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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, Jose Publio Bautista, Nelly Maria Ascanio, Ayda Mile Ascanio, Miriam Rosas Ascanio and Javier Alvarez v. Colombia
Doc. Type: Order
Decided by: President: Antonio A. Cancado Trindade;
Judges: Hernan Salgado-Pesantes; Oliver Jackman; Alirio Abreu-Burelli; Sergio Garcia-Ramirez; Carlos Vicente de Roux-Rengifo
Dated: 30 May 2001
Citation: Daniel Alvarez v. Colombia, Order (IACtHR, 30 May 2001)
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HAVING SEEN:

1. The order of the President of the Inter-American Court of Human Rights (hereinafter “the President”) of July 22, 1997, in the operative paragraphs of which it was decided:

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 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 their 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 to 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 Court may hear their views on the facts and circumstances that gave rise to the request for provisional measures and to this Order.

2. The order of the President of August 14, 1997, whereby he expanded “the urgent measures adopted in this case in order to guarantee the right to life and physical integrity of Javier Alvarez”.

3. The order of the Inter-American Court of Human Rights (hereinafter “the Court” or “the Inter-American Court”) of November 11, 1997, the operative paragraphs of which ratified the orders of the President of July 22 and August 14, 1997, and maintained the measures adopted for a period of six months.

4. The order of the President of December 22, 1997, ratified by the Court on January 21, 1998, whereby he expanded “the urgent measures adopted in this case in order to ensure the right to life and physical integrity of María Eugenia Cárdenas and her relatives”.

5. The order of the President of May 12, 1998, whereby he extended the measures adopted until June 19, 1998.

6. The order of the Court of June 19, 1998, whereby it decided to extend the measures on behalf of María Eugenia Cárdenas, for as long as the situation of risk which justified their adoption persists, and to maintain until September 6, 1998, the measures in favor 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, Miriam Rosas Ascanio and Javier Alvarez.

7. The order of the President of August 6, 1998, the operative paragraphs of which called upon the State to adopt, forthwith, “all necessary measures to guarantee the right to life and physical integrity of Daniel Prado and Estela Prado and their daughters, Camilla Alejandra and Lina”.

8. The order of the Court of August 29, 1998, whereby it decided to maintain the provisional measures that had been adopted, ratify the order of the President of August 6, 1998, and call on the State to conduct an investigation into the facts that had given rise to such measures “in order to obtain effective results leading to the identification of those responsible and their punishment.”

9. The order of the President of July 17, 2000, whereby he called on the State to adopt urgently the measures necessary to guarantee the right to life and physical integrity of Luz Elsie Almanza, Hilda Rosario Jiménez, Ramón Rangel, Robinson Amador, Yamel López, Emely Pérez, Yolanda Salamanca, Rosa Tulia Bolaños, Rocío Campos and Alexander Rodríguez, and to conduct an investigation to punish those responsible for the facts denounced by the Inter-American Commission.

10. The order of the Court of August 10, 2000, whereby it decided to maintain the provisional measures adopted, ratify the order of the President of July 17, 2000, and call on the State to conduct an investigation into the facts that gave rise to these measures in order to obtain “effective results that may lead to the identification of those responsible and their punishment.”

11. The order of the President of October 11, 2000, the operative paragraphs of which called on the State to adopt the necessary measures to protect the life and physical integrity of Ángel Quintero, Claudia Patricia Monsalve, Marta Soto, Silvia Quintero, Gloria Herney Galíndez, Gladys Ávila and Rocío Bautista, and also to determine the whereabouts of the first two persons, and to investigate and punish those responsible for the facts described by the Inter-American Commission. It also called upon the State to adopt, forthwith, the necessary measures “to ensure that all the branch offices of the Association of Relatives of Detainees-Disappeared Persons of Colombia may perform their duties without endangering the lives or physical integrity of their employees,” and to submit a report on the measures adopted within 15 days, and upon the Commission, to submit its comments, within a similar period, as of the date on which it receives the State’s document.

12. The order of the Court of November 12, 2000, in the operative paragraphs of which, it was decided:

1. To request that the State of Colombia maintain the provisional measures in favor 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, Miriam Rosas Ascanio, Javier Álvarez, Erik A. Arellano Bautista, Daniel Prado, Estela de Prado, Camilla Alejandra Prado, Lina Prado, Luz Elsie Almanza, Hilda Rosario Jiménez, Ramón Rangel, Robinson Amador, Yamel López, Emely Pérez, Yolanda Salamanca, Rosa Tulia Bolaños, Rocío Campos and Alexander Rodríguez.

2. To request that the State of Colombia maintain the provisional measures adopted in favor of María Eugenia Cárdenas and the members of her family.

3. To ratify the order of the President of the Inter-American Court of Human Rights of October 11, 2000, and, consequently, to request that the State of Colombia maintain the measures necessary to protect the right to life and physical integrity of Ángel Quintero, Claudia Patricia Monsalve, Marta Soto, Silvia Quintero, Gloria Herney Galíndez, Gladys Ávila and Rocío Bautista.

4. To request that the State of Colombia adopt, forthwith, whatever measures are necessary to ensure that all persons related to the Association of Relatives of Detainees-Disappeared Persons of Colombia (ASFADDES), can carry out their functions without danger to their lives or physical integrity.

5. To request that the State of Colombia investigate the acts denounced by the Inter-American Commission on Human Rights which led to the adoption of the current measures; that, in particular, it determine the whereabouts of Ángel Quintero and Claudia Patricia Monsalve, and that it identify and punish those responsible for the said acts.
[...]

13. The communication of May 25, 2001, with the comments of the Inter-American Commission, in which it informed the Court of the assassination of Francisco García, who had been an active member of the Barrancabermeja branch of the Association of Relatives of Detainees-Disappeared Persons of Colombia (ASFADDES) until February 28, 2001, on which date it ceased its activities, owing to “lack of safety guarantees.” The Commission also provided information about the telephone threats received by María Eugenia López, a member of the Medellín branch of this Association, which caused her “to fear for her life.” Consequently, the Commission requested:

1. The adoption of the necessary measures to investigate, prosecute and punish the assassination of Francisco García and the threats against María Eugenia López. Should the investigation indicate the responsibility of State agents, they must be separated from public service until the investigations have been concluded.

2. [That it should a]dopt the necessary measures to coordinate measures of protection for the next of kin of Francisco García and other members of ASFADDES in Barrancabermeja with the petitioners.

3. [That it should a]dopt the necessary measures to coordinate measures of protection for María Eugenia López and other active members of the Medellín branch with the petitioners.

CONSIDERING:

1. That Colombia is a State Party to the American Convention on Human Rights (hereinafter “the Convention” or “the American Convention”), Article 1.1 of which establishes 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. The State also recognized the jurisdiction of the Court on June 21, 1985, pursuant to Article 62 of the Convention.

2. That Article 63.2 of the Convention establishes that “[i]n cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons,” the Court may, at the request of the Commission, adopt such measures as it deems pertinent in matters that have not yet been submitted to its consideration.

3. That, in this regard, Article 25.1 of the Rules of Procedure of the Court establish that: 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.

4. That a person connected to ASFADDES has been assassinated, which, as the Court has already declared on another occasion, “constitutes a specific and evident indication of the danger in which members of the said Association are.” Moreover, further threatening acts have

occurred against María Eugenia López, all of which justifies prima facie the adoption of measures of protection in her favor.

5. That “a situation of extreme gravity and urgency” persists, which justifies maintaining the measures adopted in favor of the persons protected by the said measures under the orders of the Court of November 11, 1997, January 21, June 18 and August 29, 1998, and August 10 and November 12, 2000 (supra having seen 3, 4, 6, 8, 10 and 12)

6. That, in addition to their essentially preventive nature, the purpose of provisional measures in international human rights law is to ensure the effective protection of fundamental rights, since they seek to avoid irreparable damage to persons.

7. That the State should take the pertinent steps so that the measures ordered by the Court are planned and applied with the participation of the petitioners, so that they are thorough and effective. The petitioners must also collaborate in order to make the measures adopted effective.

8. That, in order to ensure an effective protection of the next of kin of Francisco García, it is advisable that they should be duly identified before the State by the Inter-American Commission.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the authority 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 call upon the State of Colombia, in compliance with the orders of the Inter-American Court of Human Rights and in accordance with new circumstances that have arisen in the case:

a. to maintain the provisional measures ordered in favor 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, Miriam Rosas Ascanio, Javier Alvarez, Erik A. Arellano Bautista, Daniel Prado, Estela de Prado, Camilla Alejandra Prado, Lina Prado, Luz Elsia Almanza, Hilda Rosario Jiménez, Ramón Rangel, Robinson Amador, Yamel López, Emely Pérez, Yolanda Salamanca, Rosa Tulia Bolaños, Rocío Campos, Alexánder Rodríguez, Ángel Quintero, Claudia Patricia Monsalve, Marta Soto, Silvia Quintero, Gloria Herney Galíndez, Gladys Ávila, Rocío Bautista and María Eugenia Cárdenas and her next of kin; and

b. to adopt, forthwith, whatever measures are necessary to ensure that the persons who work in or visit the offices of the Association of Relatives of Detainees-Disappeared Persons of Colombia (ASFADDES) can perform their functions or conduct their business without danger to their lives and physical integrity.

2. To call upon the State of Colombia to adopt the necessary measures to ensure the right to life and physical integrity of the next of kin of Francisco García; to this end, it requests the Inter-American Commission on Human Rights to submit to the State of Colombia a list of the persons in favor of whom the State must adopt the said measures of protection, within 15 days of being notified of this order.

3. To call upon the State of Colombia to investigate the facts described by the Inter-American Commission on Human Rights that gave rise to the adoption of these measures, in order to obtain effective results leading to the identification of those responsible and their punishment. The State must assume this obligation to investigate, together with that of preventing and punishing, as a legal obligation and not as a mere formality.

4. To request the State of Colombia to allow the petitioners to take part in the planning and implementation of these measures and that, in general, it maintain them informed about progress in the measures ordered by the Inter-American Court of Human Rights.

5. To call on the State of Colombia to expand its periodical reports in order to include information on the provisional measures adopted in compliance with this order, as of the date that it is notified thereof, and that it continue presenting these reports every two months.

6. To call on the Inter-American Commission on Human Rights to forward its comments on the said reports to the Inter-American Court of Human Rights, within six weeks of receiving them.

Antônio A. Cançado Trindade
President

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

[FN1] Judge Máximo Pacheco Gómez informed the Court that, owing to circumstances beyond his control, he was unable to attend the Fifty-first Regular Session of the Court, he did not take part in the deliberation and signature on this Order.
