

WorldCourts™

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Digna Ochoa and Plácido, Edgar Cortez Morales, Mario Patron Sanchez and Jorge Fernandez Mendiburu v. Mexico
Doc. Type:	Order
Dated:	17 November 1999
Citation:	Ochoa v. Mexico, Order (IACtHR, 17 Nov.1999)
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 November 11, 1999 writing and its attachments, by means of 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 Articles 63(2) of the American Convention on Human Rights (hereinafter “the Convention” or “the Inter-American Convention”), 25 of the Rules of Procedure of the Court (hereinafter “the Rules of Procedure”) and 76 of the Regulations of the Commission, a request for provisional measures on behalf of Digna Ochoa y Plácido, Edgar Cortéz Morales, Mario Patrón Sánchez and Jorge Fernández Mendiburu, concerning Case No. 12.229 in the matter of the United States of Mexico (hereinafter “Mexico” or “the State”), being processed before the Commission. In that writing, the Commission requested the Court

- a. To immediately adopt effective security measures to ensure the lives and personal integrity of Digna Ochoa and Plácido, Edgar Cortéz Morales, Mario Patrón Sánchez and Jorge Fernández Mendiburu;
- b. To immediately adopt effective measures to ensure the security of those who go to the offices of the PRODH Center in Mexico, D.F. to perform their jobs or for other reasons;
- c. To coordinate the measures of protection set forth in paragraphs “a” and “b” supra with the agreement of the persons to be protected, so as to assure the effectiveness and appropriateness of those measures;
- d. To adopt, as an essential element of the duty of protection, effective measures to investigate the events that affect the persons identified in the earlier paragraph so as to identify and, where appropriate, based on a fair trial punish those responsible for such events;
- e. To inform the Honorable Court in a brief period as to the concrete and effective measures adopted to protect Digna Ochoa Y Plácido, Edgar Cortéz Morales, Mario Patrón Sánchez and Jorge Fernández Mendiburu, and to ensure the safety of those who visit the offices of the PRODH Center in Mexico; and, subsequently, to inform the Honorable Court as to the state of the provisional measures every two months.

2. The Commission based its request for provisional measures on the following:

- a. on August 9, 1999 Digna Ochoa y Plácido, attorney for the non governmental organization known as the Miguel Agustín Pro Juárez Human Rights Center (hereinafter “the PRODH Center”) was kidnapped for a period of four hours by unknown assailants, who took her belongings and personal identification;
- b. on September 3, 1999 the PRODH Center received by mail three envelopes that contained written threats, one of which contained a black cross in the area below the text; a letter of introduction also appeared with the name Digna Ochoa y Plácido that also contained a black cross drawn in the upper part;
- c. the petitioners (the National Network of Civil Human Rights Organizations “Todos los derechos para todos” [“All the Rights for All”], the Center for Justice and International Law, and the “Lawyer’s Committee for Human Rights”) connected the threats received to the kidnapping of Mrs. Ochoa on August 9, 1999, because of her personal card found in one of the envelopes. As a consequence, the petitioners requested precautionary measures of the Inter-American Commission to protect the lives and integrity of Mrs. Ochoa and of the priest Edgar Cortéz Morales. The latter was included since one of the envelopes contained a threat directed at the “Reverend Father.”
- d. on September 8, 1999, the members of the PRODH Center received new threats in four envelopes that appeared in their offices under a flowerpot. The petitioners denounced those circumstances to the Office of the Attorney General Of Justice of the Federal District, which decided to expand two investigations that it had initiated in 1995 and 1996 due to death threats against David Fernández, the director of the PRODH Center at that time, and other members of the same organization, including Mrs. Ochoa;
- e. on September 9, 1999, the Commission requested that the State adopt precautionary measures to protect the lives and physical integrity of Digna Ochoa Y Plácido, Edgar Cortéz Morales and the members of the PRODH Center;
- f. on September 21, 1999, the State informed the Commission of the status of the implementation of the measures requested;
- g. on September 14, 1999, two envelopes with new death threats appeared in the main drawer of the reception desk of the PRODH Center;
- h. on October 5, 1999, Mrs. Ochoa found in her home the voter’s registration card that was stolen from her during the kidnapping of August 9, 1999;
- i. on October 13, 1999, a new anonymous letter appeared which contained a bomb threat against the PRODH Center;
- j. on October 28, 1999, at approximately 10:00 p.m., Mrs. Ochoa was seized in her house and, by threats and assaults, she was interrogated about the activities and the personal information of each one of the members of the PRODH Center, a situation that lasted for a period of approximately nine hours, until daybreak. The attackers also tied her to her bed, placed an open tank of gas beside her, and left at approximately 7:00 a.m.; however, Mrs. Ochoa succeeded in untying herself and later found in her house a briefcase that had been stolen from her during the kidnapping of August 9, 1999;
- k. on October 29 of the same year, on arriving at the PRODH Center to begin work, the members of that center found the main door open and a series of abnormalities such as disorderly desks, papers strewn on the floor, and a folder that read “Suicide Power”; and
- l. the petitioners expressed to the Commission that the precautionary measures adopted by Mexico have not been effective.

CONSIDERING:

1. That the State ratified the American Convention on April 3, 1982, and in accordance with Article 62 of the Convention, accepted the contentious jurisdiction of the Court on December 16, 1998.
2. That Article 63(2) of the American Convention provides that, “in cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons,” the Court shall, in cases not yet submitted to it, at the request of the Commission, take such measures as it deems pertinent.
3. That under the terms of Article 25(1) of the Rules of Procedure of the Court: [a]t any stage of the proceedings involving cases of extreme gravity and urgency and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order whatever provisional measures it deems appropriate, pursuant to Article 63(2) of the Convention.
4. That Article 1(1) of the Convention states the obligation of the States Parties to respect the rights and freedoms recognized in that treaty and to ensure their free and full exercise to all persons subject to their jurisdiction.
5. That the record submitted by the Commission in its request demonstrates prima facie a situation of urgent and grave danger to the lives and physical integrity of the persons named.
6. That the fact that the Inter-American Commission has requested precautionary measures, which have not produced the required effects and the events occurred subsequent to the adoption of those measures, raises the presumption that the security of the members of the PRODH Center are in grave danger, for which reason it is necessary to require of the State the adoption of provisional measures to avoid irreparable damage to them.
7. That it is the responsibility of the State to adopt measures of security to protect all the persons who are subject to its jurisdiction; this obligation becomes even more evident in regard to those who are associated with proceedings before the organs of supervision of the American Convention.
8. That Mexico also has a duty to investigate the facts underlying this request for provisional measures in order to identify those responsible and appropriately punish them.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

in the exercise of the powers conferred on it by Article 63(2) of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

decides

1. To require that the State adopt, without delay, whatever measures are necessary to protect the lives and integrity of Digna Ochoa and Plácido, Edgar Cortéz Morales, Mario Patrón Sánchez and Jorge Fernández Mendiburu, members of the Miguel Agustín Pro Juárez Human Rights Center.

2. To require that the State adopt, without delay, whatever measures are necessary to assure that the persons who work at or visit the offices of the Miguel Agustín Pro Juárez Human Rights Center can do their work or transactions without danger to their lives or physical integrity.
3. To require that the State investigate the acts denounced that gave rise to the present measures for the purpose of discovering those responsible and punishing them.
4. To require that the State, within fifteen days after the notification of the present Order, inform the Inter-American Court of Human Rights as to the measures that it has adopted in compliance with it.
5. To require that the State continue informing the Inter-American Court of Human Rights, every two months, about the provisional measures adopted, and to require the Inter-American Commission on Human Rights to present its observations to those reports within a period of six weeks after their receipt.