

**ORDER OF THE PRESIDENT OF
THE INTER-AMERICAN COURT OF HUMAN RIGHTS
OF MAY 31, 1997**

**EXPANSION OF 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 June 22, 1994, in which it decided

1. To require the Government of Guatemala to adopt without delay all necessary measures to protect the right to life and the personal integrity of PATRICIA ISPANEL MEDIMILLA, MARCOS GODÍNEZ PÉREZ, NATIVIDAD GODÍNEZ PÉREZ, MARÍA SALES LÓPEZ, RAMIRO GODÍNEZ PÉREZ, JUAN GODÍNEZ PÉREZ, MIGUEL GODÍNEZ DOMINGO, ALBERTO GODÍNEZ, MARÍA GARCÍA DOMINGO, GONZALO GODÍNEZ LÓPEZ, ARTURO FEDERICO MÉNDEZ ORTIZ, and ALFONSO MORALES JIMÉNEZ.

2. To request the Government of Guatemala to adopt all necessary measures to ensure that the aforementioned persons may continue to reside at or return to their homes in Colotenango, providing them the assurances that they shall not be persecuted or threatened by agents of the Government or by individuals.

2. The Order of the Court of December 1, 1994, in which it acceded to the request of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of October 6 of that year to expand the provisional measures adopted on behalf of Ms. Francisca Sales Martín.

3. The Order of the Court of February 1, 1996, in which

[it called upon] the Government of the Republic of Guatemala, further to the measures already in place, to institute mechanisms of control and vigilance over the civil patrols operating in Colotenango.

4. The Order of the Court of April 16, 1997, in which it decided to "[m]aintain the provisional measures in the instant case" as long as the situation of extreme gravity and urgency that gave rise to the adoption of provisional measures persists.

5. The request for expansion of provisional measures from the Inter-American Commission of May 15, 1997, in which it requested that the Court

1. Reiterate to the State of Guatemala the need to adopt such measures as may be necessary and effective for safeguarding the lives and physical integrity of the persons named in the previous orders of the Court: Patricia Ispanel-Medimilla, Marcos Godínez-Pérez, Natividad Godínez-Pérez, María Sales-López, Ramiro Godínez-Pérez, Juan Godínez-Pérez, Miguel Godínez-Domingo, Alberto Godínez, María García-Domingo, Gonzalo Godínez-López, Arturo Federico Méndez-Ortiz, Alfonso Morales-Jiménez, and Francisca Sales-Martín. Further, to call upon the State, as decided in the order of February 1, 1996, "to institute mechanisms of control and

vigilance over the civil patrols [actually former members]."

2. Call upon the State to expand the measures ordered to include the adoption of the necessary and effective measures to safeguard the lives and physical integrity of the persons not yet named in the orders of the Court who have been summoned to testify in the domestic trial in the next few weeks. The Commission is in the process of collecting the names of these persons and expects to submit them within a few days; it, however, considers time to be a vital factor. The appropriate authorities are already in possession of the names, addresses and other basic information for identifying these persons and taking the appropriate measures.

3. Call upon the State to conduct a thorough investigation, through the National Police and the Ministry of Public Affairs of Huehuetenango, into the attack on Alberto Godínez, prosecute those responsible in the appropriate domestic courts and punish them accordingly, and into all the acts of harassment to which the protected persons have been subjected.

4. Call upon the State to report to the Honorable Court on the specific measures it adopts in order to protect the persons involved in the quest for justice in this case, and on the status of the investigation into the attack and the other threats within a period not exceeding 15 days from this communication.

5. That, should the Court consider it useful for additional personal and/or documentary evidence to be produced, it order a public hearing to be held for this purpose.

The reasons adduced as the basis of those requests concern an attempt on the life of Alberto Godínez on May 11, 1997, when six former patrolmen allegedly went to his house and by pretending to be a relative of his got him to open the door, forcibly removed him, took him away and, finally, "[a]bout three blocks away, attacked him with a chopper, severing a tendon."

6. The letter from the Secretariat of the Court (hereinafter "the Secretariat") of May 19, 1997, in which, on the instructions of the President of the Court (hereinafter "the President"), it requested the Commission "*to transmit, as soon as possible, the list of names of the persons who will be summoned to testify in the domestic trial connected with the death of Juan Chanay Pablo, on behalf of whom the expansion of the measures is being sought*" and its reiteration of the 29th of the same.

7. The letter from the Secretariat of the Court of May 19, 1997, in which, following instructions from the President, it requested the State to send, without delay, its observations to the request of the Commission.

8. The letter from the Commission of May 30, 1997, in which it submitted the list of the persons summoned to testify in the domestic trial in connection with the death of Juan Chanay Pablo, the following of whom are not protected under the provisional measures in force in the case:

Andrés Ramos Godínez,
Rafael Vásquez Simón,
Juan Mendoza Sánchez,
Julia Gabriel Simón,
Miguel Morales Mendoza,
Lucía Quila Colo, and
Fermina López Castro.

CONSIDERING:

1. That Article 63(2) of the American Convention on Human Rights (hereinafter "the

Convention" or "the American Convention" provides that the Court shall take the provisional measures it deems pertinent in matters not yet submitted to the Court in cases "*of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons*" and by the terms of Article 25(4) of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure")

[i]f the Court is not sitting, the President, in consultation with the Permanent Commission and, if possible, with the other judges, shall call upon the government concerned to adopt the necessary urgent measures and to act so as to permit any provisional measures subsequently ordered by the Court, in its next session, to have the requisite effect.

2. That in accordance with the Orders of June 22, 1994 and February 1, 1996, Guatemala is obligated to adopt all of the measures necessary to ensure the right to life and physical and moral integrity of a group of persons, among them, Mr. Alberto Godínez; to periodically inform the President on these measures and also to establish "*mechanisms of control and vigilance over the civil patrols operating in Colotenango.*"

3. That according to information provided by the Commission, Mr. Alberto Godínez suffered a grave attack at the hands of former members of the civil patrols, over which the State of Guatemala should have established mechanisms of control and vigilance. As a consequence, the measures taken in this case have shown to be insufficient to ensure the physical integrity of Mr. Alberto Godínez.

4. That the State of Guatemala has not presented the Court its observations to the request of the Commission, which were requested by the Secretariat on May 19, 1997. Taking into account the urgency of this situation, it is proper to require that the State present said observations within a peremptory period.

5. That in regards to the request to expand the provisional measures adopted in this case to also benefit Andrés Ramos Godínez, Rafael Vásquez Simón, Juan Mendoza Sánchez, Julia Gabriel Simón, Miguel Morales Mendoza, Lucía Quila Colo, and Fermina López Castro, all of whom will testify in the continuing domestic proceedings for the murder of Juan Pablo Chanay, this Presidency considers, taking into consideration the recent attack in which Mr. Alberto Godínez was victim that the events described by the Commission constitute a situation of extreme gravity and urgency. Consequently, it is proper to expand the measures adopted in this case to benefit the above-mentioned witnesses.

6. That in regards to the third request of the Commission, that is, that the Court require the State to investigate the attack against Mr. Alberto Godínez and that it hold a trial and punish those responsible for the same and "*all the acts of harassment to which the protected persons have been subjected,*" it is appropriate to point out that the State of Guatemala has the obligation, in accordance with Article 1(1) of the Convention, to "*prevent, investigate and punish any violation of the rights recognized by the Convention.*" (*Velásquez Rodríguez Case, Judgment of July 29, 1988. Series C No. 4, para. 166.*)

NOW, THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in compliance with Article 63(2) of the American Convention on Human Rights and in exercise of the authority conferred on him by Article 25(4) the Rules of Procedure, and in prior consultation with the judges of the Court,

DECIDES:

1. To call upon the State of Guatemala to expand the measures adopted in this Case for the purpose of ensuring the right to life and physical integrity of Andrés Ramos Godínez, Rafael Vásquez Simón, Juan Mendoza Sánchez, Julia Gabriel Simón, Miguel Morales Mendoza, Lucía Quila Colo, and Fermina López Castro.
2. To call upon the State of Guatemala to present its observations to the Request of the Commission within a period of one week from the date of notification of this Order.
3. To call upon the State of Guatemala to investigate the facts denounced by the Inter-American Commission on Human Rights and punish those responsible.
4. To submit this Order for the Court's consideration and pertinent effects during its next session.
5. To request the State of Guatemala to include in the reports it will present every two months, in accordance with the Order of the Court of April 16, 1997, the measures taken as a result of the present Order, in order to put them before the Tribunal.

Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary

So ordered,

Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary