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Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Peace Community of San Jose de Apartado v. Colombia
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Decided by:	President: Antonio A. Cancado Trindade; Judges: Alirio Abreu-Burelli; Hernan Salgado-Pesantes; Oliver Jackman; Sergio Garcia-Ramirez
Dated:	18 June 2002
Citation:	Community of San Jose de Apartado v. Colombia, Order (IACtHR, 18 Jun. 2002)
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HAVING SEEN:

1. The brief by the Inter-American Commission on Human Rights (hereinafter “the Commission” or “the Inter-American Commission”) of October 3, 2000, by means of which it filed with 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 American Convention”) and 25 of the Rules of Procedure of the Court, a request for provisional measures in favor of the members of the Peace Community of San José de Apartadó (hereinafter “the Community” or “the Peace Community”), Department of Antioquia, Republic of Colombia, with the aim of protecting their life and their right to humane treatment, in connection with case No. 12,325, currently before the Commission. In said brief, the Commission stated that the residents of that community “have suffered grave acts of violence and harassment by paramilitary groups in the area,” for which members of the Colombian Army would also be responsible. Specifically, the Commission reported to the Court that it has received information on the “murder of 47 members [of the Community] during a nine-month period.”

2. The October 9, 2000 Order of the President of the Court (hereinafter “the President”), in which he ordered:

1. That the State of [...] Colombia adopt, without delay, whatever measures [are] necessary to protect the lives and the right to humane treatment 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, Joaquin Escobar, Yazmin 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, Willian Guzmán, Blanca Lilia 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, Jose Luis Borja, María 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 Lucia 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, Ramon Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán, and Norber Sepúlveda.

2. That the State of Colombia submit to the Inter-American Court of Human Rights a first report on steps taken within 15 days after notification of the [...] Order, and that the Inter-American Commission on Human Rights submit its observations on that report within 15 days from reception of that document.

3. To summon 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 o'clock, so as to hear their views on the facts and circumstances that led to adoption of the instant urgent measures.

3. The public hearing on the request for provisional measures, held at the seat of the Inter-American Court on November 16, 2000.

4. The November 24, 2000 Order of the Inter-American Court, which decided:

1. To ratify the October 9, 2000 Order of the President of the Inter-American Court of Human Rights, to its full extent.

2. To order the State of Colombia to maintain whatever measures are necessary to protect the lives and the right to humane treatment 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, Yazmin 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, Willian Guzmán, Blanca Lilia 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, Jose Luis Borja, María 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 Ususga, Fredy Pineda, Edwin Guzmán, Alba Lucia 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, 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 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, Ramon Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán, and Norber Sepúlveda.

3. To order the State of Colombia to adopt, without delay, such measures as are necessary to protect the lives and the right to humane treatment of all other members of the Peace Community of San José de Apartadó.

4. To order the State of Colombia to investigate the facts that led to adoption of [the] provisional measures, so as to identify those responsible and punish them accordingly, and to report on the situation of the persons mentioned in the previous operative paragraphs.

5. To order the State of Colombia to adopt, without delay, whatever measures [were] necessary to ensure that the persons benefiting from those [measures] c[ould] continue living in their usual residence.

6. To order the State of Colombia to ensure the necessary conditions for those members of the Peace Community of San José de Apartadó who have been forced to go to other parts of the country, to be able to return to their homes.

7. To order the State of Colombia to allow the applicants to participate in planning and implementation of the measures and, in general, to keep them informed of progress regarding the measures ordered by the Inter-American Court of Human Rights.

8. To order the State of Colombia to inform the Inter-American Court of Human Rights every two months after notification of the [...] Order, of provisional measures taken to comply with that Order.

9. To order the Inter-American Commission on Human Rights to submit its observations on the reports by the State of Colombia within six weeks of their reception.

5. Reports submitted by the State on January 24, March 23, June 4, August 6, October 8, and December 7, 2001, and on February 8 and May 2, 2002. In those briefs the State informed the Court of the various steps it has taken to comply with the November 24, 2000 Order of the Inter-American Court. The State has also submitted specific information, in response to requests by the Court, several times, regarding grave events reported by the Inter-American Commission.

6. The briefs with observations on the reports submitted by the State, filed by the Inter-American Commission on July 22 and December 2, 2001, and on March 19, April 1 and May 10, 2002, as well as its December 19, 2001 and April 9 and 19, 2002 communications, in which it submitted additional information on the instant provisional measures. In these communications, the Commission reported on several events in the Peace Community, subsequent to the adoption of provisional measure by the Court on November 24, 2000. According to the Commission, those events affect members of the Peace Community as beneficiaries of the measures, as well as various individuals who provide services to the Community. Given the gravity of the situation and the grave risk to the population, the Commission states that it is necessary to “guarantee the coming and going of public transportation with the necessary food for consumption by the community [and] to provide support need by the Peace Community vis-à-vis public opinion and the security forces that operate in the area and that must ensure their safety.” Furthermore, the Commission specified the following facts pertaining to the situation in the Community:

a) On December 15, 2001 Henry Tuberquia was murdered by three armed men who entered the urban area of San José de Apartadó, forced him to lie down on the ground, shot him, and then left following the road that leads from Apartadó to San José. At that time, the military were three minutes away from the place through which the armed men had entered.

b) On December 17, 2001, Mrs. Enadis Lugo, when she was at her home, was intimidated and suffered attempted rape by a soldier of the military forces. Military troops were about ten minutes away from the urban center of San José de Apartadó. On February 13, 2002, that woman made her statement on the aforementioned events to officials of the Attorney General’s Office, and on the twentieth of that month and year, army soldiers went looking for her at her home. Subsequently, feeling that their lives were at risk, her family had to leave their home and farm.

- c) On December 18, 2001, thirteen inhabitants of Apartadó headed for San José were stopped by two members of the paramilitary forces, who accused them of being guerrilla fighters, threatened to kill them, interrogated them on their identities and wrote down the personal data of each one of them in a notebook. Afterwards, the paramilitary detained them again and threatened to kill them; they beat Gerardo Salas, and when it seemed like they were going to kill him, an army truck showed up, for which reason the paramilitary withdrew.
- d) On December 30, 2001 several farmers who are members of the Community were interrogated regarding the “presence of armed men and their movements.”
- e) On January 1, 2002 María Grimanesa Florez was raped by a member of the military, on a road leading from the urban center of San José to the hamlet of El Mariano.
- f) On January 2, 2002 seven men, in civilian dress, arrived at the home of Iván Velásquez, located at a place known as La Batea, between Apartadó and the urban center of San José. They threatened those who were there, and they took some food, goods from the family’s store, money, and that man’s identification card. They then forced Iván Velásquez to go with them, and a few minutes later they murdered him.
- g) On January 10, 2002, a truck transporting cocoa, headed for Medellín, was stopped by a group of armed paramilitary in civilian clothing. A female official of the transportation company contacted the Peace Community and reported that the paramilitary had retained the cocoa shipment and that they demanded the presence of a representative of the Community to return it, and the Community did not agree to this. Afterwards, the truck was found without the cocoa shipment and “without some money.”
- h) On February 14, 2002 Morelia de Jesús Giraldo Tuberquía, who lived along the road leading from San José de Apartadó to the roadside community of La Unión, disappeared in the municipality of Apartadó. Two days earlier, Mrs. Giraldo Tuberquía had been approached by a paramilitary, known as “Torolo” and known to have participated in the July 8, 2000 massacre.
- i) On March 1, 2002 a collective vehicle going toward San José de Apartadó was stopped at a place known as Tierra Amarilla by two paramilitary, one of them known as “Torolo,” who stole from the passengers “the groceries they had purchased,” threatened them, and told them that they were also going to check food supplies at the public transportation terminal and at the checkpoint.
- j) On March 30, 2002 two armed men in civilian dress stopped Gilma Rosa Graciano and Ofidia Sánchez, members of the Peace Community, after forcing them to get off a public transportation vehicle on which they were traveling toward San José de Apartadó, and they made them disappear. Ofidia Sánchez managed to escape from her captors and immediately left the territory of the Peace Community “to save her life.” On March 31, 2002 the dead body of Gilma Rosa Graciano was found near the municipality of Turbo, department of Antioquia.
- k) There have been acts of intimidation, harassment, and violence against those in charge of transporting food from San José to San José de Apartadó, with the apparent objective of blocking supply of foodstuffs to the Community.
- l) On April 9, 2002 Reynel de Jesús Alvarez, who transported “grocery purchases” toward the Peace Community, was murdered. He was driving the vehicle from which, a few days earlier, Gilma Rosa Graciano and Ofidia Sánchez were forced to get off.
- m) On April 10, 2002, another driver was threatened by a group of armed civilians.
- n) On April 12, 2002 Osiel Montoya, the driver of a public transportation vehicle headed for San José de Apartadó was murdered at the place known as Tierra Amarilla.

- o) Members of the security forces have harassed the 41 witnesses who have rendered testimony on the acts of violence against the community, and this has led to postponement of the investigation until protection mechanisms are defined for those witnesses.
- p) From April 10, 2002 to the first week in May, no public service vehicle, whether transporting passengers or freight, entered or left San José de Apartadó. Neither the teachers nor the health staff have been able to enter the hamlet. Those who are seriously ill “must be taken down on mule back and even on oxen” to receive medical attention. Certain products such as “primitivo” (a type of small banana) have begun to go to waste.
- q) On April 16, 2002, members of the Peace Community attempted to hire a truck to transport harvests at risk of going to waste due to the blockade. It was not possible to hire the truck due to death threats against the staff of the trucking companies. Those threats also caused the disintegration of the truckers’ Association in San José.
- r) On that same day, April 16, a third driver, Gonzalo Trejo, who drove on the route between Apartadó and San José, was murdered.
- s) On April 29, 2002, armed men in combat fatigues, linked to the “covert military strategy”, murdered Fernando Puerta, who was involved in community work in the Peace Community.
- t) On May 1, 2002 farmers Darío Graciano Usuga, Alexander Graciano and Samuel Graciano were murdered in the roadside community of El Porvenir, in the district of San José de Apartadó, during a “covert military action, carried out by at least 200 men with shoulder weapons in combat fatigues, some with armbands of the ‘Autodefensas Unidas de Colombia’, AUC.”
- u) On May 4, 2002, 200 men involved in the “clandestine military strategy” entered the hamlet of La Unión. Most of the inhabitants fled and the armed civilians searched the homes of the inhabitants of this Community, taking food, clothing, and several animals.
- v) On May 6, 2002, Moisés Sepúlveda Puerta disappeared while going toward San José de Apartadó, after leaving a store in Apartadó.

7. The April 26, 2002 Order of the President, the first operative paragraph of which decided:

To summon the Inter-American Commission and the State to a public hearing to be held at the seat of the Inter-American Court of Human Rights on June 13, 2002, at 15:00 hours, so as to hear their viewpoints on recent events in the Peace Community of San José de Apartadó, according to reports by the Inter-American Commission on Human Rights.

8. The June 13, 2002 Order of the Court, the first operative paragraph of which decided:

To commission the President, Judge Antônio A. Cançado Trindade, the Vice-President, Judge Alirio Abreu Burelli, Judge Hernán Salgado Pesantes and Judge Sergio García Ramírez to attend the public hearing summoned for [that same day] at the seat of the Court, with respect to provisional measures ordered in the instant case.

9. The public hearing on the instant provisional measures, held at the seat of the Inter-American Court on June 13, 2002. There appeared at that hearing:

For the State of Colombia:

Germán Sánchez Vargas, Coordinator of the Prevention and Tension Reduction Group at the Ministry of the Interior;
Colonel Luis Alfonso Novoa, Head of the Human Rights Group of the National Police;
Marcela Briceño-Donn, Director for Human Rights and International Humanitarian Law at the Ministry of Foreign Affairs; and
Andrée Viana, from the Ministry of Foreign Affairs.

For the Inter-American Commission on Human Rights:

Verónica Gómez, Representative of the Commission; and
Abilio Peña Buendía, from the “Comisión Intercongregacional de Justicia y Paz,” as an Assistant to the Commission.

10. The arguments of the Commission, presented at the aforementioned public hearing, are summarized as follows:

- a) The mechanisms established and steps taken by the State in the framework of human rights policy and international humanitarian law, implementation of the early warning system and coordination efforts with the Vice-Presidency to ensure protection of the members of the Peace Community, have been insufficient to ensure the right to life and to humane treatment of the members of the Peace Community and to avoid major and irreparable damage such as that which has been occurring since June, 2001.
- b) There are strategies to attack the Community that involve individuals who, although they are not members of the Community, provide services to it, such as the truckers who take or bring foodstuffs between San José and Apartadó. The Commission is concerned about “how they are going to be protected, [in the case of] a private company that takes food to them, they also want to have safety.” There are acts of violence that perhaps do not directly involve members of the Community, but that take place in nearby areas, in which case the distinction is less clear. But when they are against individuals who offer a service to the Community, it seems that the reason they have been attacked is due to their ties with the Community. These persons should be taken into account when assessing compliance with the provisional measures.
- c) The State has the obligation to protect its civilian population, in accordance with the relevant norms, specifically those of the American Convention and generally those of International Human Rights Law, as well as those of International Humanitarian Law.
- d) The Commission requested that the Court order the State to:
 - i) maintain the provisional measures ordered by the Court in its November 24, 2000 Order;
 - ii) develop a “transition process” to follow up on steps taken by the State, in light of the change of government administration in August of this year;
 - iii) grant the Committee to Foster Investigations (“Comisión de Impulso a las Investigaciones”) permanent status for it to begin a review of procedures and to order the establishment of a subcommittee, within that committee, to develop warnings and monitoring by the XVII Brigade;

iv) develop Directive 07 of November 21, 1999, with respect to the humanitarian presence of international organizations in the Community, and for them also to be present in the “transition process”; and

v) ensure entry and exit of vehicles to and from the Peace Community, as well as direct control by law enforcement within the framework of human rights policy and international humanitarian law “with respect to the Tierra Amarilla checkpoint.”

11. The arguments of the State at that same public hearing, summarized as follows:

a) It recognizes that under the terms of the Convention it must “combat third parties, whether illegal armed actors, common criminals, terrorists, or however they are called, who attack the safety, integrity, and property of Colombians.” The State recognizes that it has the obligation to act under these circumstances.

b) As the Inter-American Commission did, the State recognizes that provisional measures adopted “have not been optimal or most efficient in terms of safety [...] to that extent, but [it is necessary] to qualify them [and] to improve on what the State, obviously, has done.”

c) Among the new mechanisms proposed, the State suggests the permanent presence of a representative of the Ombudsman’s Office, of a member of the police in charge of security, and use of the information systems of the XVII Brigade. It also proposed the establishment of a public prosecutors committee of the Human Rights Unit of the Office of the Attorney General, with the aim of accelerating ongoing investigations.

d) The State understands that it undertakes this obligation as a whole, independently of who is in office, insofar as “there is a responsibility of the State that is beyond a Government program.”

12. The documents filed by the State during the public hearing held on June 13, 2002, which are a report by the Public Prosecutors’ Office and another one by the Office of the Attorney General regarding investigations carried out in connection with the instant provisional measures.

13. The brief by the Inter-American Commission dated today, June 18, 2002, in which it reported to the Court the “murder of Miguel Osorio, an inhabitant of San José de Apartadó [, who a]ccording to informational at hand [was] committed by two armed civilians” at the public transportation terminal in Apartadó.

CONSIDERING:

1. That Colombia has been a State Party to the American Convention since July 31, 1973 and recognized the jurisdiction of the Court, pursuant to Article 62 of the Convention, on June 21, 1985.

2. That Article 63(2) of the American Conventions provides that, in cases of “extreme gravity and urgency, and when necessary to avoid irreparable damage to persons,” the Court may, in matters not yet submitted to the Court, upon a request by the Commission, adopt such provisional 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 such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

4. That under International Human Rights Law, provisional measures are not only precautionary insofar as they preserve a juridical situation, but fundamentally protective because they protect human rights. Inasmuch as the basic requirements of extreme gravity and urgency are met, together with that of preventing irreparable damage to persons, the provisional measures become a true preventive jurisdictional guarantee.

5. That the Commission has described a situation of extreme gravity and urgency that is in accordance with the requirements of Article 63(2) of the American Convention with respect to the members of the Peace Community of San José de Apartadó, as well as persons providing services to that Community and who suffer attacks and grave acts of aggression against their lives and their right to humane treatment.

6. That this Court has studied the reports submitted by the State (*supra* Having seen 5.), as well as its arguments at the public hearing held on June 13, 2002, in which it did not object to the information on the facts described by the Commission in the instant case, and positively expressed its willingness to implement the measures (*supra* Having seen 11.).

7. That it has also taken into account the observations of the Commission to the reports submitted by the State (*supra* Having seen 6.), as well as its arguments at the aforementioned public hearing, in which it referred to various grave events that have taken place in the Peace Community of San José de Apartadó, despite the provisional measures ordered, and which affect both members of the Community and persons who provide services to it (*supra* Having seen 10.), points to which the State raised no objection.

8. That this Court has previously protected, in the instant case, a plurality of persons who have not been previously named and who are at grave risk in light of the fact that they are members of the Community. Under the current circumstances of the instant case, there are individuals in the Peace Community of San José de Apartadó who are in the same situation in terms of risk, and who have not been determined, but who may be identified and individualized through their link to the community as service providers. Therefore, the Court deems it necessary to maintain the provisional measures in favor of the persons already protected by the October 9, 2000 Order of the President of the Court and the November 24, 2000 Order of the Court, as well as, for the reasons stated in the briefs filed by the Commission and by the State and the respective arguments at the public hearing held on June 13, 2002, to expand those measures to all persons linked as service providers to that Peace Community.

9. That the situation described above is especially grave in the case of persons in charge of transportation services, in light of the fact that most recent acts of violence against persons associated with the Peace Community have taken place “on the road from Apartadó to San José de Apartadó, at the public transportation terminal in Apartadó, and at the place called Tierra Amarilla,” where a checkpoint has been functioning. This places those service providers, like other members of the Peace Community, in a situation of grave vulnerability of their rights to life and to humane treatment.

10. That Article 1(1) of the Convention establishes the general obligation of the States Parties to respect the rights and liberties set forth in that Convention and to guarantee their free and full exercise by all persons under their jurisdiction. This carries with it the duty to adopt such security measures as are required for their protection. These obligations become even more obvious in connection with those who are involved in proceedings with the oversight bodies of the American Convention.

11. That to make the rights protected by the American Convention effective, the State Party is under the obligation, *erga omnes*, to protect all persons who are under its jurisdiction. In the opinion of the Court, this means that said general obligation is imperative not only with respect to the power of the State but also with respect to actions by third parties, including irregular armed groups of any type. The Court notes that given the special characteristics of the instant case, and the general conditions of the armed conflict in the Colombian State, it is necessary to protect, through provisional measures, the right to life and the right to human treatment of all members of the Peace Community of San José de Apartadó as well as those of all persons having ties with that Community as service providers, in light of the provisions of the American Convention and International Humanitarian Law.

12. That Colombia is under the obligation to investigate the facts reported, so as to identify and punish those responsible.

13. That the Commission and the State, furthermore, have stated that the measures adopted up to now have not been sufficiently effective, and they therefore agree to implement new mechanisms, by mutual agreement, to protect the members of the Peace Community, with participation by the beneficiaries of the provisional measures and their representatives. Both the Commission and the State also stated, at the public hearing, the need to establish a mechanism for joint supervision and permanent security in the Peace Community of San José de Apartadó.

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

by virtue of the authority granted by Article 63(2) of the American Convention on Human Rights and Articles 25 and 29 of its Rules of Procedure,

DECIDES:

1. That the State maintain such measures as are necessary to protect the lives and the right to humane treatment of all members of the Peace Community of San José de Apartadó, under the terms of the October 9, 2000 Order of the President of the Court and the November 24, 2000 Order of the Inter-American Court of Human Rights.

2. That the State adopt such measures as are necessary to protect the lives and the right to humane treatment of all persons providing services to members of the Peace Community of San José de Apartadó, under the terms of considering eight, nine, and eleven of the instant Order.

3. That the State investigate the facts that motivate the expansion of these provisional measures, so as to identify and appropriately punish those responsible.

4. That the State maintain such measures as are necessary to ensure that persons benefiting from the instant measures can continue to live in their customary residence and continue to ensure the conditions required for all persons who have been forced to leave the Peace Community of San José de Apartadó toward other parts of the country, to return to their homes.

5. That the State guarantee the required security conditions along the route between San José de Apartadó and Apartadó, at the public transportation terminal in Apartadó, and at the place known as Tierra Amarilla, both to avoid new acts of violence against public transportation services for persons, such as those described in the instant Order (*supra* Having seen 6 and 13),

and to ensure that the members of the Peace Community effectively and permanently can transport and receive products, supplies, and foodstuffs.

6. That the State continue to enable participation of beneficiaries of the provisional measures or their representatives in planning and implementation of those measures and, in general, to keep them informed on progress regarding measures ordered by the Inter-American Court of Human Rights.

7. That the State, by mutual agreement with the beneficiaries or their representatives, establish a mechanism for continuous supervision and permanent security in the Peace Community of San José de Apartadó, in accordance with the terms of the instant Order.

8. That the State continue to submit reports to the Inter-American Court of Human Rights, every two months after notification of this Order, on provisional measures taken to comply with the instant Order.

9. That the Inter-American Commission on Human Rights continue to submit its observations to the reports prepared by the State, within six weeks of their reception.

10. That the State and the Inter-American Commission on Human Rights be notified of the instant Order.

Judge Cançado Trindade informed the Court of his Concurring Opinion, which accompanies the instant Order.

Antônio A. Cançado Trindade
President

Alirio Abreu-Burelli
Hernán Salgado-Pesantes
Oliver Jackman
Sergio García-Ramírez

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary