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Represented by:	APPLICANT: the Center for Justice and International Law
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HAVING SEEN:

1. The Inter-American Commission on Human Rights' (hereinafter "the Commission" or "the Inter-American Commission") June 1, 1995 brief, received at the Secretariat of the Court that same day, which requested that the Inter-American Court of Human Rights (hereinafter "the Court") grant provisional measures regarding the Jorge Carpio Nicolle Case (N° 11.333), which is currently before the Commission. The request was based on Articles 63(2) of the American Convention on Human Rights (hereinafter "the Convention" or "the American Convention"), 24 of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure") and 76 of the Regulations of the Commission, and is related to the situation described in its brief which constitutes "a prima facie case of urgent and grave danger to the lives and physical integrity of the witnesses" Marta Elena Arrivillaga de Carpio, Karen Fischer de Carpio, Mario López-Arrivillaga and Angel Isidro Girón-Girón as well as Lic. Abraham Méndez-García, "Prosecutor of the process in the investigation of the death of Lic. Jorge Carpio-Nicolle;"
2. That on March 21, 1995, the Center for Justice and International Law (CEJIL) filed a petition before the Commission with regard to the Jorge Carpio Nicolle Case N° 11.333, which, since July 12, 1994, is being heard by Commission. This petition contains a request for provisional measures pursuant to Articles 63(2) of the Convention and 76 (sic) of the Regulations of the Commission and Article 23 (sic) of the Rules of Procedure, and is based on the facts and information provided by the Commission in its June 1, 1995 communication;
3. That according to the Commission's brief, Mr. Jorge Carpio-Nicolle, ex-presidential candidate of the UCN - Unión del Centro Nacional (National Center Union) and journalist, was murdered together with three other political leaders of that party on July 3, 1993, while they were traveling for work reasons in several departments of Guatemala, after having been intercepted by "a group of approximately 15 to 30 armed Civil Self-Defense Patrolmen," in the place known as "Molino del Tesoro," in the Municipality of Chichicastenango, El Quiché;

4. That the witnesses, Marta Elena Arrivillaga de Carpio (widow of Jorge Carpio); Karen Fischer de Carpio (daughter-in-law of Jorge Carpio); Mario López-Arrivillaga (nephew of Marta de Carpio and former Congressman of the UCN Party), and Angel Isidro Girón-Girón, "to the murders mentioned in the foregoing point" were subjected to acts of harassment, intimidation, and threats against their lives and physical integrity;

5. That on October 24, 1994, the Inter-American Commission, "acting pursuant to Article 29 of its Rules of Procedure" requested that "given the seriousness of the denunciation," the Government of the Republic of Guatemala (hereinafter "Guatemala" or "the Government") adopt the following precautionary measures on behalf of the aforementioned witnesses:

- a) Adopt provisional measures to guarantee the right to life and personal integrity of the aforementioned persons;
- b) Inform the military authorities of the Military Zone —to which the Voluntary Civil Defense Committees of San Pedro Jocopilas answer— in order for the authorities to inform the Committees of the situation and instruct them to control any activity carried out by its members that may threaten or attack the protected persons;
- c) Since the measures are destined to guarantee the tranquility of the protected persons, that the Government make a serious and effective investigation into the threats and to punish those responsible, and
- d) Guarantee the free appearance of the witnesses at the criminal trial and the normal development of the process, and to tighten the precautions to avoid reprisals arising from their testimonies.

6. That on December 7, 1994, the Government replied to the Commission that it was inadmissible to request such precautionary measures since, according to the Political Constitution of Guatemala, "[i]t is the responsibility of the State to guarantee its citizens the life, liberty, justice, security, peace, and integral development of the individual and that Guatemala had an internal legal system that controlled the means to accomplish this" and that with respect to concrete measures requested, it informed:

- a. that only Mrs. Fischer and Mr. Arrivillaga had fulfilled the obligation of denouncing the threats;
- b. that Mrs. Fischer's denunciation has been attended to by the judicial authorities;
- c. that the National Police investigated the harassment to Mr. Arrivillaga;
- d. that Mr. Girón denied having received death threats before the competent authorities;
- e. that since November 10, 1994, the Headquarters of the National Police had established a permanent personal security service with three patrol units and the corresponding crew for Lic. Marta Arrivillaga de Carpio, Mrs. Karen Fischer de Carpio, and the offices of "El Gráfico" newspaper;
- f. that with respect to Mr. Arrivillaga, the necessary contacts were being made to provide him with the security that he had before and which had been withdrawn on October 13, 1994.

7. That during its visit in loco to Guatemala in December of 1994, the Commission "learned of the continuous threats received by Prosecutor Abraham Méndez" and requested from the Government "protection for the Prosecutor in the Jorge Carpio-Nicolle Case in view of the threats and intimidating acts against him;"

8. That according to the document submitted by the Commission on May 31, 1995, it received additional information from the petitioners stating the following:

The situation of serious danger faced by the witness, next of kin, and even authorities that investigate the case has not decreased. We have great fear that the threats and assaults may intensify in the near future, given the current development of the case. On April 19, 1995, the Tenth Court of Appeals decided in favor of an appeal interposed by the private prosecutor. In regards to the events, this means that the action will probably be reopened for more evidence. Considering that the facts denounced in the previous writings occurred while testimony was open, next of kin, witnesses and attorneys fear that the threats and harassment may increase with the reopening of the case for testimony.

The Special Prosecutor in the Carpio Case has received new threats. Recently, five men traveling in a light blue car arrived at the offices of the Public Ministry, entered the building disregarding the security of the place, and scoured all the offices of the premises asking for Attorney Abraham Méndez. Finally, they left without having found the Prosecutor. The men identified themselves as members of the Presidential Staff.

CONSIDERING:

1. That Guatemala is a State Party to the American Convention since May 25, 1978, and that it accepted the contentious jurisdiction of the Court, as set out in Article 62 of the Convention, on March 9, 1987;
2. That Article 63(2) of the Convention provides that, in case of extreme gravity and urgency, and when necessary to avoid irreparable damages 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. That Article 1(1) of the American Convention establishes the obligation of the State Parties to respect the rights and freedoms recognized in that treaty and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms;
4. That Guatemala is therefore under the obligation to adopt all necessary measures to protect the life and integrity of those persons whose rights might be threatened;
5. As the Commission has stated in its request for provisional measures, the situation reported to the Court constitutes "a prima facie case of urgent and grave danger to the lives and physical integrity of the witnesses and prosecuting Attorney investigating the death" of Jorge Carpio-Nicolle and others, and therefore considers that "[t]he development of the events reveals the existence of a deliberate purpose to obstruct the legal process;" and
6. In its request the Commission considers that:
the internal adopted measures have been shown to be inefficient to protect the safety of the protected persons. This has been demonstrated by the continuous attacks and denounced threats and the incapacity of the authorities to investigate and punish the perpetrators of these threats, even though the victims have provided concrete documentation in this regard.

THEREFORE:

THE PRESIDENT OF 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(4) of its Rules of Procedure, in prior consultation with the Permanent Commission of the Court,

DECIDES:

1. To request that the Government of the Republic of Guatemala adopt without delay all necessary measures to effectively ensure the protection of the lives and personal integrity of the following persons: MARTA ELENA ARRIVILLAGA DE CARPIO, KAREN FISCHER DE CARPIO, MARIO LÓPEZ-ARRIVILLAGA, ÁNGEL ISIDRO GIRÓN-GIRÓN, and ABRAHAM MÉNDEZ-GARCÍA, and to investigate the threats and harassment of the persons named and to punish those responsible.
2. To request that the Government of the Republic of Guatemala adopt all necessary measures so that witnesses to the Carpio Case can testify, and so that the prosecutor in the case, Abraham Méndez-García, can fulfill his duties without pressure or reprisals.
3. To request that the Government of the Republic of Guatemala inform the military authorities of the Military Zone to which the Civil Defense Committees of San Pedro Jocopilas answer, to instruct these Committees to refrain from taking any actions that would put the lives or personal integrity of the individuals named at risk.
4. To request that the Government of the Republic of Guatemala submit a report to the President of the Court every 30 days from the date of this Order, on the measures taken pursuant to this Order, so as to bring the information to the attention of the Court.
5. To instruct the Secretariat of the Court to transmit the reports presented by the Government of the Republic of Guatemala to the Inter-American Commission on Human Rights without delay, which shall then present its observations not later than fifteen days after receipt of the pertinent information.
6. To submit this Order for the Court's consideration and pertinent effects during its next regular session and, if it deems it appropriate, to hold a public hearing on this matter during that same period.

Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary

Montrouis, Haiti, June 4, 1995