

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Colotenango v. Guatemala
Doc. Type:	Order of the Court
Decided by:	President: Rafael Nieto-Navia; Vice President: Hector Fix-Zamudio; Judges: Alejandro Montiel-Arguello; Maximo Pacheco-Gomez; Hernan Salgado-Pesantes
Dated:	1 December 1994
Citation:	Colotenango v. Guatemala, Order of the Court (IACtHR, 1 Dec. 1994)
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The Inter-American Court of Human Rights emits the following decision:

1. On June 20, 1994, the Inter-American Court of Human Rights (hereinafter "the Court") received from the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") a request for provisional measures dated June 17, 1994, regarding the "Colotenango" Case (N° 11.212) against the Government of Guatemala (hereinafter "the Government" or "Guatemala"), which is currently before the Commission.
2. The request for provisional measures is based on Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), 76 of the Regulations of the Commission, and 23 and 24 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure").
3. After consideration of the arguments and the evidence offered by the Commission, the Court, by virtue of the authority conferred on it by Article 24(4) of the Rules of Procedure, issued a decision dated June 22, 1994, the operative part of which reads as follows:
  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, MARÍA GAR-CÍA-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.

3. To request the Government of Guatemala to guarantee to Attorney Patricia Ispanel-Medimilla the right to exercise her profession without being subjected to undue pressures.
4. To request the Government of Guatemala to inform the Court no later than August 31, 1994, regarding the measures it has adopted to comply with this order.
5. To instruct the Secretariat of the Court to transmit the documents mentioned in the previous paragraph to the Inter-American Commission on Human Rights. The latter shall have until October 7, 1994 to submit its observations thereon.
6. To summon the Inter-American Commission on Human Rights and the Government of Guatemala to the public hearing on this case, to be held at the seat of the Court at 15:00 hours on November 28, 1994.

This decision was notified to the Commission and to the Government.

4. On August 31, 1994, the Government of Guatemala informed the Court in writing regarding the measures that were adopted, in compliance with operative point 4 of the above decision. The information included a report from the Presidential Committee to Coordinate the Executive's Policy on Human Rights and a document drawn up at the Office of the Governor of the Department of Huehuetenango. In the above mentioned report, the Government states the following:

We assure the President that his decision has been accorded its full weight and importance. As a result, the Government has reiterated the orders issued to the authorities, requiring them to: a) provide concrete and specific protection to the persons listed, allowing them to personally and freely specify the type of protection they require; b) proceed with the arrests ordered by the courts investigating the events relating to consolidated case N° 11.212; c) the Government Attorney's Office has likewise been requested to take all measures necessary to expedite and improve the effectiveness of the investigation in order to punish the actors already identified.

...

In compliance with Your Excellency's decision, the Government of Guatemala has tightened security measures in the area of Colotenango, in order to afford better protection to its inhabitants.

5. Pursuant to point 5 of the Court's decision, the Secretariat of the Court transmitted the information received from the Government to the Inter-American Commission and granted the latter until October 7, 1994 to present its observations. On October 6, 1994, the Commission submitted its observations and requested that the measures ordered be maintained and expanded to include protection of Mrs. Francisca Sales-Martín, and that "the civil defense patrols (currently the Voluntary Civil Defense Committees) be disarmed and demobilized and that that decision be made public in order to restore calm to the population." The Commission also requested that the Government be required "to use all legal means necessary for compliance and to report to that Honorable Court as soon as possible on the steps taken and their results."

6. On November 28, 1994, a public hearing was held at the seat of the Court in San José, Costa Rica, to hear the arguments of the Commission and the Government of Guatemala in this matter.

There appeared before the Court:

For the Inter-American Commission on Human Rights:

Leo Valladares-Lanza, Delegate  
Manuel Velasco-Clark, Attorney  
Milton Castillo, Attorney  
José Miguel Vivanco, Adviser  
Viviana Krsticevic, Adviser

For the Government of Guatemala:

Jorge Cabrera-Hurtarte, Agent  
Mario Marroquín-Nájera, Adviser  
Julio Gándara-Valenzuela, Adviser

At the public hearing, the Government requested that the provisional measures adopted pursuant to the decision of June 22, 1994, be extended for whatever period the Court considers advisable, adding Mrs. Francisca Sales-Martín to the list of persons under its protection; it also requested that the beneficiaries of the provisional measures be urged to cooperate with the Government to enable the latter to put the security measures into effect as efficiently as possible and that the Commission's contention that the Court address the matter of the Voluntary Civil Defense Committees be rejected.

At the public hearing, the Commission supported the Government's request to maintain the provisional measures adopted on June 22, 1994 and to expand them to include Mrs. Francisca Sales-Martín. The Commission also asked the Government to enforce the arrest warrants issued against the 13 patrol members charged as suspects in this case, which involves the criminal events that occurred on August 3, 1993 in Colotenango and is currently before the Second Trial Court of Huehuetenango.

WHEREAS:

1. Guatemala ratified the American Convention on May 25, 1978, and accepted the compulsory jurisdiction of the Court on March 9, 1987, pursuant to Article 62 of the Convention;
2. Article 63(2) of the Convention provides that in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of the Commission, adopt such provisional measures as it deems pertinent in matters not yet submitted to its consideration;
3. Article 1(1) of the American Convention sets forth the obligation of the States Parties to respect the rights and liberties recognized in that treaty and to ensure their free and full exercise to all persons subject to their jurisdiction;

4. The Court issued a decision dated June 22, 1994, regarding the provisional measures requested of Guatemala by the Inter-American Commission in the Colotenango Case;
5. The measures on behalf of the persons listed in the Court's decision of June 22, 1994 must be not only extended, because the conditions that gave rise to them continue to prevail, but also expanded to include Mrs. Francisca Sales-Martín. The Commission and the Government were both in agreement on these points at the hearing.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

based on Article 63(2) of the American Convention on Human Rights and exercising the authority conferred on it by Article 24 and 45 of the Rules of Procedure,

DECIDES:

1. To extend the provisional measures adopted pursuant to the decision of June 22, 1994 on the Colotenango Case for a term of six months from today, and to expand them to include Mrs. Francisca Sales-Martín.
2. To require the Government of Guatemala to use all the means at its disposal to enforce the arrest warrants issued against the 13 patrol members charged as suspects in the case before the Second Trial Court of Huehuetenango involving the criminal acts which took place on August 3, 1993, in Colotenango.
3. To request the Government of Guatemala to inform the Court every 90 days regarding the measures it has adopted to comply with this order.
4. To request the Commission to inform the Court of any fact or circumstance that it deems important to the implementation of such measures.
5. To instruct the Secretariat of the Court to transmit the information it receives from the Government of Guatemala to the Inter-American Commission on Human Rights in order that the latter may submit its observations to the Court within the following 30 days. Likewise, to transmit to the Government of Guatemala any reports it receives from the Commission in order to have the Government's observations within a similar period.
6. To request the Government and the Commission to urge the beneficiaries of the measures referred to in points 1 and 2 of the Court's decision of June 22, 1994, to cooperate with the Government in order to enable the latter to more efficiently adopt the relevant security measures.
7. Upon expiration of the extended deadline and unless the Court receives credible information that the circumstances of extreme gravity and urgency continue to prevail, the measures ordered by the Court shall cease to be in effect.

Done in Spanish and English, the Spanish text being authentic, at the seat of the Court in San José, Costa Rica, this first day of December, 1994.

Rafael Nieto-Navia  
President

Héctor Fix-Zamudio

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Alejandro Montiel-Argüello  
Máximo Pacheco-Gómez  
Hernán Salgado-Pesantes

Manuel E. Ventura-Robles  
Secretary