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Institution: Inter-American Court of Human Rights
Title/Style of Cause: Hugo Bustios-Saavedra and Eduardo Rojas-Arce v. Peru
Doc. Type: Order of the Court
Decided by: President: Hector Fix-Zamudio;
Judges: Orlando Tovar-Tamayo; Thomas Buergenthal; Rafael Nieto-Navia;
Policarpo Callejas-Bonilla; Sonia Picado-Sotela; Julio A. Barberis
Dated: 17 January 1991
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THE INTER-AMERICAN COURT OF HUMAN RIGHTS

WHEREAS:

1. By order of August 8, 1990, the Court granted Perú a period of 30 days in which to adopt all necessary measures to protect the right to life and the personal integrity of Eduardo Rojas-Arce, Margarita Patiño and the witnesses to the murder of Hugo Bustíos-Saavedra, in particular Artemio Pacheco-Aguado, Teodosio Gálvez-Porras, Aurelia Onofre-Anaya, Florinda Morote-Cartagena and Paulina Escalante; it also asked that State to inform the President of the Court in writing of the measures adopted in this regard.

The Court furthermore required the Inter-American Commission on Human Rights to provide it with all the information at its disposal regarding Perú's compliance with that order.

The President of the Court was, in turn, authorized to adopt, in consultation with the Permanent Commission, any additional provisional measures he might deem necessary to ensure the faithful observance of the Court's order. The Permanent Commission, acting as a special commission, was charged with verifying the implementation of the order;

2. On September 6, 1990, the Representative of Perú submitted to the Court a report on the measures adopted in compliance with the Court's order. This report was completed with a communication dated October 5, 1990;

3. The Inter-American Commission on Human Rights filed two notes with the Court, dated October 16 and December 11, 1990, transmitting communications from the claimants and the Commission's opinion regarding the measures adopted by Perú;

4. At the request of the President of the Court, on December 15, 1990, Perú presented its observations on the Commission's note of October 16 and informed the Court of other measures taken;

5. The Permanent Commission, acting as a special commission, analyzed the presentations of the parties and presented its report to the XXIII Regular Session of the Court.

CONSIDERING THAT:

1. According to the Permanent Commission's report, the measures taken by Perú do, under the circumstances, fulfill the aims sought by the Court's order of August 8, 1990;

2. In its report, the Permanent Commission nevertheless goes on to suggest that, just as the Government of Perú has set up special military liaison posts in Lima and Ayacucho to receive all urgent communications from persons under its protection, so, too, it would be advisable to designate civilian liaison authorities in Lima, Ayacucho and Huanta for that same purpose;

3. The measures adopted to date by the Government of Perú in order to comply with the order of August 8 refer primarily to the armed forces. Although this may prove effective, given the conditions of life in certain areas of that country, it is advisable to also offer the persons being protected the option of establishing immediate contact with civilian authorities and the possibility of doing so in Huanta itself;

4. In accordance with Article 63(2) of the Convention, the jurisdiction of the Court is limited to "cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons . . ." In a case not yet submitted to the Court, once a State has adopted the provisional measures ordered and unless compelling circumstances dictate otherwise, the case must return to the Commission. The foregoing would not, however, prevent the Commission from at any time requesting the Court to apply Article 63(2) if the gravity and urgency of the situation warrant it;

5. The Government of Perú must continue to offer protection to the aforementioned persons. Nevertheless, since the case is still pending before the Inter-American Commission on Human Rights, it falls to the Commission to verify the protective measures taken.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

pursuant to the powers conferred on it by Article 63(2) of the American Convention on Human Rights,

RESOLVES:

1. To take note of the measures adopted by the Government of Perú in compliance with the Order of August 8, 1990.

2. To require the Government of Perú, in addition to the measures already taken, to designate civilian liaison authorities in Lima, Ayacucho and Huanta, in order to receive urgent communications from the persons under its protection.

3. To return these proceedings to the Inter-American Commission on Human Rights and entrust that body with the verification of Perú's implementation of the measures adopted.

Done in Spanish and English, the Spanish text being authentic, at the seat of the Court in San José, Costa Rica, this 17th day of January, 1991.

Héctor Fix-Zamudio
President

Orlando Tovar-Tamayo
Thomas Buergenthal
Rafael Nieto-Navia
Policarpo Callejas-Bonilla
Sonia Picado-Sotela
Julio A. Barberis

Manuel E. Ventura-Robles
Secretary