

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF SEPTEMBER 30, 1999**

**PROVISIONAL MEASURES ADOPTED BY THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
IN THE MATTER OF COLOMBIA**

GIRALDO CARDONA CASE

HAVING SEEN:

1. The order of the Inter-American Court of Human Rights (hereinafter "the Court" or "the Inter-American Court") of November 27, 1997, in which it was decided:

1. To call upon the State of Colombia to adopt such measures as may be necessary to protect the life and physical safety of Sister Noemy Palencia, upon her return to El Meta.

2. To maintain the provisional measures in favor of Islena Rey Rodríguez, Mariela de Giraldo and her two minor daughters, Sara y Natalia Giraldo.

3. That the State of Colombia must contact the beneficiaries of the provisional measures in order to offer them due, secure, definitive and reliable protection and that, in its next report, it must refer to the result of this step.

4. To call upon the State of Colombia, as an essential part of the duty to protect, to include in its next report information on the progress of the investigation into those responsible for the facts that gave rise to the provisional measures and on the punishment of those responsible for these facts and, if possible, to forward copies of the corresponding actions.

2. The brief of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of September 3, 1999, in which it stated that during the night of September 2, 1999, it received an urgent request from the petitioners advising that

today at approximately six in the afternoon, ISLENA REY received a telephone call at her place of work in which the Commander of the El Meta Police Department, Colonel Gutiérrez, informed her that a call had been traced in which her last name and physical characteristics were mentioned and an order was given to assassinate her.

The Commission immediately requested the Court to call upon Colombia (hereinafter "the State" or "Colombia") to adopt special measures of protection to guarantee the life and physical safety of Islena Rey.

3. The communication of the Secretary of the Court (hereinafter "the Secretary") of September 3, 1999, in which he forwarded a copy of the Commission's brief of the same date to the State and, following the instructions of the President of the Court, requested the State to take such special measures of protection as might be necessary to guarantee the life and physical safety of Mrs.

Rey. Likewise, the Secretary requested the State to present a report on Mrs. Rey's situation and the measures taken to guarantee her protection, by September 10 that year, at the latest.

4. The Commission's observations on the State's sixteenth report of September 15, 1999, in which it declares that:

a. *on the situation of Islena Rey:* the petitioners allege that they have no knowledge of the adoption of specific measures to prevent acts against the life and physical safety of Islena Rey, and that the petitioners advised that the Ministry of the Interior had provided Mrs. Rey with a vehicle, but without the resources needed to maintain it, which annulled the effectiveness of this measure.

b. *on the situation of Mariela Giraldo:* the State's report only refers to the illumination of the sector of Mrs. Giraldo's residence; that the Ministry of the Interior alleged that it was unaware of two of the agreements reached in favor of Mrs. Giraldo, these are that the National Police Force should carry out periodic patrols in the sector and that communications would be established with security organizations to ensure an immediate reaction in dangerous situations; that the petitioner advised that the communications sent to the Social Insurance Institute had not had the desired effects and, consequently, that the Ministry of Foreign Affairs had been requested in writing to invite a representative of the Social Insurance Institute to a meeting to be held on July 22, 1999; however, no reply had been received from the State.

c. *on the situation of the security and reopening of the El Meta Civic Committee:* the petitioners state that the measures required to enable the El Meta Human Rights Civic Committee to reopen had not been adopted; that a series of attacks against the members of this organization had occurred, including the assassination of Jader Castaño by two members of a paramilitary force in a place known as Caño Silbao, on October 5, 1999; the assassination of Eliécer Gómez Rubio by paramilitary groups in the municipality of San Martín on July 17, 1999, and that the body of the latter apparently presented signs of torture, and during the burial in Medellín del Ariari, army helicopters had flown overhead, frightening the communities that had traveled from Puerto Esperanza and El Castillo to take part. Lastly, that the petitioners consider that these facts, added to the establishment of military checkpoints in El Dorado, Pueblo Sánchez and Cubarral, to control access and supplies for the inhabitants, show that the process of intimidation against members of the El Meta Civic Committee continues.

d. *on the investigation of the facts that originated the measures ordered by the Court:* the petitioners stated that they still do not know the status of the proceeding on the assassination of Josué Giraldo; that they are concerned that, according to the provisions of Article 4 of Decree 2271/1991 and Article 30 of Decree 2790/1990, the authorities have one year to carry out the preliminary inquiry, that once this term has expired, a decision must be taken on suspension or the writ of prohibition issued, and if it expires, there is a risk that the case would be closed.

5. The Commission's petition, included with these observations, requesting the Court:

a. To require the State to execute the measures in favor of Islena Rey and Mariela Giraldo;

- b. That it should continue providing specific, detailed information on the steps taken to comply with the measures of protection, in particular with regard to Islena Rey and the possibility of reopening the Human Rights Civic Committee of El Meta;
 - c. That it should provide specific information on the progress of the judicial inquiry into the facts that gave rise to the measures, including the number of arrests made and whether those members of the police force about whom there are indications that they support the work of the paramilitary groups have been separated from their functions, and
 - d. That it should convene and continue to take part in meetings with the protected persons and the petitioners in order to monitor implementation of the measures.
6. The State's seventeenth report of September 17, 1999, in which it describes the following measures taken to protect Islena Rey:
- a. *arrangements for her residence:* include 24-hours a day surveillance of the residence by security patrols of three units from the Section for the Protection of Dignitaries who have spent two years in these arrangements, who are trusted by Mrs. Rey, and whose activity is permanently supervised by an officer and a female assistant.
 - b. *arrangements for her workplace:* include the 24-hours a day surveillance to ensure the security of her workplace by three units of the Section for the Protection of Dignitaries; these arrangements have been approved by Mrs. Rey.
 - c. *personal arrangements:* these were carried out by the Section for the Protection of Dignitaries of the El Meta Police Department until August 14, 1999, when, at Mrs. Rey's request, they were changed and taken on by units of the Administrative Department of Security; in coordination with the National Police Force, this department gave her a vehicle and assigned her two escorts.
 - d. *her surroundings:* the personal safety arrangements consisted of the National Police Force, radios, cellular telephones and short and long-range rifles.
 - e. *achievements:* the excellent relations forged with Mrs. Rey, the desire of the latter to attend meetings on matters related to her security, and the report that Mrs. Rey has been provided with telephone numbers which are attended immediately at any hour of the day or night, should something occur that needs be made known to the head of the Unit.
 - f. *problems:* some difficulties that occurred on various occasions when Mrs. Rey traveled outside the urban perimeter without her personal escort.
 - g. *information:* according to electronic intelligence activities and analysis, a communication was captured regarding a possible attempt on someone's life; all the authorities involved in her safety arrangements were informed (DAS, the People's Defender, the El Meta Police Department, and Mrs. Rey herself). The State indicated that the Meta Section of the DAS advised that on June 17, 1999, Mrs. Rey's escorts, Rosendo Rincón Ríos and John Fredy Díaz Torres, were given rifle training and instructions on protection; Mrs. Rey was informed about the appointment of her new escorts but waived them until the Ministry of the Interior provided her with a vehicle; this was resolved and the new security arrangements commenced as of August 17, 1999. Mrs. Rey was informed of the declaration of Lieutenant Mario Alberto Gutiérrez Jiménez, Commander of the Meta Police Department, about the telephone call regarding a possible attempt against her and, accordingly, the DAS

Section for El Meta gave Mrs. Rey instructions on self-defense, insisting that she change her routes and inform the Section about anything out of the ordinary that occurred in order to assist her escorts. The latter were given instruction on security measures and told that they should call the Section if they noticed anything out of the ordinary and that they should also advise the Section if Mrs. Rey traveled outside the city so that the situation of law and order in the zone to be visited could be verified.

h. *About Mariela de Giraldo:* the National Police Force commenced patrols around her residence, thereby executing the last remaining safety measure in this case, as Mrs. Giraldo herself had requested mild security measures.

CONSIDERING:

1. That Article 63.2 of the American Convention establishes that in cases of "extreme gravity and urgency and when necessary to avoid irreparable damage to persons", the Court shall adopt such provisional measures as it deems pertinent at the request of the Commission, in matters which have not yet been submitted to it.

2. That in the words of Article 25.1 of the Rules of Procedures of the Court:

[a]t any stage of the proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63.2 of the Convention.

3. That Article 1.1 of the Convention indicates the duty of the States Parties to respect the rights and freedoms recognized therein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.

4. That, according to the Court's orders of October 28, 1996, February 5, 1997, June 19 and November 27, 1998, the State is obliged to adopt such measures as may be necessary to protect the life and physical safety of Sister Noemy Palencia (on her return to El Meta), Islena Rey, Mariela de Giraldo and her two minor daughters, Sara and Natalia Giraldo, in favor of whom the Court has ordered provisional measures.

5. That "*a situation of extreme gravity and urgency*" continues with regard to the situation of Sister Noemy Palencia, Islena Rey Rodríguez, Mariela de Giraldo and her two minor daughters, that justifies maintaining the provisional measures that this Court adopted in their favor.

6. That, according to the briefs presented by the Commission on September 3 and 15, 1999, and by the State on September 17, 1999, there is information to suggest that the danger to the security of the persons protected continues, in particular, Islena Rey, so that the Court considers that it is necessary to adopt alternate mechanisms that make it possible to continue executing the provisional measures.

7. That the State must take all pertinent steps so that the measures ordered by the Court are planned and applied diligently and effectively, with the participation of the petitioners.

8. That although the State's reports describe the protection systems put in place in favor of the beneficiaries, they do not refer to the investigation or to the punishment of those responsible for the facts that gave rise to the adoption of provisional measures and that, as an essential measure of protection, the State is obliged to investigate and advise the Court about the threats and intimidating acts suffered by the protected persons.

NOW THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

by virtue of the powers conferred on it by Article 63.2 of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

RESOLVES:

1. To require the State of Colombia to maintain the measures necessary to protect the life and physical safety of Sister Noemy Palencia (on her return to El Meta), Islena Rey, and Mariela de Giraldo and her two minor daughters, Sara y Natalia Giraldo, in whose favor the Inter-American Court of Human Rights ordered provisional measures in its orders of October 28, 1996, February 5, 1997, and June 19 and November 27, 1998.
2. To require the State of Colombia to investigate and inform the Inter-American Court of Human Rights about the facts denounced, which gave rise to these measures, in order to discover those responsible and punish them.
3. To require the State of Colombia to provide information on the alternate mechanisms that will be adopted to execute effectively the provisional measures ordered by the Inter-American Court of Human Rights, as a consequence of the facts described in the Commission's briefs of September 3 and 15, 1999, and the State's brief of September 17, 1999, and on the efforts made to reopen the El Meta Human Rights Civic Committee.
4. To require the State of Colombia to continue allowing the petitioners to participate in the planning and implementation of the measures referred to in the previous point and, in general, maintain them informed on the progress of the measures ordered by the Inter-American Court of Human Rights.
5. To require the State of Colombia to continue presenting reports every two months on the provisional measures it has taken and the Inter-American Commission on Human Rights to submit its observations on the reports within six weeks of their receipt.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Caçado Trindade
President

Manuel E. Ventura-Robles
Secretary