

Institution:	Inter-American Court of Human Rights
Title/Style of Cause:	Marta Colomina and Liliana Velasquez v. Venezuela
Doc. Type:	Order (Provisional Measures)
Decided by:	President: Antonio A. Cancado Trindade
Dated:	30 July 2003
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HAVING SEEN:

1. The communication of July 21, 2003, and its attachments, in which the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission” or “the Commission”) submitted to the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “the Court”), pursuant to 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 (hereinafter “the Rules of Procedure”), a request for provisional measures so that the Bolivarian Republic of Venezuela (hereinafter “the State” or “Venezuela”) “would protect the life, safety and freedom of expression of the journalists, Marta Colomina and Liliana Velásquez, who were subjected to an attack on their lives in the early morning of June 27, 2003, when they were on their way to the TELEVEN television channel to present their daily program “The Interview.”

2. The Inter-American Commission bases its request for provisional measures on the following:

a. In notes of February 1, and March 5, 8 and 19, 2002, the Commission received a request for precautionary measures in favor of the Venezuelan journalists, Ibéyise Pacheco, Patricia Poleo, Marianela Salazar and Marta Colomina, who, on January 30, 2002, broadcast a video, which revealed conversations between the Venezuelan Army and the Colombian guerrilla. The day after the video was broadcast, two men on motorcycles threw an explosive device at the door of the newspaper “Así es la Noticia”, which Ibéyise Pacheco directs; it exploded destroying the principal entrance to the building. Moreover, the petitioners indicated that there were pamphlets in the street with threats against the journalists and that, minutes later, a telephone call was received by the newspaper’s central switchboard from persons who identified themselves as members of the “Tupacamaru Revolutionary Movement.”

b. Consequently, on March 22, 2002, the Inter-American Commission adopted the following precautionary measures in favor of the journalists, Marta Colomina, Ibéyise Pacheco, Patricia Poleo and Marianela Salazar, in accordance with Article 25(1) of its Regulation:

1) To provide the protection required by the journalists Ibéyise Pacheco, Patricia Poleo, Marta Colomina and Marianela Salazar, to safeguard their right to life and physical integrity, in accordance with Articles 4 and 5 of the American Convention.

2) To conduct a thorough investigation into the events that occurred on January 31, 2002, at the offices of the newspaper “Así es la Noticia” and into the threats received by the journalists, Ibéyise Pacheco, Patricia Poleo, Marta Colomina and Marianela Salazar.

3) To adopt the necessary measures to protect the full exercise of the freedom of expression of the media employees, in accordance with Article 13 of the Convention.

4) To abstain from carrying out any action that might have an intimidating effect on the journalists, Ibéyise Pacheco, Patricia Poleo, Marta Colomina and Marianela Salazar.

c. The precautionary measures adopted by the Commission to protect the life and physical integrity of Marta Colomina were not effective; the harassment against her has not ceased and the investigations have not produced any results;

d. In the early morning of Friday, June 27, 2003, Marta Colomina was traveling in her car, driven by Héctor José Herrera, her “chauffeur-escort”, to the TELEVEN television channel (hereinafter “TELEVEN”), in order to present her daily program “La Entrevista”, which begins at 5.55 a.m. Liliana Velásquez, the producer of the program, was driving in her vehicle behind Marta Colomina. Shortly before they reached their destination, the vehicles were intercepted and blocked in a synchronized manner by two cars containing eight individuals. Then, four men, three of whom had their faces covered with balaclava helmets, walked towards Marta Colomina’s car pointing their weapons at both the chauffeur and the journalist. The man whose face was uncovered went to the back of his car and took out a sort of “gigantic Molotov” cocktail. The other four men, who also wore balaclava helmets, got out of their car and pointed their weapons in all directions. The Molotov cocktail, made with a large 19-liter bottle made of thick glass, of the type generally used to sell water, struck the windscreen of the journalist’s car, which was protected by a special anti-riot safety coating, so that it resisted the impact, caving in and splintering, but preventing the bomb from entering the car, and merely spilling the gasoline that it contained. However, the man who had tried to detonate the bomb “disconcerted by the unexpected reaction of the journalist, Liliana Velásquez, who was sounding the horn of her car insistently and without stopping, making a great deal of noise for that time of the morning, was unable to detonate it.” Finally, the individuals desisted from their action and fled.

e. Twenty days after the attack against Marta Colomina, the Office of the Public Prosecutor has not opened an investigation, as provided for in the Basic Code of Criminal Procedure. Neither the journalists, Colomina and Velásquez, nor the TELEVEN security agents, who arrived on the site, have been called to make a statement before the Office of the Public Prosecutor. Only the chauffeur-escort, Héctor José Herrera, has been called by a Prosecutor of the Office of the Public Prosecutor “to talk”. Moreover, there is no information that would suggest that an investigation is underway or that any kind of information or evidence has been requested;

f. “The only protection that [Marta Colomina] ha[s] received, as a result of the precautionary measures, came from the Mayor of the Chacao Municipality, who contributed two motorized policemen, taking turns every forty-eight hours to follow her on motorcycle when [she] travel[s] in [her] car, except in the morning when [she] go[es] to the [television] channel from 5 to 7 a.m., when the escort on duty drives [her] car. The monitoring obligation ceases when [she] arrive[s] home and is only carried out when [she is] performing her work-related

duties; the rest of the time, when [she is] at home or going anywhere else, [she has] no protection of any type”; and

g. On June 28, 2003, the Minister of Infrastructure, Diosdado Cabello, made the following statement to the newspaper “El Universal”, with regard to the June 27 attack on the journalists: [W]hat is happening is that there are people who are losing their audience, no one watches them or listens to them, who say anything because of the vial of poison that they take each morning, and who need to call attention to themselves in some way, that is what is happening. Even though this lady, or any other person, tells me that they have suffered an attack on their life, once and for all, I would like it to be known that I do not believe it (...) I underline these hypotheses, I put them in bold type, in inverted commas or highlighted, precisely because, for some time now, I have ceased to believe in anything, in these reports that ‘I was assaulted’, ‘they fired at my car’, always blaming the Government.

3. The additional information provided by the Commission in its request for provisional measures, that:

a. It has been verified that, during 2002, “there has been a progressive and significant increase in the threats and attacks against journalists and, particularly, against those who cover political events and gatherings. During its on-site visit last May, the Commission was informed that journalists were the direct target of attacks and harassment. The general context of the situation reigning in Venezuela has generated a climate of continual violence and threat against freedom of expression and, particularly, against the safety of journalists, cameramen, photographers and other media employees;”

b. To date, the State has not produced anyone who has been detained for the events that gave rise to the seven precautionary measures adopted by the Commission during 2002. Nor has Venezuela prosecuted anyone for the events that gave rise to the request for provisional measures adopted by the Court on November 27 in the case of the RCTV employees; and

c. The fact that the attack of June 27, 2003, against the life of Marta Colomina and Liliana Velásquez failed, shows that journalists are still in a situation of urgent need and imminent danger.

4. The note of July 24, 2003, of the Inter-American Commission, in which it presented additional information that “during the night of July 21, 2003, a soundbox with pamphlets against [Marta] Colomina exploded, a block away from the radio station where she works.”

CONSIDERING:

1. That the State ratified the American Convention on August 9, 1977, and, pursuant to Article 62 of the Convention, recognized the contentious jurisdiction of the Court on June 24, 1981.

2. 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 shall adopt such provisional matters as it deems pertinent in matters it has under consideration and, with respect to a case not yet submitted to it, it may act at the request of the Commission.

3. That, according to Article 25(1) and 25(2) of the Rules of Procedure of the Court:

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.

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

[...]

4. That Article 1(1) of the Convention indicates the obligation of the 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.

5. That the information presented by the Commission in its request (supra second, third and fourth having seen paragraphs) reveals prima facie the existence of a situation of extreme gravity and urgency for the life, safety and freedom of expression of the journalists, Marta Colomina and Liliana Velásquez, of the program “La Entrevista”, which TELEVEN transmits daily.

6. That, in general, under domestic legal systems (internal procedural law), the purpose of provisional measure is to protect the rights of the parties in dispute, ensuring that the judgment on merits is not prejudiced by their actions *pendente lite*.

7. That, under international human rights law, the purpose of urgent and provisional measures goes further, because, in addition to their essentially preventive nature, they protect fundamental rights, inasmuch as they seek to avoid irreparable damage to persons.

8. That it is the responsibility of the State to adopt safety measures to protect all persons who are subject to their jurisdiction and that this obligation is even clearer with regard to those who are involved in proceedings before the organs of protection of the American Convention.

9. That, furthermore, the State has the obligation to investigate the facts that gave rise to this request for provisional measures in order to identify those responsible and impose the pertinent punishments.

THEREFORE:

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

in exercise of the authority conferred by Article 63(2) of the American Convention on Human Rights and Article 25 of the Court’s Rules of Procedure, and having consulted with the other judges of the Court,

DECIDES:

1. To call upon the State to adopt forthwith all necessary measures to protect the life, safety and freedom of expression of the journalists, Marta Colomina y Liliana Velásquez.

2. To call upon the State to allow the beneficiaries to take part in the planning and implementation of the measures of protection and, in general, to maintain them informed about progress in the measures ordered.

3. To call upon the State to investigate the reported facts that gave rise to these measures in order to identify those responsible and punish them.

4. To call upon the State to report to the Inter-American Court of Human Rights on the measures it has adopted in compliance with this Order by August 14, 2003, at the latest.

5. To call upon the Inter-American Commission on Human Rights to present the comments that it deems pertinent to the Inter-American Court of Human Rights within one week of receiving notification of the State's report.

6. To call upon the State, following its first communication (supra fourth operative paragraph), to continue reporting to the Inter-American Court of Human Rights, every two months, on the provisional measures adopted, and upon the Inter-American Commission on Human Rights to present its comments on the said reports within six weeks of receiving them.

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura-Robles
Secretary