

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Colotenango v. Guatemala
Doc. Type:	Order
Decided by:	President: Antonio A. Cancado Trindade; Judges: Maximo Pacheco-Gomez; Hernan Salgado-Pesantes; Oliver Jackman; Alirio Abreu-Burelli; Sergio Garcia-Ramirez; Carlos Vicente de Roux- Rengifo
Dated:	2 February 2000
Citation:	Colotenango v. Guatemala, Order (IACtHR, 2 Feb. 2000)
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HAVING SEEN:

1. The order of the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) of June 22, 1994, in which it
 1. Require[d] 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 GARCÍA DOMINGO, GONZALO GODÍNEZ LÓPEZ, ARTURO FEDERICO MÉNDEZ ORTIZ and ALFONSO MORALES JIMÉNEZ.
 2. Request[ed] the Government of Guatemala to adopt all necessary measures to ensure that the aforementioned persons [might] continue to reside at or return to their homes in Colotenango, providing them the assurances that they [would] not be persecuted or threatened by agents of the Government or by individuals.
[...]
2. The order of the Court of December 1, 1994, in which it expanded the provisional measures adopted to protect Francisca Sales Martín.
3. The order of the Court of February 1, 1996, in which it enjoined the State of Guatemala (hereinafter “the State” or “Guatemala”) that, in addition to the measures already taken, it should establish mechanisms of control and vigilance over the civil patrols operating in Colotenango.
4. The order of the Court of April 16, 1997, in which it called upon the State to maintain the provisional measures adopted in the instant case while the circumstances of extreme gravity and urgency that led to the adoption of these measures persisted.

5. The order of the Court of September 19, 1997, that

[...]

2. Call[ed] upon the State of Guatemala to expand the measures adopted in this case for the purpose of ensuring the right to life and physical integrity of Andrés Ramos Godínez, Rafael Vásquez Simón, Juan Mendoza Sánchez, Julia Gabriel Simón, Miguel Morales Mendoza, Lucía Quila Colo and Fermina López Castro.

3. Call[ed] upon the State of Guatemala to investigate the facts denounced by the Inter-American Commission on Human Rights and punish those responsible.

[...]

6. The order of the Court of November 27, 1998, that

1. Call[ed] upon the State of Guatemala to include detailed information on the protection measures provided to Lucía Quila Colo, Fermina López Castro and Patricia Ispanel Medimilla in its next report.

2. Call[ed] upon the State of Guatemala to include information on the investigation and punishment of those responsible for the facts that led to the adoption of the provisional measures in its next report and, specifically, on the alleged threats to Alberto Godínez and María García Domingo.

7. The order of the Inter-American Court of June 3, 1999, in which it

1. Call[ed] upon the State of Guatemala to continue the measures required to protect the life and safety of the persons on whose behalf the Inter-American Court of Human Rights ordered provisional measures in its decisions of June 22 and December 1, 1994 and September 19, 1997.

2. Call[ed] up on the State of Guatemala to investigate the events that led to the adoption of those provisional measures with a view of ascertaining those responsible and punishing them.

3. Call[ed] upon the State of Guatemala to urgently report on the alternative mechanisms necessitated by the events of April 30, 1999, and adopted in order to carry out effectively the provisional measures ordered by the Inter-American Court of Human Rights.

4. Call[ed] upon the State of Guatemala to involve the claimants in the planning and execution of the measures referred to in the previous paragraph and, in general, to keep them informed of the progress made with the measures ordered by the Inter-American Court of Human Rights.

[...]

8. The thirteenth, fourteenth and fifteenth reports of the State in which it advised that some of the homes of the beneficiaries of the provisional measures had been visited between the months of June and September 1999, and they had indicated “that they [had] not received any type of threat or restriction of their rights to date.” Moreover, Guatemala mentioned in its thirteenth report that “it [was] evaluating the most appropriate way of providing the provisional measures in favor of the beneficiaries since the presence of members of the police force in the municipality of Colotenango could result in serious incidents.” In this report, it was indicated that Miguel Godínez Domingo “died on August 27 [1999],” while, in the following report, this person was named in the group of beneficiaries visited in September 1999.

9. The observations of the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) of September 1 and November 12, 1999, and January 19, 2000, in which it indicated that, although the visits mentioned in the State’s reports had been effected, the reports provided no information on the application or implementation of protection arrangements to ensure the life and integrity of the beneficiaries of the provisional measures that had been ordered.

10. The State’s thirteenth and fourteenth reports, in which it indicated that the National Civil Police was studying and coordinating actions to recapture the former patrol members. In the fourteenth report, it stated that on November 18, 1999, a meeting was held between representatives of the Public Ministry, the National Civil Police, the Office of the Prosecutor for Human Rights, the Presidential Commission for Coordination of the Human Rights Policy of the Executive Branch (COPREDEH) and a representative of the beneficiaries “at which the actions necessary to recapture the persons who escaped from the Huehuetenango prison on April 30 [1999] were discussed and coordinated.” The Commission also repeated “the urgent need to capture the twelve former patrol members, because the fact that they are at liberty accentuates the tension in the locality of Barranca in the municipality of Colotenango, and also the risk of those protected.”

11. The observations of the Inter-American Commission to the State’s fifteenth report in which it stated that the petitioners’ concern has increased, on the one hand, due to the declarations that, according to the petitioners, the District Prosecutor gave during the last working meeting when he indicated that “he had express orders from the Office of the Prosecutor General of Guatemala not to take any steps in this case” and, on the other hand, because, according to the petitioners, “the escaped former patrol members have frequently been seen in public places in Colotenango, [...] they had stated that they had the support of the armed forces and that they [would] not be detained again.”

12. The observations of the Inter-American Commission, in which it refers to the fact that the alleged threats against María García Domingo, Natividad Pérez Godínez, Viviana Rucux Quilá y Francisca Sales, Alberto Godínez, Marcos, Juan and Ramiro Godínez Pérez, Federico Arturo Méndez Ortíz and Alfonso Morales have not been investigated. In the observations to the thirteenth report, it was established that:

[t]he daughter of Lucía Quilá, Viviana Rucux Quilá, was abducted on July 21, 1999. She was going to give evidence to the United Nations Rapporteur on Children in the office of the Office of the Prosecutor for Human Rights, but before this, she had to pass by the offices of CONAVIGUA. When she alighted from the autobus in Zone 1, at 3rd Avenue and 15th Street, several men massed around her and forced her to go with them. While they were walking, they put a rag over her nose and anaesthetized her; when she woke up she was in Colón Park, also in Zone 1 and it was July 22. Meanwhile, Lucía Quilá, who was waiting for her daughter in CONAVIGUA, received two telephone calls from a woman at approximately 10.00 a.m. and 12.14 p.m. on July 21. They requested a ransom of Q5000, insisting that if she wanted to see her daughter she should leave the money in front of the Cathedral of Guatemala at 6.00 p.m. and that she should not denounce the fact to the police. Mrs. Quilá left the money in the railings in front

of the Cathedral and, as her daughter did not appear, at midnight on the 21st she denounced the fact to the police. The police arrived at the CONAVIGUA installations on the 22nd and their arrival coincided with Viviana's arrival at the office; she had just woken up in Colón Park. The police were informed that the person who called Lucía to request the ransom, told her that she knew her, that she knew she worked for CONAVIGUA and that she followed all her movements.

Lastly, the Commission requested the Court that Guatemala "should provide information on the specific measures that it has taken to investigate the recent threats reported by the petitioners" and that "it should immediately take real and effective measures to protect the life and integrity of the beneficiaries of such measures."

13. The note of the Secretariat of the Court of January 25, 2000, in which it reminded the State that its sixteenth report should have been forwarded the previous day.

CONSIDERING:

1. That Article 63.2 of the American Convention establishes that, in cases of "extreme gravity and urgency, and when necessary to avoid irreparable damage to persons," the Court, in matters not yet submitted to its consideration, at the request of the Commission, may take the provisional measures that it deems pertinent.

2. That, according to Article 25.1 and 25.2 of the Rules of Procedure of the Court:

1. At 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 such provisional measures as it deems pertinent, pursuant to Article 63.2 of the Convention.

2. With respect to matters not yet submitted to it, the Court may act at the request of the Commission.

3. That Article 1.1 of the Convention indicates the obligation of States Parties to respect the rights and freedoms recognized therein and to ensure their free and full exercise to all persons subject to their jurisdiction.

4. That, according to the orders of the court of June 22 and December 1, 1994, and September 19, 1997, the State is obliged to adopt immediately all necessary measures to preserve the life and integrity of those persons in whose favor the Court ordered the provisional measures.

5. That there are contradictions in the information provided by the State, in particular with regard to the situation of Miguel Godínez Domingo (*supra* 8).

6. That, to date, the State has not informed the Court about the adoption of effective measures to recapture the former patrol members or the investigation of the facts to determine the corresponding responsibilities, in compliance with the orders of the Inter-American Court, and it has not presented reliable information to demonstrate that the circumstances of extreme gravity and urgency have ceased.

7. That the State's reports of July 5, September 17 and November 24, 1999, and the briefs presented by the Commission on September 1 and November 12, 1999, and January 19, 2000, suggest that there has been an increase in the risk to the safety of the persons protected since the events that occurred on April 30, 1999, and the Court therefore considers that, in its next communications, the State must include sufficient, reliable information in this respect.

8. That the State should continue taking all pertinent steps so that the measures ordered by the Court are planned and applied with the participation of the petitioners, and that they are offered diligently and effectively.

9. That, as an essential element of its duty to protect, the State has the obligation to investigate and inform this Court about the real and effective measures taken to investigate and punish those responsible for the facts that led to the adoption of the provisional measures, and also the status of the processing of the complaints for the alleged threats suffered by Francisca Sales Martín, Natividad Pérez, María García Domingo, Alberto Godínez, Marcos, Juan and Ramiro Godínez Pérez, Alfonso Morales Jiménez and Arturo Federico Méndez Ortiz.

10. That, in its latest periodic reports, the State has not mentioned the protection measures that, in compliance with the Court's orders, it should provide to Patricia Ispanel Medimilla and Fermina López Castro, Gonzalo Godínez López, Arturo Federico Méndez Ortiz and Juan Mendoza Sánchez.

11. That "a situation of extreme gravity and urgency" persists that justifies maintaining the provisional measures adopted in favor of the persons protected by such measures under the orders of the Court of June 22 and December 1, 1994, and September 19, 1997.

12. That the situation described by the Commission (*supra* Having seen 12) with regard to Viviana Rucux Quilá, is of extreme gravity and urgency and conforms to the requirements of Article 63.2 of the American Convention, which makes it necessary to adopt provisional measures to avoid irreparable damage.

13. That, as indicated in the order of the Court of June 3, 1999, the State must present its reports every two months.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

pursuant to Articles 63.2 of the American Convention and 25 of its Rules of Procedure,

DECIDES:

1. To call upon the State of Guatemala to maintain the measures necessary to protect the life and integrity of the persons protected by the orders of the Inter-American Court of Human Rights of June 22 and December 1, 1994 and September 19, 1997.

2. To call upon the State of Guatemala to expand the measures adopted in the instant case in order to ensure the right to life and integrity of Viviana Rucux Quilá.

3. To call upon the State of Guatemala to provide information urgently on the specific measures that are adopted to comply effectively with the provisional measures ordered by the Inter-American Court of Human Rights.

4. To call upon the State of Guatemala to continue allowing the petitioners to take part in the planning and execution of the measures and, in general, to keep them informed about the progress of the measures ordered by the Inter-American Court of Human Rights.

5. To call upon the State of Guatemala to include information on the investigation and punishment of those responsible for the facts that led to the adoption of the provisional measures in its next report and also on the status of the investigations into the alleged threats against

Francisca Sales Martín, Natividad Pérez, María García Domingo, Alberto Godínez, Marcos, Juan and Ramiro Godínez Pérez, Alfonso Morales Jiménez and Arturo Federico Méndez Ortiz.

6. To call upon the State of Guatemala to include a detailed description of the measures of protection provided to Patricia Ispanel Medimilla y Fermina López Castro, Gonzalo Godínez López, Arturo Federico Méndez Ortiz and Juan Mendoza in its next report.

7. To call upon the State of Guatemala to continue presenting reports every two months on the provisional measures taken and upon the Inter-American Commission on Human Rights to present its observations on the said reports within six weeks of receiving them.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez
Hernán Salgado-Pesantes
Oliver Jackman
Alirio Abreu-Burelli
Sergio García-Ramírez
Carlos Vicente de Roux-Rengifo

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary