

WorldCourts™

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Josue Giraldo Cardona v. Colombia
Doc. Type:	Order
Decided by:	President: Hernan Salgado-Pesantes; Vice President: Antonio A. Cancado Trindade; Maximo Pacheco-Gomez; Oliver Jackman; Alirio Abreu-Burelli; Sergio Garcia-Ramirez; Carlos Vicente de Roux-Rengifo
Dated:	Judges: 27 November 1998
Citation:	Giraldo Cardona v. Colombia, Order (IACtHR, 27 Nov. 1998)
Terms of Use:	Your use of this document constitutes your consent to the Terms and Conditions found at www.worldcourts.com/index/eng/terms.htm

HAVING SEEN:

1. The order of the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) of February 5, 1997, which:

[...]

2. Call[ed] upon the Government of the Republic of Colombia:

a. To maintain the provisional measures in favor of Sister Noemy Palencia, Islena Rey Rodríguez, Gonzalo Zárate, Mariela de Giraldo and her two minor daughters, Sara and Natalia Giraldo.

b. To take, as an essential measure of the duty to protect, effective measures to investigate and, where appropriate, punish those responsible for the acts.

[...]

2. The order of the Inter-American Court of June 19, 1998, in which it was decided:

1. To lift the provisional measures ordered by the Court in its order of February 5, 1997, in favor of Gonzalo Zárate and to consider them to be at an end.

2. To require the State of Colombia to adopt all such measures as may be necessary to protect the life and personal safety of Sister Noemy Palencia upon her return to El Meta.

3. To maintain the provisional measures in favor of Islena Rey Rodriguez, Mariela de Giraldo and her two minor daughters, Sara and Natalia Giraldo.

4. That, as an essential part of its duty to protect, the State must take effective measures to investigate and, where appropriate, punish those responsible for the acts that gave rise to the adoption of the provisional measures.

[...]

3. The eleventh and twelfth reports of the State of Colombia (hereinafter “the State”) of August 19 and October 20, 1998, respectively, in which it stated that the only beneficiary who had accepted protection was Islena Rey; however, she ignores the suggestions and recommendations of her personal escort. Furthermore, with regard to Mariela de Giraldo and her daughters, Sara and Natalia Giraldo, the State indicated that they had not accepted protection and that it was surprised that “persons who apparently run the risk of some kind of danger, waive or refuse to accept the protection of the State.”

4. The observations of the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) of October 15, 1998, stating:

a) that Islena Rey Rodriguez ignores the suggestions and recommendations of her escorts, due to the existence of irregularities such as sudden changes in the personnel or the vehicle used to escort her being out of service.

b) that Mariela de Giraldo and her daughters, Sara and Natalia Giraldo, have not accepted the protection of the State because the latter has not offered them the option of choosing “alternative protection methods with the participation of officials who are not under suspicion.”

c) that “it urges” the State to talk with the beneficiaries in order to reach an agreement allowing the adoption of measures that effectively and logically protect these persons whose personal integrity is threatened.

d) that “there has been no effective investigation leading to the prosecution of those who took (sic) the life of Josué Giraldo and continue to threaten the persons who work with the El Meta Human Rights Committee.”

CONSIDERING:

1. That Article 63.2 of the American Convention of Human Rights establishes that [I]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.

2. That although Sister Noemy Palencia has stated that she does not require protection measures because she is in Bogotá, Colombia, the State should maintain the measures taken in her favor in order to make them effective when she is in the Department of El Meta.

3. That, with regard to the situation of Islena Rey Rodriguez, Mariela de Giraldo and her two minor daughters, “a situation of extreme gravity and urgency” persists that justifies maintaining the provisional measures adopted in their favor by this Court.

4. That, although Mariela Giraldo and her two daughter have not accepted the protection offered by the State, the State has only offered the protection of the General Directorate of Special Matters, which these persons mistrust, so that a discussion is necessary in order to reach an agreement.

5. That the reports of the State do not refer to the investigation or punishment of those responsible for the facts that motivated the adoption of the provisional measures.

6. That the State is obliged to seriously investigate the threats and acts of intimidation that the persons protected have suffered, and this obligations persists since the provisional measures remain in effect.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the powers conferred on it by Articles 63.2 of the American Convention on Human Rights and 25 of its Rules of Procedure

DECIDES:

1. To call upon the State of Colombia to adopt all necessary measures to protect the life and personal integrity of Sister Noemy Palencia on her return to El Meta.
2. To maintain the provisional measures in favor of Islena Rey Rodríguez, Mariela de Giraldo and her two minor daughters, Sara and Natalia Giraldo.
3. That the State of Colombia must communicate with the beneficiaries of the provisional measures in order to offer them due, serious, definitive and reliable protection and refer to the result of this measure in its next report.
4. To call upon the State of Colombia to include in its next report, as an essential element of the duty to protect, information on the progress of the investigation into those responsible for the facts that originated the provisional measures, and on the punishment of those responsible for these facts and, if possible, transmit copies of the corresponding proceedings.

Hernán Salgado-Pesantes
President

Antônio A. Cançado Trindade
Máximo Pacheco-Gómez
Oliver Jackman
Alirio Abreu-Burelli
Sergio García-Ramírez
Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Hernán Salgado-Pesantes
President

Manuel E. Ventura Robles
Secretary