

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Jose Daniel Alvarez, Nidia Linores Ascanio, Gladys Lopez, Yanette Bautista, Maria Helena Saldarriaga, Piedad Martin, Maria Eugenia Lopez, Adriana Diosa, Astrid Manrique, Faride Ascanio, Carmen Barrera, Evidalia Chacon, Erik Antonio Arellano Bautista, Jose Publio Bautista, Nelly Maria Ascanio, Ayda Mile Ascanio and Miriam Rosas Ascanio v. Colombia
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Decided by:	President: Hector Fix-Zamudio
Dated:	22 July 1997
Citation:	Daniel Alvarez v. Colombia, Order of the Court (IACtHR, 22 Jul. 1997)
Represented by:	APPLICANT: the Association of Relatives of Detainees-Disappeared Persons of Colombia
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HAVING SEEN:

1. The brief of July 7, 1997, and its attachments, in which 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”), pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”) and Article 25 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”), a request for provisional measures on behalf of José Daniel Alvarez, Nidia Linores Ascanio, Gladys López, Yanette Bautista, María Helena Saldarriaga, Piedad Martín, María Eugenia López, Adriana Diosa, Astrid Manrique, Faride Ascanio, Carmen Barrera, Evidalia Chacón, Erik Antonio Arellano Bautista, José Publio Bautista, Nelly María Ascanio, Ayda Mile Ascanio and Miriam Rosas Ascanio, all concerning case No. 11.764 before the Commission against the State of Colombia (hereinafter “the State” or “Colombia”).

2. The above-mentioned brief, in which the Commission requested that the Court call upon the State to do the following:

a. To adopt effective security measures to guarantee the life and physical integrity of José Daniel Alvarez, Nidia Linores Ascanio, Gladys López, Yanette Bautista, María Helena Saldarriaga, Piedad Martín, María Eugenia López, Adriana Diosa, Astrid Manrique, Faride Ascanio, Carmen Barrera and Evidalia Chacón, all members the [Association of Relatives of Detainees-Disappeared Persons of Colombia], as well as Erik Antonio Arellano Bautista, José Publio Bautista, Nelly María Ascanio, Ayda Mile Ascanio and Miriam Rosas Ascanio. The protection measures should be decided by common agreement between the Government of Colombia and the protected persons to assure the effectiveness and pertinence of the same.

b. To adopt, as an essential element of the obligation to protect, effective measures to investigate the events against the members of ASFADDES detailed in [the] petition, in particular the recent attempt that occurred on June 24, 1997 in the city of Medellín, in order to identify, and if possible, to punish those responsible for these acts.

c. To adopt, the necessary measures to ensure that all of the offices of ASFADDES in Colombia have adequate security to carry out in a normal way their functions without danger to the life and personal integrity of the people that work there. The necessary measures should emphasize special attention to protect the headquarters of the organization in ASFADDES and to guarantee the opening and normal function of the offices in Medellín and Ocaña. These protection measures should be reached by common agreement between the Government of Colombia and the protected persons to assure the effectiveness and pertinence of the same.

d. To inform the Court as soon as possible on the concrete effective measures taken to protect José Daniel Alvarez, Nidia Linores Ascanio, Gladys López, Yanette Bautista, María Helena Saldarriaga, Piedad Martín, María Eugenia López, Adriana Diosa, Astrid Manrique, Faride Ascanio, Carmen Barrera and Evidalia Chacón, all members the [Association of Relatives of Detainees-Disappeared Persons of Colombia], as well as Erik Antonio Arellano Bautista, José Publio Bautista, Nelly María Ascanio, Ayda Mile Ascanio and Miriam Rosas Ascanio, and to subsequently report to the Court every two months on the status of the provisional measures.

3. The events set out in the Commission's request, in which it describes the activities of the Association of Relatives of Detainees-Disappeared Persons of Colombia (hereinafter "ASFADDES" or "the Association") and the acts of which its members have generally been victim, are summarized as follows:

a) the Association is a nongovernmental organization that brings together and supports the relatives of victims of forced disappearance in Colombia, fights against the practice of forced disappearance, and attempts to obtain reforms in Colombia's national policy in the matter. In recent months, the Association, and particularly its office in Medellín have expressed their disagreement with a number of judicial decisions that have allowed military officials, members of paramilitary and political groups to be exonerated and freed in cases of forced disappearance. Also, the National Board of Directors of ASFADDES and its offices in Medellín have widely discussed other court decisions that have established responsibility in at least one case of forced disappearance, despite the fact that the right to the truth has not been respected, inasmuch as not all the whereabouts of the disappeared persons have been established nor have all those responsible been punished;

b) in May 1992, ASFADDES was described by the then Commander of the Fifth Brigade as "guerrilla sympathizers." From then on its members have been systematically harassed and threatened;

c) in 1994, during the celebration of the General Assembly of the Association, armed men took photographs of the participants of the events. This act was denounced and four men were arrested, However, the proceedings initiated by this petition were closed, since those men allegedly were working for the protection of the ASFADDES members, even if they had not been informed of this alleged protection;

d) on June 2, 1994, some men that claimed to belong to the Administrative and Security Department (hereinafter "DAS") filmed a commemorative march held by the Association;

e) On December 23, 1996, an agent of the DAS visited Ms. Evidalia Chacón, a member of ASFADDES in Neiva, and requested the names of all of the members of the Board of Directors of the Association and information on FEDEFAM, a regional organization dedicated to the struggle against the practice of forced disappearances, of which the Association is a member. The agent also requested information on specific members of the Association (infra, Having Seen 4, section a). This event was denounced to the Attorney General of the Nation on February 7, 1997;

f) On April 28 and 29, 1997, two members of the Intelligence Division of the Metropolitan Police of Santafé de Bogotá (hereinafter "SIPOL") visited the offices of ASFADDES of that city in order to check the names of the organizers and the participants of the event as well as the agenda of a march the Association was planning to hold on May 29, 1997. Said information was requested again by other members of the SIPOL the day prior to the holding of said event. The Commission states that on this occasion, one of those agents was insistent in asking if students of the National University had been invited and requested an agenda for the event; supposedly in order to infiltrate members of SIPOL in the march to identify possible saboteurs. Despite this, the march had been held by the Association for fifteen years and it had complied with the legal requisites to gain authorization for the march.

g) on May 15, 1997, the Association was forced to close its Ocaña section offices on account of the serious harassment to which its officials were subjected;

h) the Association held various complaint and informative activities from May 25 to June 1, 1997, all as part of the celebration of the international week of the detained-disappeared;

i) on May 29, 1997, the Association made known to the Prosecutor Delegate for Human Rights, the events related to the presence of the SIPOL agents in its offices in Santafé de Bogotá (supra, Having Seen 3, section f);

j) on June 24, 1997, an explosive device with approximately five kilograms of dynamite destroyed the ASFADDES' Medellín section offices and files;

k) currently a decision is pending on an administrative request for nullification in a highly pertinent and sensitive case involving former General Alvaro Velandia-Hurtado, a senior army officer, in connection with the disappearance of Nidia Erika Bautista, sister of Ms. Yanette Bautista, mother of Mr. Erik Arellano-Bautista and aunt of Mr. José Publio Bautista. At that time the Commission considered that this judicial pronouncement would have sweeping repercussions on the members of the Association (infra, Having Seen 4, section a and h).

4. The description of individual acts allegedly perpetrated against the persons on whose behalf the adoption of measures are being requested, are summarized as follows:

a) in regards to Ms. Yanette Bautista, Legal Director and Ex-President of the Association, the Commission states that on December 23, 1996, the DAS agent that visited Ms. Evidalia Chacón (supra, Having Seen 3, section e) tried to check on her whereabouts and information and informed that they were doing so in order "to take measures to avoid that something would happen to her." The Commission also states that the imminent judicial decision in the case of the disappearance of her sister would affect her (supra, Having Seen 3, section k).

b) in regards to Nelly María Ascanio, Ayda Mile Ascanio and Miriam Rosas Ascanio, they testified in the case of their brother, who disappeared with other peasant farmers in January 1993 and for this reason their security situation has been worsened;

- c) in regards to Faride Ascanio, an employee of the Ocaña regional office of the Association and Carmen Barrera, a board member of that same office, the Commission alleges that they were the object of “grave and serious acts of harassment...by alleged paramilitary members, such as being followed by cars without license plates and threatening telephone calls”, all as a result of their work on the case of the disappearances of Mr. Luis Ernesto Ascanio and others;
- d) in regards to Ms. Astrid Manrique, an employee of the Association in its Popayán section, the Commission states that since May 8, 1997, she has been watched and followed by people that have identified themselves as members of the DAS or from a security organ of the State. Also, on June 25, 1997, she was followed from her office to her school by three individuals in a pick up truck, and they remained outside of the institution until she left classes;
- e) in regards to Ms. Evidalia Chacón Ramírez, an employee of the Neiva section of the Association, the Commission informs that she has received various calls in her offices to check her name, that felt obligated to abandon the Neiva region for a while after having denounced a DAS agent (supra, Having Seen 3, section e), and that the building where her office is located is frequented by a DAS agent who has stated to be pressured by the complaint presented by Ms. Chacón;
- f) in regards to Ms. María Helena Saldarriaga, a member of the Medellín section of the Association, the Commission states in its request that on June 13, 1997, her mother received a telephone call in which an unknown person indicated to her that she was right to her husband, who is disappeared;
- g) in regards to Adriana Diosa, Piedad Martín and Maria Eugenia López, the Commission alleges they have received mistaken telephone calls;
- h) in regards to Erik Antonio Arellano Bautista and José Publio Bautista, the Commission states that the imminent judicial decision in the case of the disappearance of their mother and aunt (supra, Having Seen 3, section k) will affect them.

According to the Commission, Colombia has not taken any effective action to protect these persons and “despite the existence of precautionary measures solicited by the Commission on behalf of various members of the organization... the harassment has continued and has increased, culminating in the attempt on the section office of Medellín on June 24, 1997.”

5. The Commission brief of July 16, 1997, in which it presented supplementary information to the Court in relation with its request for provisional measures in this case. This additional information is summarized as follows:

- a) On May 20, and June 2, 1997, two people appeared at the offices of the Association, asked for Yanette Bautista and left a letter signed by an officer cited in the investigation for the disappearance of 14 students from the National University;
- b) on May 25, 1997, a man indicated to the landlord of the apartment of Mr. José Publio Bautista that he knew the apartment number where Mr. Publio lived because in that same building another officer of the DAS also lived there and they “did not want” someone that supported indigents and marginalized persons to live in that sector. On May 27, 1997, Mr. Publio Bautista was followed by a vehicle without license plates, and with smoked windows;
- c) On June 20, 1997, the Administrative Contentious Tribunal of del Valle, denied the administrative complaint for nullification in the case in which ex-General Alvaro Velandia Hurtado was condemned for the disappearance of Ms. Nydia Erika Bautista (supra 3, section k).

In said proceedings the son of Ms. Bautista, Erik Antonio Arellano Bautista, unsuccessfully tried to become a civil party to the case;

d) on June 23, 1997, Mr. Erik Antonio Arellano Bautista discovered the existence of military intelligence plans to disappear him. As a result, he left Colombia on July 4, 1997.

CONSIDERING:

1. That Colombia has been a State Party to the American Convention since July 31, 1973, and that it accepted the compulsory jurisdiction of the Court on June 25, 1985.

2. That Article 63(2) of the Convention establishes that the Court may, in cases “of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons”, take the provisional measures it considers pertinent in matters not yet submitted before it at the request of the Commission.

3. That in the terms of Article 25(4) of the Rules of Procedure: “[if] the Court is not sitting, the President, in consultation with the Permanent Commission, and if possible with the other judges, shall call upon the government concerned to adopt such urgent measures as may be necessary to ensure the effectiveness of any provisional measures subsequently ordered by the Court at its next session.”

4. That Article 1(1) of the Convention stipulates the duty of 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.

5. That the events presented in this case effectively constitute a prima facie case of urgent and grave danger to the life and personal integrity of the 17 mentioned persons.

6. That the fact that the Inter-American Commission had requested precautionary measures on two different occasions (September 20, 1994 and February 25, 1997), and that they have not produced the required effects, to the contrary, the recent attempt on the Medellín sectional office of the Association, result in the presumption that the security of its members is at grave risk. As a result, exceptional circumstances exist that make it necessary to order urgent measures in order to avoid irreparable damage.

7. That the pending decision in regards to an administrative complaint that involves a possible sanction against a high officer of the armed forces for the alleged disappearance of Ms. Nidia Erika Bautista, a relative of various of the persons on behalf of whom the provisional measures are requested, creates the presumption that a situation of extreme gravity and urgency could arise, especially in light of the recent grave act such as the attempt described in Having Seen No. 3.J.

8. That it is the responsibility of the State to adopt security measures for every citizen, an obligation that is amplified when related to those involved in proceedings before the organs of the inter-American system for the protection of human rights attempting to determine whether or not there has been a violation of human rights contemplated in the American Convention.

9. That at the same time, the State of Colombia has the obligation to investigate the events that motivated this request for provisional measures in order to identify those responsible and to impose the pertinent sanctions, particularly in regards to the attempt on the Medellín offices of the Association on June 24, 1997.

NOW, THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in consultation with the Court, in conformity with Article 63(2) of the American Convention on Human Rights and in exercise of the powers conferred on him by Article 25(4) of its Rules of Procedure,

DECIDES:

1. To request the Republic of Colombia, in strict compliance with the obligation to respect and guarantee human rights which it undertook in accordance with Article 1(1) of the American Convention on Human Rights, to adopt forthwith such measures as are necessary to protect the life and integrity of José Daniel Alvarez, Nidia Linores Ascanio, Gladys López, Yanette Bautista, María Helena Saldarriaga, Piedad Martín, María Eugenia López, Adriana Diosa, Astrid Manrique, Faride Ascanio, Carmen Barrera, Evidalia Chacón, José Publio Bautista, Nelly María Ascanio, Ayda Mile Ascanio, and Miriam Rosas Ascanio in order to prevent irreparable damage to them.
2. To request that the Republic of Colombia, as soon as Mr. Erik Antonio Arellano-Bautista returns to its territory, adopt such measures as are necessary to protect his life and physical integrity in order to prevent irreparable damage to him.
3. To request that the Republic of Colombia investigate the facts denounced and punish those responsible for them, particularly with regard to the attack of June 24, 1997, on the Association's offices in the city of Medellín.
4. To request that the Republic of Colombia adopt forthwith such measures as are necessary to ensure that all the offices of the Association of Relatives of Detainees-Disappeared Persons of Colombia may discharge its functions without danger to the lives or physical integrity of the persons working there, especially the Association's offices in the cities of Medellín and Ocaña.
5. To request that the Republic of Colombia submit a first report on the measures adopted within 15 days of notification of this Order and that the Inter-American Commission on Human Rights submit its comments on that report within a period of one month from receipt of that document.
6. To request that the Republic of Colombia, from the date of presentation of its first report, continue to submit every two months its reports on the provisional measures taken and that the Inter-American Commission on Human Rights submit its comments on those reports within 45 days of receiving them.
7. To present this Order for the consideration of the Court at its next session for the pertinent effects and so that it can convene the parties, if it so deems, to a public hearing at the seat of the Court, so that the Tribunal may hear their views on the facts and circumstances that gave rise to the request for provisional measures and to this Order.

Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary

So ordered,

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Héctor Fix-Zamudio
President

Manuel E. Ventura-Robles
Secretary