

WorldCourts™

Institution: Inter-American Court of Human Rights
Title/Style of Cause: Peace Community of San Jose de Apartado v. Colombia
Doc. Type: Order
Decided by: President: Antonio A. Cancado Trindade
Dated: 9 October 2000
Citation: Community of San Jose de Apartado v. Colombia, Order (IACtHR, 9 Oct. 2000)

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 brief of the Inter-American Commission of Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) of October 3, 2000, which submitted to the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”), in keeping with 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, a request of provisional measures on behalf of the inhabitants of the Community of Paz de San José de Apartadó, Department of Antioquia, Republic of Colombia, to protect their lives and personal integrity, regarding case No. 12.325, which is currently in process before the Commission.

2. That, in said brief, the Commission stated that the residents of said community “have been the object of serious acts of violence and harassment by paramilitary groups in the area,” of which the members of the Colombian Army would also be liable. Specifically, the Commission notified the Court that it has been informed of the “murder of 47 member(s) [of the community] within a nine-month period.” Due to the seriousness of the situation, some of the facts that the Commission detailed in its request of provisional measures are presented as follows:

2.1 On December 29, 1997, at about fifteen hours, members of the 17th Brigade of the National Army detained Antonio Tuberquia, Blanca Libia Guzmán, and Heriberto Usuga when, accompanied by other people, they were going to pick cocoa. They were separated from their peers; were hit while stepping on them; they put wet rags on their faces and accused them of being guerillas.

2.2 On February 6, 1998, at about 10:20 hours, when traveling between San José de Apartadó and La Unión trail, Joaquín Graciano, age 55, Jesús Emilio Tuberquia, age 35, Arnulfo Tuburquia, age 14, and Ovidio Tuberquia, age 16, were detained by members of the 17th Brigade of the National Army and members of the Autodefensas Campesinas de Córdoba y Urabá (hereinafter ACCU”) who undressed them and made them lie on the ground. Then, they “put revolvers and machetes on their necks and they [told] them they were going to kill them.”

2.3 On February 12, 1998, at about 17 hours, members of the 17th Brigade of the National Army, in the Arenas Altas trail detained and threatened Manuel Zapata, age 50, with knives.

2.4 On February 15, 1998, between the 17:30 and 19 hours, in the Arenas Altas trail, members of the 17th Brigade of the National Army, accompanied by members of the ACCU, detained José Eusebio Caro, age 38, and his father, Ramón Emilio Velez, age 78, who were tied all night long; and they were beaten and accused of being guerillas; they were beaten; they were kicked; they were hit with guns, and they were accused of “being guerrillas”. On that same day, another group of soldiers of the 17th Brigade of the National Army detained Hubert Galvis and his wife, Consuelo, who were treated the same way mentioned above; in addition, their house was set on fire and their animals were killed. Also, on February 15, at 17 hours, other soldiers of the 17th Brigade of the Army detained Luis Hernando Goez, age 34, who was foot and hand tied, and they pretended to execute him.

2.5 On March 7, 1998, at 8 hours, members of the 17th Brigade of the National Army, along with ACCU members, tortured and assassinated Reynaldo Lara Ramos, age 60, Miguel Lara, age 17, and Juanita Osorio De Lara, age 58, in the Caño Seco trail.

2.6 On March 13, 1998, at about 15 hours, Gerardo Hildalgo, age 58, member of the Community of Paz de San José de Apartadó, was assassinated when leaving said community in a public transportation vehicle.

2.7 On March 19, 1998, at about 14 hours, in La Unión trail, members of the 17th Brigade of the National Army “retained, beat and raped” Gildardo Tuberquia.

2.8 On March 26, 1998, at about 12 hours, members of the 17th Brigade of the National Army fired against the house of a family in the Alto Bonito trail, seriously injuring Argemiro Jiménez, age 52, his wife, Rosmira Tabares, age 38, and their children Navier Antonio, age 7, Jorge, age 13, and Dorey, age 4.

2.9 On April 9, 1998, a contingent of the 17th Brigade of the National Army arrived to the Arenas Altas trail, at about 8 hours, and shot Darío Goez, age 42, who was at home accompanied by other people, and he was hurt. Then, he was taken out of the place by the military. Later, his body was found and reported to be a guerrilla killed in combat.

2.10 On April 4, 1999, at 23:15 hours, a group of men wearing civilian clothes and armed with guns and grenades, entered the territory of the community and assassinated Aníbal Jiménez, Daniel Pino, and Gabriel Graciano, the latter age 16. Other two people were seriously wounded.

2.11 On August 9, 1999, at 10:00 hours, a group of 30-armed men, among whom there were a lieutenant and several paramilitaries, entered the house of Eduard Motaes, who was beaten and threatened to death, accusing him of being a guerilla deserter. A neighbor that was around, Luis Hidalgo, was also beaten.

2.12 On February 19, 2000, in the urban central area of the municipality of San José de Apartadó, Albeiro Montoya, Luis Ciro, and Alfonso Jiménez, Mario Urrego and Uvaldo Quintero were assassinated by a group of 20 men wearing military uniforms and carrying weapons AK, Galil and R-15.

2.13 On March 10, 2000, a peasant of El Gas trail, municipality of San José de Apartadó, found the house of one of his neighbors burned, the owner dead, and the rest of the family, his wife and five children, missing. According to some of the local authorities, the crime was committed by paramilitaries.

2.14 On May 13, 2000, at about 16 hours, Josmen Benitez, age 23, was forced to get off the public transportation vehicle where he was driving to San José de Apartadó, and he was later

assassinated in the community of Policarpa de Apartadó by five paramilitaries wearing civilian clothes.

2.15 On June 8, 2000, men with their faces covered with balaclavas, supposedly military and paramilitaries, wearing military clothing and using AK guns, shot six members of the Community of San José de Apartadó.

2.16 On July 8, 2000, a group of about 20 hooded men assassinated Rigoberto Guzmán, Elodino Rivera, Diofanor Correa, Humberto Sepúlveda, Pedro Zapata and Jaime Guzmán, and retained other peasants. Before leaving the trail, the aggressors burned the community center where there was a telephone. The day after members of the 17th Brigade, along with paramilitaries, came in the house of Manuel Herrera, plundered the house, stole family goods, and threatened him and the entire community.

2.17 On July 16, 2000, Freddy Mazo, a young man of about 18 years of age, was taken out of the municipality of San José de Apartadó that night, and his body was found nearby with visible evidence of having been injured with a machete.

2.18 On Friday August 25, 2000, at about 15:20 hours, armed people that would have identified themselves as members of the autodefensas campesinas, stopped a public transportation vehicle heading for San José de Apartadó, and forced Ignacio Arenas to get off. At about 16:20 hours, a group of peasants heading for San José de Apartadó saw on the highway edge the body of Arenas with a shot in his head.

2.19 On Tuesday September 19, 2000, at 13:45 hours, a group of five paramilitaries wearing civilian clothes and armed, along with a woman, intercepted a public transportation vehicle, forcing Luis Enrique Usuga to get off. His body, showing a shot in his head and another on his back, appeared in the community of La Chinita de Apartadó.

2.20 On Friday September 22, 2000, at 17:00 hours, paramilitaries forced Miguel Domico Bailarín to get off the public transportation vehicle where he was driving. His body was found in Finca El Bajo del Oso with a shot in his body. Next to him was the body of a woman who had also been detained in the same paramilitary reserve. According to the Commission:

The woman [was] a wounded guerilla [whom] ‘the delegates [of the Red Cross International Committee] were evacuating when the vehicle was intercepted by AUC. In spite of the opposition of the RCIC, which negotiated during one hour trying to safeguard the life of the evacuated person, the three men took her out of the vehicle and forced the delegates to leave the place’.

2.21 On September 23, 2000, at about 17:30 hours, six armed men entered a house in the urban central area of San José de Apartadó and kidnapped Luz Analia Retana Román, age 20, Hernando Arenas, age 18, and Duver Antonio Román, age 15, who were later assassinated.

3. That, based on the detailed facts, the Commission requested the Court “to resolve in favor of issuing provisional measures in order to protect the life and personal integrity of the members of the Community of San José de Apartadó” and filed several particular requests, which are detailed below:

1. That the protective measures be mutually agreed by the State and the Community members and the petitioners. In the sense, and in order to guarantee its effectiveness and relevance, it is necessary to consider the compatibility of the offered guarantee measures with the nature of the experience of the Community of Paz, because the personal and armed protection of

these people may endanger the principles of collective neutrality and humanitarian area that inform their own existence and generate violent responses by the armed actors in the region.

2. That the political mechanism instrumented by the Vice-presidency of the Republic be reinforced and given true effectiveness, in order to restore the confidence between the Community of Peace and the local authorities.

3. That the preventive and protective measures of the Community be strengthened in compliance with the commitments assumed by the Red de Solidaridad Social, which include the supply of short wave radios for San José de Apartadó and other trails where the return of displaced people has taken place; the installation of reflectors for lighting of the surroundings of the urban central area; night exterior lighting of the urban central area and La Unión trail; installation of an alarm system; repairs of the roads between Apartadó and San José, and repair of the telephone system between the municipality and the trails.

4. That, as an essential part of the process of control and elimination of the violence against the Community of San José de Apartadó, more effective measures be adopted to investigate serious acts of violence and intimidation committed against its members in order to judge and sanction those who are liable.

4. That the Inter-American Commission, issued in December 17, 1997, precautionary measures in favor of the population of San José de Apartadó, in keeping with Article 29 of its Rules of Procedure which, however, would have not stopped the violence unleashed “against the members of the community and the harassment acts [that] seriously and continuously threaten the right to life and the personal integrity of the protected people.”

CONSIDERING:

1. Colombia is a State Party to the American Convention since July 31, 1973 and it recognized that competence of the Court, in keeping with Article 62 of the Convention on June 21, 1985.

2. Article 63(2) of the American Convention states that in cases of “extreme gravity and urgency, and whenever it is necessary to prevent irreparable harm to people”, the Court, in cases that are not subject to its hearing and at the request of the Commission, will adopt the provisional measures that may deem relevant.

3. The terms of Article 24(5) of the Rules of Procedure of the Court:
If the Court is not sitting, the President shall convoke it immediately. Pending the meeting of the Court, the President, in consultation with the Permanent Commission and, if possible, with the other judges, shall call upon the government concerned to adopt the necessary urgent measures and to act so as to permit any provisional measures subsequently ordered by the Court to have the requisite effect.

4. The records produced by the Commission in its request demonstrate prima facie a situation of extreme seriousness and urgency as to the rights to life and personal integrity of Ricardo Quintero, Filinardo Quintero, Senover Quintero, Albeiro Antonio Guzmán, Luz Fany Sepúlveda, Cristian Camilo Guzmán, Jesus Montoya, Ernestina Tuberquia, Carlos Hernando Tuberquia, Milorei Tuberquia, Herman Tuberquia, Edier Tuberquia, Ramon Zapata, Rosa Ema Alvarez, Andrea Alvarez, Rosalba Zapata, Leidi Zapata, Joaquín Escobar, Yazmín Guzmán, Yeison Guzmán, Nayivi Guzmán, Yadira Guzmán, Reynaldo Areiza, Rosmeri Guzmán, Alba Quintero, Derlis Quintero, Jader David, Amparo David, Morelia Guzmán, Elicer Guzmán, Rosa Ema Zapata, Pedro Luis Areiza, Fredy Areiza, Clara Areiza, Denis Guzmán, Derli Guzmán,

Arelis Guzmán, Yuber Guzmán, Rosa Tuberquia, Jesus Emilio Tuberquia, Flora Danys Tuberquia, Arlenis Tuberquia, Alvaro Zapata, Rosalba Aguirre, Deyanira Aguirre, Blanca Zapata, Wilmer Zapata, William Guzmán, Blanca Lidia Areiza, Lubian Sepúlveda, Winer Guzmán, Yesica Guzmán, Arlevis Guzmán, Braian Guzmán, Nely Guzmán, Yandy Guzmán, Adolfo Guzmán, Marielli Guzmán, Marely Guzmán, Mario Durango, Marina Sánchez, Ferney Sánchez, Patricia Durango, Wilder Durango, Rosa Quintero, Carlos Sánchez, Bladimir Sánchez, Didier Sánchez, Mirlenis Guzmán, Paola Guzmán, Yaidis Guzmán, Hector Areiza, Liris Moreno, José Luis Borja, Maria Holguín, Consuelo Guzmán, Alexander Guzmán, Carlos Guzmán, Araseli Guzmán, Leidi Guzmán, Javier Sánchez, Blanca Nury Guzmán, Yei Carolina Sánchez, Leonel David, Amparo Sánchez, Edwin David, Luz Denys David, Alexis David, María Sánchez, Esteban David, Marlovi David, Juliana David, Yirlean David, Mauricio David, Antonio Guzmán, María Urrego, Erica Guzmán, Ana Jesusa Tuberquia, María Tuberquia, Amparo Tuberquia, Arnulfo Tuberquia, Jobernai Sánchez, Anibal Tuberquia, Aleida Tuberquia, Natalia Tuberquia, Fabian Tuberquia, Antonio Tuberquia, Libia Guzmán, Norberto Tuberquia, Edier Tuberquia, Dario Guzmán, Bienvenida Mazo, Dania Guzmán, Jeiner Guzmán, María Sepúlveda, Juan Gregorio Guzmán, Jaime Guzmán, Genito Guzmán, Dairo Guzmán, Sandra Guzmán, Amparo Guzmán, Liliana Guzmán, Monica Guzmán, Ledis Guzmán, Jhon Deives Guzmán, Antonio Areiza, Liliana Areiza, Queli Areiza, Olanier Areiza, Danilea Areiza, Ricardo Pineda, María Dolores Usuga, Fredy Pineda, Edwin Guzmán, Alba Lucía Giraldo, Alfenis Cardona, Luz María Gomez, Marveli Giraldo, Marcela Guzmán, Libardo Guzmán, Senubia Higuaita, Diomedes Guzmán, Zoila Tuberquia, Ovidio Usuga, Jarido Usuga, Luis Eduardo Usuga, Ivan Guzmán, Ricaurte Sepúlveda, Valentina Sepúlveda, Bernardo Sepúlveda, Luz Dary Tuberquia, Laidin Sepúlveda, Consuelo Usuga, Aldemar Quintero, Albeiro Usuga, Didier Usuga, Fidelina Sepúlveda, Edilia Quintero, Ramiro Rueda, María Quintero, Yorladis Rueda, Yorman Rueda, Jarlin Rueda, Uber Areiza, Alicia Guzmán, Otoniel Guzmán, Alba Guzmán, Jair Guzmán, Yudi Guzmán, Francisco Higuaita, Nohemi Tuberquia, Marlobe Higuaita, Edilson Tuberquia, Heider Higuaita, Deison Higuaita, Francisco Higuaita, Miro David, Uber Areiza, Teresa Guzmán, Jhon Guzmán, Beyanira Areiza, Davidson Areiza, Ramón Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán, and Norber Sepúlveda.

5. The Inter-American Commission has requested the State to adopt the precautionary measures, which have not rendered to the pursued protective effects, and that; on the contrary, the facts that have occurred recently make presume that the integrity and the lives of the members of the Community of Paz de San José de Apartadó are at a serious risk. Consequently, there are circumstances that make necessary to ask the State to adopt urgent measures in order to prevent irreparable harm to said people.

6. Article 1(1) of the Convention states the duty of the States Parties to respect the rights and freedoms recognized therein and to guarantee free and full exercise for every person who is subjected to its jurisdiction, included, in this case, the inhabitants of the Community of Paz de San José de Apartadó.

7. On other occasions this Court has considered that it is essential to individualize the people who are in danger of suffering irreparable harm, in order to provide them with protective measures ; moreover, the protective measures adopted by the State in compliance with the decisions issued by the Court or its President are expected to benefit other people of the same community that may be in the same situation of vulnerability and risk.

8. As has been asserted by this Court, “it is the State’s responsibility to adopt security measures to protect every people who are subjected to its jurisdiction; this duty becomes even

more evident in relation to those who are involved in processes before the supervising organs of the American Convention.”

9. The purpose of the provisional measures, in the national juridical systems (internal procedural law) in general, is to preserve the rights of the parties in dispute, guaranteeing that the future merit decision is not harmed by their actions *pendente lite*.

10. The purpose of the provisional measures, in the International Law of Human Rights, goes beyond this, since, besides its essentially preventive nature, they protect fundamental rights, as long as they seek to prevent irreparable harm to people.

11. The Court has not heard the case referred to in the request of the Commission as to matter, and therefore, adopting urgent measures does not imply a decision on the matter of the dispute existing between the petitioners and the State. Upon adopting urgent measures, this Presidency is only guaranteeing that the Court shall be able to exercise accurately its conventional mandate.

NOW THEREFORE:

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

based on Article 63(2) of the American Convention on Human Rights and in use of the attributions conferred upon him by Article 25 of its Rules of Procedure, after consulting with all judges in the Court,

DECIDES:

1. To require the State of Colombia to adopt, forthwith, as many measures as may be necessary to protect the lives and personal integrity of Ricardo Quintero, Filinardo Quintero, Senover Quintero, Albeiro Antonio Guzmán, Luz Fany Sepúlveda, Cristian Camilo Guzmán, Jesus Montoya, Ernestina Tuberquia, Carlos Hernando Tuberquia, Milorei Tuberquia, Herman Tuberquia, Edier Tuberquia, Ramon Zapata, Rosa Ema Alvarez, Andrea Alvarez, Rosalba Zapata, Leidi Zapata, Joaquín Escobar, Yazmín Guzmán, Yeison Guzmán, Nayivi Guzmán, Yadira Guzmán, Reynaldo Areiza, Rosmeri Guzmán, Alba Quintero, Derlis Quintero, Jader David, Amparo David, Morelia Guzmán, Elicer Guzmán, Rosa Ema Zapata, Pedro Luis Areiza, Fredy Areiza, Clara Areiza, Denis Guzmán, Derli Guzmán, Arelis Guzmán, Yuber Guzmán, Rosa Tuberquia, Jesus Emilio Tuberquia, Flora Danys Tuberquia, Arlenis Tuberquia, Alvaro Zapata, Rosalba Aguirre, Deyanira Aguirre, Blanca Zapata, Wilmer Zapata, William Guzmán, Blanca Lidia Areiza, Lubian Sepúlveda, Winer Guzmán, Yesica Guzmán, Arlevis Guzmán, Braian Guzmán, Nely Guzmán, Yandy Guzmán, Adolfo Guzmán, Marielli Guzmán, Marely Guzmán, Mario Durango, Marina Sánchez, Ferney Sánchez, Patricia Durango, Wilder Durango, Rosa Quintero, Carlos Sánchez, Bladimir Sánchez, Didier Sánchez, Mirlenis Guzmán, Paola Guzmán, Yaidis Guzmán, Hector Areiza, Liris Moreno, José Luis Borja, Maria Holguín, Consuelo Guzmán, Alexander Guzmán, Carlos Guzmán, Araseli Guzmán, Leidi Guzmán, Javier Sánchez, Blanca Nury Guzmán, Yei Carolina Sánchez, Lionel David, Amparo Sánchez, Edwin David, Luz Denys David, Alexis David, María Sánchez, Esteban David, Marlovi David, Juliana David, Yirlean David, Mauricio David, Antonio Guzmán, María Urrego, Erica Guzmán, Ana Jesusa Tuberquia, María Tuberquia, Amparo Tuberquia, Arnulfo Tuberquia, Jobernai Sánchez, Anibal Tuberquia, Aleida Tuberquia, Natalia Tuberquia, Fabian Tuberquia, Antonio Tuberquia,

Libia Guzmán, Norberto Tuberquia, Edier Tuberquia, Dario Guzmán, Bienvenida Mazo, Dania Guzmán, Jeiner Guzmán, María Sepúlveda, Juan Gregorio Guzmán, Jaime Guzmán, Genito Guzmán, Dairo Guzmán, Sandra Guzmán, Amparo Guzmán, Liliana Guzmán, Monica Guzmán, Ledis Guzmán, Jhon Deives Guzmán, Antonio Areiza, Liliana Areiza, Queli Areiza, Olanier Areiza, Danilea Areiza, Ricardo Pineda, María Dolores Usuga, Fredy Pineda, Edwin Guzmán, Alba Lucía Giraldo, Alfenis Cardona, Luz María Gomez, Marveli Giraldo, Marcela Guzmán, Libardo Guzmán, Senubia Higueta, Diomedes Guzmán, Zoila Tuberquia, Ovidio Usuga, Jarido Usuga, Luis Eduardo Usuga, Ivan Guzmán, Ricaurte Sepúlveda, Valentina Sepúlveda, Bernardo Sepúlveda, Luz Dary Tuberquia, Laidín Sepúlveda, Consuelo Usuga, Aldemar Quintero, Albeiro Usuga, Didier Usuga, Fidelina Sepúlveda, Edilia Quintero, Ramiro Rueda, María Quintero, Yorladis Rueda, Yorman Rueda, Jarlin Rueda, Uber Areiza, Alicia Guzmán, Otoniel Guzmán, Alba Guzmán, Jair Guzmán, Yudi Guzmán, Francisco Higueta, Nohemi Tuberquia, Marlobe Higueta, Edilson Tuberquia, Heider Higueta, Deison Higueta, Francisco Higueta, Miro David, Uber Areiza, Teresa Guzmán, Jhon Guzmán, Beyanira Areiza, Davidson Areiza, Ramón Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán and Norber Sepúlveda.

2. To require the State of Colombia to provide the Inter-American Court of Human Rights with a first report on the measures adopted within a fifteen-day period after notifying the [...] decision and to the Inter-American Commission of Human Rights which will submit its observations on such report within a fifteen-day period upon receiving this document.

3. To call the Inter-American Commission and the State of Colombia to a public hearing at the seat of the Inter-American Court of Human Rights, on November 16, 2000, at 10:00 hours, with the purpose of listening to their views on the facts and circumstances that prompted the adoption of these urgent measures.

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary