

**ORDER OF THE PRESIDENT OF
THE INTER-AMERICAN COURT OF HUMAN RIGHTS
OF OCTOBER 28, 1996**

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

GIRALDO CARDONA CASE

HAVING SEEN:

1. The October 18, 1996 brief, by which the Inter-American Commission on Human Rights (hereinafter "the Commission" or the "Inter-American Commission") submitted to the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court"), a request for provisional measures on behalf of Sister Noemy Palencia, Islena Rey Rodríguez, Gonzalo Zárate, Mariela de Giraldo and her two young daughters, Sara and Natalia Giraldo, 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 of the Court (hereinafter "the Rules of Procedure").

2. The above brief of the Commission in which it requested the Court to adopt the following provisional measures:

1. To take the measures of protection necessary to guarantee the life, physical integrity and personal security and to avoid irreparable damages on behalf of Sister Noemy Palencia, Islena Rey Rodríguez, Gonzalo Zárate, Mariela de Giraldo and her two young daughters, Sara and Natalia Giraldo, in strict compliance with the obligation to respect and guarantee the human rights that the Republic of Colombia has agreed to in accordance with Article 1(1) of the Convention.

2. To call upon the State of Colombia to adopt efficient measures to investigate the denounced events against the members of the Meta Civic Committee of Human Rights in order to punish those responsible for these acts, particularly for the recent murder of the attorney, Josué Giraldo Cardona.

3. To call upon the State of Colombia to adopt the necessary measures to assure that the above-mentioned persons under constant threat can continue living in their habitual residence and return to their homes, providing them the assurance that they will not be persecuted or threatened by agents of the Government or civilians.

4. To call upon the State of Colombia to inform the Honorable Court, in as short a time as is possible, of the concrete and effective measures taken to protect the rest of the members of the Committee and the family members of Josué Giraldo Cardona.

5. To request a public hearing from the Court, so the Commission has the opportunity to declare, as soon as is possible, on the current situation in Villavicencio, in regards to the threats to the Civic Committee.

3. The events alleged by the Commission as grounds for this requests are summarized in the following manner:

a) On April 5, 1995 a group of Colombian human rights non-governmental organizations,

headed by the Inter-Congregational Commission for Justice and Peace, submitted a petition to the Inter-American Commission on Human Rights, according to which, since 1992, the members of the Meta Civic Committee of Human Rights have been subjected to threats, harassment and persecution, and that since that year there have been six executions, three disappearances and two persons have been forced to be internally displaced and seek asylum in the exterior.

b) During 1995 the siege against the Meta Civic Committee of Human Rights by paramilitary groups which, through public events and telephone calls, threatened the human rights organizations present in the zone.

c) In 1995 the petitioners presented various briefs before the Inter-American Commission on Human Rights to ratify the request for precautionary measures. On August 31, 1995, the petitioners stated in their brief that "[t]he situation of imminent danger against the lives of human rights defenders face has not changed at all; that to the contrary they are aware of events and circumstances, that made them fear that they should be prepared for an attack, directed at eliminating the President of the Committee, Doctor JOSUE GIRALDO CARDONA." The request also pointed out that to date they had not received assured and effective answers regarding this situation by the Colombian State.

d) In response to said threats, on November 22, 1995, the Inter-American Commission requested precautionary measures from the Colombian government on behalf of the members of the Civic Committee, including Mr. Josué Giraldo Cardona. The Colombian government responded to this request on January 5, 1996, stating that "[t]he Presidential Advisor for the Defense, Promotion and Protection of Human Rights...conducted inquiries at the highest level in order to provide protection to the members of the Comité." It also stated that the Attorney General of the Nation had begun an investigation and that the National Police had coordinated some actions to provide security to the affected persons but that said security was suspended because the Committee temporarily ceased its work for the promotion of human rights. The government also stated that it had formed an Inter-Institutional Commission to diagnose the human rights situation in Meta.

e) In January of 1996 the threats against the Committee intensified, motivating the President of the Civic Committee, Josué Giraldo Cardona, to temporarily abandon the country and the Board of Directors of the Civic Committee definitively close its headquarters. When Mr. Giraldo returned to the country, after participating in one of the sessions of the United Nations Commission on Human Rights in 1996, the threats against him continued and supposedly "a paramilitary group installed itself in Villavicencio with the sole purpose of killing Josué Giraldo [Cardona]". This event was repeatedly denounced to the Attorney General of the Nation without results.

f) Despite the request for precautionary measures by the Commission to the State, on October 13, 1996, Josué Giraldo Cardona was murdered by shots fired from an unknown person in front of his home in the city of Villavicencio, while he played with his daughters, Sara and Natalia (these two witnessed the murder of their father), and in the presence of the North American citizen, Michael López. The killer, after the murder of Mr. Giraldo, left the scene on a motorcycle on the road that goes to the Municipality of Acacias where the headquarters of the Seventh Brigade of the Army is based. This base has been denounced by human rights groups for supporting paramilitary groups in the Meta Region.

g) Currently, the wife of Josué Giraldo Cardona, Mariela de Giraldo, and their two daughters, Sara and Natalia, are terrified and run a grave risk of an attempt against their lives. The Commission states that in other similar cases "there also have been attempts against the family of the victims, as in the case of Luis Guillermo Pérez, whose family was harassed." The other witness to the murder, the North American attorney Michael López, was forced to abandon the country given the situation.

h) Similarly, on October 17, 1996, the petitioners requested that the Inter-American Commission, in accordance with Article 63(2) of the Convention, petition the Court to adopt provisional measures to protect the life and the physical integrity of Sister Noemy Palencia, Islena Rey Rodríguez, Gonzalo Zárate, Mariela de Giraldo and her two daughters Sara and Natalia Giraldo.

4. The Commission's brief of October 22, 1996, in which it states that on that date case number 11.690 was opened before the Commission and that

the November 22, 1995 precautionary measures requested by the

Commission to the Government...encompassed Islena Rey Rodríguez, Sister Noemy Palencia, and Gonzalo Zárate, and other members of the Department of Meta Committee on Human Rights, including Josué Giraldo Cardona. The measures requested by the Commission did not include Mariela Giraldo, wife of Josué Giraldo Cardona, or their two young children, Sara and Natalia. Given the extreme urgency of the situation and the fact that the precautionary measures of the Commission had not worked to protect Josué Giraldo Cardona, the Commission decided not to request precautionary measures on behalf of these persons after the murder of Mr. Giraldo, petitioning instead directly to the Court for the adoption of provisional measures, in accordance with Article 63(2) of the Convention.

CONSIDERING:

1. That Colombia has been a State Party to the American Convention since July 31, 1973 and that it accepted the compulsory jurisdiction of the Court on June 21, 1985.
2. That Article 63(2) of the American Convention provides that, in cases of "*extreme gravity and urgency, and when necessary to avoid irreparable damage to persons,*" the Court, in matters not yet submitted to it, may, at the request of the Commission, take the provisional measures it considers pertinent.
3. That in the terms of Article 24(4) of the Rules of Procedure of the Court: "*[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 such urgent measures as may be necessary to ensure the effectiveness of any provisional measures subsequently ordered by the Court at its next session*".
4. That Article 1(1) of the Convention sets forth the obligation of the States Parties to respect the rights and freedoms recognized in this treaty and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.
5. That the violent past and the new violent events and aggression against the members of the Meta Civic Committee of Human Rights, occurring since 1992, constitute a situation of imminent and grave danger to the members of said Committee.
6. That the Inter-American Commission had requested precautionary measures which "*have proven not to be efficient or to have produced the required effects, given that no effective protection for the life and personal integrity of the members of the Civic Committee was provided, particularly for its President, murdered on October 13*" of this year and, for this reason, the present exceptional circumstances make it necessary to order urgent measures to avoid irreparable damage not only to the members of the Committee but also to the family members of Josué Giraldo Cardona.
7. That it is the responsibility of the Government to adopt security measures for all of its citizens, an obligation that should be yet greater in regards to those who are involved in matters before organs of the Inter-American system for the protection of human rights.
8. That similarly, the Government of Colombia has the obligation to investigate the events that motivated this request for provisional measures in order to identify those responsible and to impose the appropriate sanction, particularly in regards to the murder of Josué Giraldo Cardona.

NOW, THEREFORE:

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

in consultation with the rest of the judges of the Court and in compliance with Article 63(2) of the American Convention on Human Rights and in exercise of the powers conferred on it by Article 24(4) of its Rules of Procedure,

DECIDES:

1. To call upon the State of Colombia to adopt, forthwith, such measures as may be necessary to protect the life and physical integrity of Sister Noemy Palencia, Islena Rey Rodríguez, Gonzalo Zárate, Mariela de Giraldo and her two young daughters Sara and Natalia Giraldo, and to avoid irreparable damage to them, in strict compliance with the obligation to respect and guarantee the human rights it has contracted to in accordance with Article 1(1) of the American Convention on Human Rights.

2. To call upon the Government of Colombia to adopt, forthwith, such measures as may be necessary to ensure that the aforementioned persons can continue living in their habitual residence and to return to their homes, providing them the assurance that they will not be persecuted or threatened by agents of the Government or by civilians.

3. To call upon the Government of Colombia to investigate the denounced events against the members of the Meta Civic Committee of Human Rights, in order to punish those responsible for these acts, particularly for the murder of Josué Giraldo Cardona.

4. To call upon the Government of Colombia to report to the Court within 15 days, and later every 30 days, as of notification of this Order, on the urgent measures it has taken. To also call upon the Inter-American Commission on Human Rights to submit its observation on said information to the Court within 15 days as of receipt of the Government reports.

5. To submit this Order for the Court's consideration and pertinent effects during its next session.

Héctor Fix-Zamudio
President

Víctor Ml. Rodríguez-Rescia
Interim Deputy Secretary

So ordered,

Héctor Fix-Zamudio
President

Víctor Ml. Rodríguez-Rescia
Interim Deputy Secretary