

**ORDER OF
THE INTER-AMERICAN COURT OF HUMAN RIGHTS
OF SEPTEMBER 19, 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, MARIA 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 accepted 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 their adoption, 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 [the 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 reiterated the President's request of May 29.

7. The letter from the Secretariat of May 19, 1997, in which, following instructions from the President, it requested the State of Guatemala 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.

9. The Order of the President of May 31, 1997, in which he decided:

1. To call upon the State of Guatemala to expand the measures adopted in this case in

order to guarantee 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 submit its comments on the Commission's request within one week of notification of this order.

3. To call upon the State of Guatemala to investigate the events denounced by the Inter-American Commission on Human Rights and punish those responsible.

4. To submit this order for the consideration of the Court for pertinent effects at its next Regular Session.

5. To request that the State of Guatemala include in the reports it is to submit every two months, pursuant to the order of the Court of April 16, 1997, the measures taken in accordance with this Order, so as to bring them to the attention of the Tribunal.

10. The brief presented by the State on June 23, 1997, in which it reported the capture of Mr. Juan Velázquez, accused of the murder of Juan Chanay-Pablo, and the detention of Nicolás Sánchez-López, Nicolás Santos-Domingo, and Pascual Godínez in connection with the attack on Mr. Alberto Godínez, and that

the COPREDEH Regional Office in the Department of Huehuetenango had made the necessary arrangements with the local authorities for expanding the provisional measures on behalf of Andrés Ramos-Godínez, Rafael Vásquez-Simón, Miguel Morales-Mendoza, Lucía Quila-Colo, and Fermina López-Castro.

11. The July 24, 1997, brief from the Commission, in which it reported that Mr. Alberto Godínez had undergone an operation on four tendons, as a result of wounds suffered in the attack of which he was the victim on May 11 of this year. The Commission also reiterated the need for the provisional measures to continue in force "*to avoid irreparable damage to the life and physical integrity of the persons protected*" by them, because all the persons allegedly responsible for the attack on Alberto Godínez and the arbitrary execution of Juan Chanay-Pablo have not yet been detained.

12. The second report from Guatemala, of September 4, 1997, from Guatemala concerning the expansion of provisional measures, in which it stated that the members of the COPREDEH Regional Office, accompanied by members of the National Police, had visited the villages of Tlojate and Xemal, and the El Chorro housing estate in the municipality of Colotenango, all places where the beneficiaries of the provisional measures reside. It also reported that they had coordinated the expansion of the provisional measures with the local authorities. It stated that the judicial process was still underway, that 12 of the fifteen ex-patrolmen were in detention and that one of them had died.

CONSIDERING:

1. That Guatemala is a State Party to the Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), Article 1(1) of which sets forth the obligation of the States Parties to respect the rights and freedoms recognized therein and to ensure their free and full exercise to all persons subject to their jurisdiction, and that on March 9, 1987, it accepted the jurisdiction of this Court, in accordance with Article 62 of the Convention.

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

[i]n cases of extreme gravity or 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 facts that motivated the Order of the President of May 31, 1997, which this Court upholds, deeming it lawful and consistent with the merit of the proceedings.

4. That the Court observes that although the State reports that it has arranged with the local authorities to effect the expansion on behalf of the persons named in the Order of the President, the names of Juan Mendoza-Sánchez and Julia Gabriel-Simón do not appear among those persons on behalf of whom the State indicates that it has taken action.

5. That in its brief of June 23, 1997, the State declared that it "*has no objection to the expansion of provisional measures requested by the Inter-American Commission ...*"

NOW, THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in compliance with Article 63(2) of the American Convention and Articles 25(1) and 25(2) of its Rules of Procedure,

DECIDES:

1. To ratify the Order of the President of May 31, 1997.
2. 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.
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 call upon the State of Guatemala to continue to report every two months on the provisional measures in this case, and, specifically, on any measures it may have taken on behalf of Juan Mendoza-Sánchez and Julia Gabriel-Simón.
5. To call upon the Inter-American Commission on Human Rights to submit its observations on that information to the Court within a period not exceeding six weeks from the date of its receipt.

Hernán Salgado-Pesantes
President

Antônio A. Cançado Trindade

Héctor Fix-Zamudio

Máximo Pacheco-Gómez

Oliver Jackman

Alirio Abreu-Burelli

Manuel E. Ventura-Robles
Secretary

So ordered,

Hernán Salgado-Pesantes
President

Manuel E. Ventura-Robles
Secretary