under protection.

NOW, THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

By virtue of Article 63(2) of the American Convention on Human Rights, and in exercise the authority conferred on it by Articles 24 and 45 of its Rules of Procedure,

DECIDES:

1. To take note of the measures adopted by the Government of the Republic of Guatemala in compliance with the Order of May 18, 1995.
2. To extend for a period of six months the provisional measures ordered in the June 22, 1994 Order of the Court, expanded by the December 1, 1994 Decision of the Court and extended by the Order of May 18, 1995.
3. To call upon the Government of the Republic of Guatemala, further to the measures already in place, it institute mechanisms of control and vigilance over the civil patrols operating in Colotenango.
4. To call upon the Government of the Republic of Guatemala and the Inter-American Commission on Human Rights to continue to provide periodic reports to the Inter-American Court of Human Rights concerning the measures taken in accordance with the Order of May 18, 1995.
5. To request the Inter-American Commission on Human Rights to consider the appropriateness of submitting this case to the Inter-American Court of Human Rights for its consideration.

Done in Spanish and English, the Spanish text being authentic, on this first day of February, 1996

Héctor Fix-Zamudio
President

Hernán Salgado-Pesantes

Alejandro Montiel-Argüello

Máximo Pacheco-Gómez

Alirio Abre-Burelli

Antônio A. Cançado Trindade

Manuel E. Ventura-Robles
Secretary

So ordered,

Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary