

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF NOVEMBER 30, 2001**

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

**THE MIGUEL AGUSTÍN PRO JUÁREZ
HUMAN RIGHTS CENTER *ET AL.* CASE**

HAVING SEEN:

1. The brief of October 22, 2001, and attachments, in which, pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention") and Article 74 of its Regulations, 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 in favor of the members of the non-governmental human rights organization known as the Miguel Agustín Pro Juárez Human Rights Center (hereinafter "PRODH Center") and the lawyers Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez with regard to the United Mexican States (hereinafter "Mexico" or "the State"). In this brief, the Commission requested the Court:

- a) To immediately adopt effective security measures to guarantee the life and personal safety of the members of the PRODH Center and the lawyers, Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez.
- b) To establish the measures of protection set forth in paragraph (a) *supra*, in agreement with the persons to be protected so as to ensure the effectiveness and pertinence of such measures.
- c) To adopt, as an essential element of the duty to protect, effective measures to investigate the facts that gave rise to these measures, in order to identify and punish those responsible for such facts in accordance with due process.
- d) To advise the Court shortly about the concrete and effective measure adopted to protect the members of the PRODH Center and the lawyers, Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez; and, subsequently, to inform the Court about the status of the provisional measures every two months.

The Inter-American Commission also requested the Court to convene a public hearing as soon as possible so that it could provide detailed information on the situation in question.

The Commission based its request for provisional measures on the following facts:

- a) on October 19, 2001, Digna Ochoa was assassinated. This professional was attacked by one or more unidentified persons in the office of her colleague Pilar Noriega García in the Colonia Roma district in Mexico City. Digna Ochoa's body "had three wounds and a gun shot in the head", the latter, from the so-called "*golpe de mina*" (mine blast effect) since the shot was fired from no more than 2 centimeters from the head;
- b) a message containing a specific threat against the members of the PRODH Center was found next to the victim's body;
- c) various Mexican authorities, including the Federal District Attorney General stated publicly that the extrajudicial execution of the lawyer was a reprisal for her professional activities in defense of human rights. Digna Ochoa performed this work in direct and close collaboration with the lawyers, Bárbara Zamora López, Pilar Noriega García and Leonel Rivero Rodríguez.

The Commission also indicated that:

- a) the facts show that the life and personal safety of the members of the PRODH Center and the lawyers, Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez, are in grave and imminent danger;
- b) the State is responsible for adopting the necessary measures to ensure the safety of all its citizens and, in particular those persons dedicated to the defense and promotion of human rights; these measures include investigating the origin of threats and harassment; and
- c) there is evident danger for the members of the PRODH Center, owing to the specific, direct threat made on October 19, 2001; furthermore, the situation of three of the professionals identified in this request is of great concern because they defended cases together with Digna Ochoa and the Commission has been informed that these professionals have received threats in the past.

2. The order of the President of the Court of October 25, 2001, in consultation with the other judges of the Court, in which he decided:

1. To call on the State to adopt, without delay, all necessary measures to protect the life and safety of the members of the Miguel Agustín Pro Juárez Human Rights Center and the lawyers, Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez.
2. To call on the State to allow the petitioners to participate in the planning and implementation of the measures and, in general, to keep them informed about progress in the measures ordered by the Inter-American Court of Human Rights.
3. To call on the State to investigate the facts denounced that gave rise to these measures in order to identify those responsible and punish them.
4. To call on the State to inform the Inter-American Court of Human Rights about the measures that it has adopted in compliance with this order, within 10 days of receiving notification of the order.

5. To call on the Inter-American Commission on Human Rights to present the observations it deems pertinent to the Inter-American Court of Human Rights within 10 days of receiving notification of the State's report.

6. To call on the State to continue informing the Inter-American Court of Human Rights, every two months, on the provisional measures it has adopted and to call on the Inter-American Commission on Human Rights to present its observations on these reports within six weeks of receiving them.

7. To convene the Inter-American Commission on Human Rights and Mexico to a public hearing at the seat of the Inter-American Court of Human Rights on November 26, 2001, at 3 p.m., in order to hear their statements on the facts and circumstances that gave rise to the adoption of these urgent measures, without prejudice to the information that the parties will provide in the report and in the brief with observations requested in this order.

3. The State's report of November 5, 2001, in which it provided information on the measures it had adopted and the investigation into the facts that gave rise to them. With regard to the measures adopted, Mexico indicated that, since the date of the death of Digna Ochoa, the authorities of the Office of the Federal District Attorney General (hereinafter "PGJDF") had offered security and guard services to the installations of the PRODH Center, after having consulted with the beneficiaries. Moreover, members of the PGJDF had met with Bárbara Zamora López and Leonel Rivero Rodríguez to offer them the required protection; the latter had indicated that they would contact the PGJDF subsequently to inform it about how they wished this protection to be provided. Since October 20, 2001, Pilar Noriega García has been provided with security personnel by the PGJDF for 24 hours a day. Lastly, with regard to Edgar Cortéz and the other members of the PRODH Center, they are assessing the offer of governmental protection and the terms in which this could be carried out. Also, with regard to the investigation into the facts, the State indicated that:

a) At 7.30 p.m. on October 19, 2001, the Office of the Federal District Attorney General (PGJDF) began investigating the homicide of Digna Ochoa y Plácido. The body was removed to the Fourth Investigative Agency for identification and examination;

b) Several persons have made statements with regard to the threats that Digna Ochoa y Plácido had received; and

c) The members of the PRODH Center are collaborating in the investigation.

4. The Commission's brief of November 7, 2001, in which it forwarded a communication addressed to the Commission by Leonel Rivero Rodríguez and Bárbara Zamora López about their specific needs for protection by the State.

5. The brief of the Inter-American Commission of November 21, 2001, in which it forwarded the "observations presented by the petitioners on the first report of the State of Mexico" on the provisional measures¹. With regard to these measures, the observations indicated that:

¹ During the public hearing held on November 26, 2001, the Inter-American Commission on Human Rights expressly endorsed the brief with the petitioners' observations presented as an attachment by the Commission.

a) As of October 19, 2001, the installations of the PRODH Center have been guarded and offered security; to this end, a PGJDF patrol car was installed in front of these offices and, as of October 20, 2001, the PGJDF have provided security personnel to the lawyer, Pilar Noriega García, during 24-hours each day.

b) With regard to the measures proposed by the beneficiaries that are pending implementation, the PRODH Center requested that 31 cellular telephones should be put in service for the use of its members in case of dangerous situations or fear of attack. Bárbara Zamora López requested the State to provide the following protection measures: installation of a closed circuit system in the *Colectivo Tierra y Libertad* law office similar to the one installed in the PRODH Center and placing a guard in front of that law office from 7 a.m. to 10 p.m. Lastly, as protection measures, Leonel Rivero Rodríguez requested that he be provided with a car and two private guards of his own choice; and

c) The investigation into the facts related to the death of Digna Ochoa y Plácido has not been undertaken, despite the statements of several authorities. Digna Ochoa's next of kin and the PRODH Center have collaborated with the Office of the Attorney General in the criminal proceedings to investigate her death. However, they have not had full access to the file, and this has prevented substantive collaboration.

As a result of the death of Digna Ochoa y Plácido, the Court was also requested in this document with observations, to expand the provisional measures to include her parents and twelve siblings, because Mrs. Ochoa's next of kin have seen strange cars and persons around their houses and received anonymous telephone calls which cause them to fear for their lives and personal safety.

Finally, in this brief with observations, the Court was requested to proceed as follows:

[...]

4. To call on the State of Mexico to comply immediately with the personal protection measures requested in favor of the persons who are still without protection.

5. To call on the State of Mexico to duly adopt the necessary or corrective measures to ensure the effectiveness of the investigation into the facts of the assassination of the lawyer Ochoa, and the threats against the members of the [PRODH] Center and Leonel Rivero.

6. The public hearing on this request for provisional measures was held at the seat of the Court on November 26, 2001.

There appeared at the hearing:

For the State of Mexico:

Mariclaire Acosta Urquidi, Under-Secretary for Human Rights and Democracy
Carlos Pujalte Piñeiro, Mexican Ambassador to Costa Rica

Bernardo Bátiz Vázquez, Federal District Attorney General
Juan José Gómez Camacho, Director General of Human Rights; and
Jorge Ulises Carmona Tinoco, Director for Individual Cases, Human Rights
Directorate

For the Inter-American Commission on Human Rights:

Mario López Garelli, Inter-American Commission lawyer
Elizabeth Abi-Mershed, Inter-American Commission lawyer
Carmen Herrera, assistant
Viviana Krsticevic, assistant, and
Juan Carlos Gutiérrez, assistant.

7. The arguments of the Inter-American Commission, in which it:

a) presented updated information on the risk status of the colleagues and next of kin of Digna Ochoa and assessed the State's compliance with the measures that had been ordered;

b) set out, in chronological order, from 1995 to date, the threats, harassment and violent attacks against Digna Ochoa y Plácido and other professionals who collaborated with her in her work. The death of Digna Ochoa marked the culmination of a cycle of intimidation, violence and impunity. The Commission also indicated that the facts described and the death of Digna Ochoa y Plácido confirm the grave and urgent situation involving imminent risk for those who worked closely with Digna Ochoa, the members of the PRODH Center, and her family;

c) indicated that it is clear that the series of threats, together with the messages and the types of intimidation, were due to the work of the lawyers of the PRODH Center as human rights defenders and, specifically, were addressed to those lawyers who, like Digna Ochoa, had denounced members of the police force and judicial officials involved in violating fundamental rights before judicial and military bodies;

d) indicated that, after the death of Digna Ochoa, her parents and siblings had also expressed their concern about a series of incidents involving threats, strange telephone calls and the presence of unknown persons;

e) added that the conditions in which the investigation into the death of Digna Ochoa was being conducted did not ensure that justice would be done or the facts of the case clarified;

f) indicated that the specific measures requested are reasonable and their implementation is very simple and that it is difficult to understand why the State has provided such a partial and delayed response when there is a situation of imminent risk. Notwithstanding the foregoing, the primary measure of protection for the beneficiaries is the criminal investigation, the clarification of the facts and the punishment of those responsible; and

g) stated that it endorsed the observations made by the representatives of the beneficiaries of the measures, which were forwarded to the Court by the Commission in its brief of November 21, 2001 (*supra* having seen 6), and

expressly reiterated its request for ratification of the order of the President of October 25, 2001 (*supra* having seen 3); it also requested that the provisional measures should be expanded to include the parents and twelve siblings of Digna Ochoa y Plácido, and that they should be implemented in consultation with the interested parties, in the terms established. Lastly, it requested that the State should be required to provide reports every month, instead of every two months, and, consequently, that the period for the Commission to present its observations, once it had received the State's reports, should be reduced to four weeks.

8. The statement of one of the Commission's assistants on the factors that she had taken into account when she had agreed that the provisional measures ordered in favor of Digna Ochoa and others should be lifted:

When we took the decision to request that the measures should be lifted, we took various factors into consideration. The first was that the Attorney General had closed the investigation; according to the petitioners, this ended the possibility of terminating the impunity in this series of threats and harassment, at that time. I believe that [it is necessary to express a] public *mea culpa*; we underestimated the sword of Damocles that impunity represented for the physical safety of all of us, [...] the members of the PRODH Center, who agreed that the measures should be lifted, because there was no point in continuing to insist on investigations when the State was not undertaking them and refused to continue with them. The lawyer, Digna Ochoa, manifested her frustration with the ineffectiveness of the administration of justice and also, to a certain extent, her confidence that [...] acts [such as her homicide] could not happen in present day Mexico. I therefore believe that, in these circumstances, we, the representatives of the victims, and the victims themselves made an error in our calculations; we did not believe that impunity was a sword of Damocles and this error led to fatal consequences for ourselves and for our colleagues. We made a mistake owing to our frustration in the face of the response of the administration of justice and of the State of Mexico itself.

9. The arguments of the State during the same public hearing, in which it referred to:

a) Compliance with its commitment to human rights: the State has worked with civil organizations and the relevant Government authorities in order to uproot impunity, and the shameful homicide of Digna Ochoa painfully and dramatically underscores the scope of impunity. Human rights defenders play an essential role in any democratic society, their protection is an obligation for Mexico and work will continue until an environment has been achieved that ensures their safety and fosters the work they carry out as promoters of public wellbeing;

b) Its willingness to implement the protection measures for the members of the PRODH Center and Bárbara Zamora López, Leonel Rivero Rodríguez and Pilar Noriega García. It also emphasized that it would always be willing to provide the safety requirements of these human rights defenders with a receptive and flexible attitude and was very open to discussions;

c) The implementation of the measures of protection requested for the beneficiaries and, in particular, it mentioned progress in the implementation of the measures in favor of Leonel Rivero Rodríguez and Bárbara Zamora

López. The State also advised that the 31 cellular telephones had already been delivered to the members of the PRODH Center;

d) The State's willingness to respond to the request made by the petitioners in the hearing held before the Inter-American Commission on November 16, 2001, at which the petitioners requested the appointment of an official responsible for coordinating the protection measures and to serve as a liaison person to look into and resolve any incident that might occur, and also the appointment of an expert to advise the petitioners about practical self-protection measures. In that respect, during the said hearing before the Commission, the latter was given the name of the official of the Department of the Interior responsible for coordinating the measures of protection. During the current hearing before the Court, the State reported that an expert had already been employed to provide advice on practical self-protection measures;

e) The actions taken in the investigation into the death of Digna Ochoa;

f) The State's total willingness to implement any necessary safety measure with regard to the next of kin of Digna Ochoa y Plácido.

10. The statement of the State's representative on the factors that had been taken into consideration in order to request that the provisional measures ordered in favor of Digna Ochoa y Plácido and others should be lifted:

the following factors were taken into consideration in the decision to request the lifting of the precautionary measures. First, the absence of complaints of threats by Digna Ochoa or the Miguel Agustín Pro Juárez Human Rights Center. The fact that, for several months, she had not had police protection, when she went to the United States and then returned [...] and there were no complaints or threats, which [...] led us to believe that the climate of intimidation and harassment had ceased. Lastly, the issue of the investigation, and in this case, I am referring to the investigation of the Office of the Attorney General: [...] the response of the Office of the Attorney General was always that there were no elements to continue with the investigation [...]. But, in any case, we felt that the measures had achieved their purpose. Unfortunately, we were mistaken also and we agree with the petitioners that, this time, we cannot allow these facts to happen again, so we have implemented all the measures of protection requested of us. Consequently, we have set up a permanent dialogue with the petitioners, with the human rights defenders and, therefore, we submit ourselves to the Court, the Commission and to public opinion in everything related to these provisional measures.

CONSIDERING:

1. That the State ratified the American Convention on April 3, 1982, and, pursuant to Article 62 of the Convention, accepted the contentious jurisdiction of the Court on December 16, 1998.

2. That Article 63(2) of the American Convention establishes that in case of "extreme gravity and urgency, and when necessary to avoid irreparable damage to persons", the Court may, in matters not yet submitted to it and at the request of the Commission, adopt the provisional measures that it deems pertinent.

3. That, in the terms of Article 25(1) of the Rules of Procedure of the Court:

At 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.

4. That Article 1(1) of the Convention indicates the obligation of the States Parties to respect the rights and freedoms recognized in this instrument and to ensure their free and full exercise to all persons subject to their jurisdiction.

5. That this Court has considered the first report presented by the State on November 15, 2001, and also its arguments at the public hearing in the instant case held on November 26, 2001, in which it did not object to the complaint relating to the facts described by the Commission, which led the President to adopt urgent measures, and stated its willingness to implement such measures.

6. That it has also taken into consideration the arguments that the Inter-American Commission submitted in its brief of November 21, 2001, and presented during the public hearing, when it requested that the provisional measures should be expanded to include the parents and twelve siblings of Digna Ochoa y Plácido.

7. That the background information presented by the Commission in its request and in subsequent documents and the arguments made during the public hearing confirm the existence of a situation of urgent and grave danger for the lives and safety of the members of the PRODH Center and the lawyers, Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez, and that there have been threats against the rights to life and personal safety of Eusebio Ochoa López and Irene Alicia Plácido Evangelista, parents of Digna Ochoa y Plácido, and her siblings, Carmen, Jesús, Luz María, Eusebio, Guadalupe, Ismael, Elia, Estela, Roberto, Juan Carlos, Ignacio and Agustín, all of them Ochoa y Plácido, which allow the Court to establish that there is a situation of extreme gravity and urgency; consequently, it is necessary to adopt provisional measures in favor of the persons mentioned in this paragraph in order to avoid irreparable damage to them, in accordance with the provisions of Article 63(2) of the American Convention.

8. That, under international human rights law, the purpose of provisional measures is to protect fundamental rights effectively, because they seek to avoid irreparable damage to persons.

9. That the case referred to in the Commission's request has not been submitted to it.

10. That, by virtue of their purpose and legal nature, granting provisional measures does not prejudge the merits of the case.

11. That, with regard to the State's obligation to investigate, the Court has reiterated that this must be undertaken with all thoroughness and not as a mere formality intended *a priori* to be ineffective². Thus, the investigation and punishment

² Cf., among others, *The "Street Children" case (Villagrán Morales et al. vs. Guatemala)*. Reparations (Article 63(1) American Convention on Human Rights). Judgment of May 26, 2001. Series C No. 77, para. 100; *the "White Van" case (Paniagua Morales et al. vs. Guatemala)*. Reparations (Article

of those responsible, in accordance with due process, is the best way to combat impunity and ensure the security, safety and lives of the beneficiaries of such measures.

12. That the Court has examined the facts and circumstances that justified the order of the President of October 25, 2001 (*supra* Having Seen 3), and considers that “*a situation of extreme gravity and urgency*” subsists that justifies maintaining the measures adopted in favor of the members of the PRODH Center and the lawyers, Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez, and expanding them, in accordance with the provisions of Article 63(2) of the American Convention, in order to protect Eusebio Ochoa López and Irene Alicia Plácido Evangelista, and also Carmen, Jesús, Luz María, Eusebio, Guadalupe, Ismael, Elia, Estela, Roberto, Juan Carlos, Ignacio and Agustín, all of them Ochoa y Plácido.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

in exercise 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,

DECIDES:

1. To ratify all the provisions of the order of the President of the Inter-American Court of Human Rights of October 25, 2001.
2. To call on the State to maintain all measures necessary to protect the lives and safety of the members of the Miguel Agustín Pro Juárez Human Rights Center and the lawyers, Pilar Noriega García, Bárbara Zamora López and Leonel Rivero Rodríguez.
3. To call on the State to expand immediately the measures necessary to protect the lives and safety of Eusebio Ochoa López and Irene Alicia Plácido Evangelista, the parents of Digna Ochoa y Plácido, and her siblings, Carmen, Jesús, Luz María, Eusebio, Guadalupe, Ismael, Elia, Estela, Roberto, Juan Carlos, Ignacio and Agustín, all of them Ochoa y Plácido.
4. To call on the State to investigate the facts that gave rise to the adoption of these provisional measures in order to identify those responsible and impose the corresponding sanctions.
5. To call on the State to allow the beneficiaries to participate fully in the planning and implementation of the protection measures.
6. To call on the State to continue informing the Inter-American Court of Human Rights about the provisional measure adopted, every two months from the date of notification of this order.

63(1) American Convention on Human Rights). Judgment of May 25, 2001. Series C. No. 76, para. 200 and *Durand and Ugarte case*. Judgment of August 16, 2000. Series C No. 68, para. 123.

7. To call on the Inter-American Commission on Human Rights to continue presenting its observations on the State's reports within six weeks of receiving them.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Alirio Abreu-Burelli

Sergio García-Ramírez

Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary