

**Order of the
Inter-American Court of Human Rights
of November 26, 2007**

Provisional Measures regarding Guatemala

**Case of the Plan de Sánchez Massacre in favor of Members of
the Community Studies and Psychosocial Action (ECAP) Team**

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or the Court") of November 25, 2006, in which it decided:

1. To ratify all aspects of the Order of the President of the Inter-American Court of Human Rights of October 20, 2006, and, consequently to require the State of Guatemala to maintain the measures it had adopted and to adopt, forthwith, all necessary measures to protect the life and integrity of the following persons: Eugenia Judith Erazo Caravantes, Leonel Meoño, Carlos Miranda, Evelyn Lorena Morales, Dorcas Mux Casia, Víctor Catalan, Fredy Hernández, Olga Alicia Paz, Nieves Gómez, Paula María Martínez, Bonifacio Osorio Ixpatá, Gloria Victoria Sunun, Dagmar Hilder, Magdalena Guzmán, Susana Navarro, Inés Meneses, Olinda Xocop, Felipe Sarti, María Chen Manuel, Andrea González, María Isabel Torresi, Celia Aidé López López, Jesús Méndez, Juan Alberto Jiménez, Fernando Suazo, Manuel Román, Mónica Pinzón, Maya Alvarado, Gloria Esquit, Carlos Paredes, Santiago Tziquic, Franc Kernaj, Lidia Pretzantzin Yoc, Bruce Osorio, Paula María López, Adder Samayoa, Glendy Mendoza, Jacinta de León, Pedro López, Claudia Hernández, Amalia Sub Chub, Anastasia Velásquez, Cruz Méndez, Isabel Domingo, Marisol Rodas, Luz Méndez, Magdalena Pedro Juan, Vilma Chub, Petrona Vásquez, Mariola Vicente, Joel Sosof, Ana Botán, Cristian Cermeño, Margarita Giron, Juan Carlos Martínez, Daniel Barczay and Evelyn Moreno.

2. To require the State to investigate the facts that gave rise to the adoption of the [...] provisional measures, to identify those responsible and, if applicable, to impose the corresponding sanctions.

3. To require the State to take all pertinent steps to ensure that the measures of protection decided in the [...] Order are planned and implemented with the participation of the beneficiaries of the measures or their representatives, so that the measures are provided diligently and effectively and, in general, to keep the beneficiaries or their representatives informed of progress in their implementation.

4. To request the State to submit the report that it should have presented on October 30 2006, [...] and to continue reporting to the Inter-American Court of Human Rights every two months on the provisional measures adopted and to request the beneficiaries of these measures or their representatives, and also the Inter-American Commission on Human Rights, to present their observations within four and six weeks, respectively, of notification of the State's reports.

2. The briefs of the State of Guatemala (hereinafter "the State" or "Guatemala") submitted on March 7 and August 6, 2007, in which, *inter alia*, it affirmed that:

(a) On November 24, 2006, the Ministry of Governance, the National Civil Police (hereinafter "PNC") and the Presidential Human Rights Commission (hereinafter "COPREDEH") "coordinated preventive actions for the protection of the human rights [of the members] of the civil organization" the Community Studies and Psychosocial Action Team (hereinafter "ECAP");

(b) It conducted the initial coordinated actions in December 2006, with Police Stations 71 in the Department of Quiché, 73 in the Department of Chimaltenango, and 52 in the Department of Baja Verapaz. This deployment of PNC elements was not completely effective because, even though the intention was to protect members of ECAP in different departments of the country, it was found that most of them did their fieldwork in other regions of the country, and many of them live in Guatemala City;

(c) On February 7, 2007, the State re-established coordinated actions, implementing the following measures of protection: expansion of the permanent measures of protection at ECAP headquarters in Guatemala City; reinforcement of the protection of ECAP in Rabinal (Baja Verapaz); establishment of a liaison between the PNC Public Security Technical Secretariat and ECAP, to be used when the latter's personnel traveled to the different communities. To this end, it has been established that personnel will be accompanied by road patrols and/or the presence of local police during their activities;

(d) The facts reported by Bonifacio Osorio Ixtapá are being investigated by the Office of the Salamá District Prosecutor, Department of Baja Verapaz. The file has been transferred to the Human Rights Prosecutor of the Attorney General's Office in Guatemala City. The file is currently at the investigation stage.

(e) The protection mechanism suggested by ECAP did not include specific security and/or protection for Nieves Gómez Dupuis, Bonifacio Osorio Ixtapá and Judith Erazo, because the beneficiaries have rejected it for the moment. The State also indicated that "it has learned that Bonifacio Osorio Ixtapá is no longer a member of ECAP."

3. The note of the Secretariat of the Court (hereinafter "the Secretariat") of March 8, 2007, in which, on the instruction of the President of the Court, it requested the representative of the beneficiaries of the provisional measures (hereinafter "the representative") and the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") to comment on the situation described by the State with regard to Nieves Gómez Dupuis, Judith Erazo and Bonifacio Osorio Ixtapá (*supra* Having seen paragraph 2(e)), and the communication of the Secretariat of April 25, 2007, reiterating its content.

4. The observations of the representative submitted on February 6, April 16 and 26, and September 4, 2007, in which, *inter alia*, he stated that:

(a) On November 24, 2006, the manner in which protection would be provided to the members of ECAP was established jointly with COPREDEH and the Ministry of Governance. On February 5, 2007, a meeting was held with the Public Security Executive Secretariat, during which information was provided on the implementation of the agreements reached on November 24, and comments were made on their implementation;

(b) Renewed acts of intimidation and threat against the organization and its members occurred on January 10, 19 and 29, 2007, by means of e-mails addressed to them, as well as to the addresses of other organizations and

private individuals. In addition, on January 22, 2007, Olinda Xocop, psychologist with the Exhumation Project, took a bus proceeding from Quetzaltenango, and someone sat beside her and threatened her. On January 23, 2007, a person who lives in Rabinal received several telephone calls during which he was insulted and threatened in relation to his work in the region;

(c) The State must comply with the protection measures in favor of the members of ECAP with greater diligence, in keeping with the commitments assumed, and institute monitoring procedures to ensure that the measures are provided as established;

(d) Permanent protection is being provided to the offices in Guatemala City and Rabinal and, to date, none of the members of ECAP have requested an escort on the highways when members travel to the communities. However, protection has been irregular at the ECAP office in Guatemala City and is more constant at the Rabinal office;

(e) Since April 16, 2007, no other acts of intimidation against members of ECAP have occurred. Nevertheless, "this was possibly due to a reduction of work in the Salamá region";

(f) The personal protection, as a form of security for Nieves Gómez Dupuis and Judith Erazo, has been eliminated for the moment because it was considered that the threats were addressed at the work performed by the members of ECAP, despite the fact that, at one time, threats had been proffered against members of the organization;

(g) Regarding the situation of Osorio Ixpatá, "as a measure of personal security and, owing to the psychological burden and the emotional stress for his family and himself [... he], has decided to separate himself from his work within the organization, so that, at the present time, he has no direct relationship with ECAP and, to date, [...] has not reported receiving any other threats or harassment";

(h) The Prosecutor in charge of the case in the Office of the Human Rights Prosecutor in Guatemala City reported that "the Office of the Salamá District Prosecutor (Baja Verapaz) still has the file on the facts reported by Bonifacio Osorio Ixtapá; also [...] it is unclear whether it will be transferred to the Office of the Human Rights Prosecutor of the Guatemalan Attorney General's Office." The State merely submitted information on the situation of the threats against Bonifacio Osorio Ixtapá, and did not include information on the other acts of intimidation or direct threats, that had been reported at the opportune moment; and,

(i) He is concerned about "the lack of a genuine investigation by the Attorney General's Office into the acts of intimidation and the threats to which the members of ECAP have been subjected [...]."

5. The briefs of the Inter-American Commission presented on April 20 and September 20, 2007, in which it indicated, *inter alia*, that:

a) "It appreciates the State's efforts to implement the measures of protection in favor of the members of ECAP and urges the parties to continue acting in coordination to achieve the objectives of the provisional measures";

b) Regarding the situation described by the State in relation to Nieves Gómez Dupuis, Judith Erazo and Bonifacio Ixtapa, it took note of the relevant information sent by the representative;

- c) The information provided by the State and the representative is contradictory as regards the way in which the State has been implementing the measures of protection and the regularity of the protection plan; and,
- d) It took note of the investigations conducted to clarify what happened in the case of Bonifacio Osorio Ixtapa. However, it observed that, in its reports, the State did not refer to all the investigative measures ordered by the Court.

CONSIDERING:

1. That the State ratified the American Convention on Human Rights on May 25, 1978, and, pursuant to Article 62 thereof, accepted the compulsory jurisdiction of the Court on March 9, 1987.
2. That Article 1(1) of the Convention embodies the obligation of the States Parties to respect the rights and freedoms recognized therein and to ensure to all persons subject to their jurisdiction the free and full exercise of those rights and freedoms.
3. That, under international human rights law, urgent and provisional measures also serve the purpose of protecting fundamental human rights and avoiding irreparable damage to persons.
4. That provisional measures are of an exceptional nature; they are ordered based on the needs for protection and, once ordered, must be maintained, provided the Court considers that the basic requirements of extreme gravity and urgency and the prevention of irreparable damage to the rights of the persons they protect subsist.
5. That, according to the Order of the Inter-American Court of November 25, 2006, the State must, *inter alia*, maintain any measures it has adopted and adopt, forthwith, those necessary to protect the life and integrity of the beneficiaries of the provisional measures (*supra* Having seen paragraph 1).
6. That the State referred to the situation of Bonifacio Osorio Ixtapá, beneficiary of these provisional measures (*supra* Having seen paragraph 2). That the representative has advised, *inter alia*, that Mr. Osorio Ixpatá "as a measure of personal security and, owing to the psychological burden and the emotional stress for his family and himself [...], has decided to separate himself from his work within the organization, so that, at the present time, he has no direct relationship with ECAP and, to date [...] has not reported receiving any other threats or harassment" (*supra* Having seen paragraph 4).
7. That, based on the information submitted by the representative (*supra* Having seen paragraph 4), the Court finds that the situation of risk, extreme gravity and urgency that gave rise to the adoption of the provisional measures to protect the life and integrity of Bonifacio Osorio Ixtapá no longer exists; it therefore considers that the provisional measures ordered in his favor should be lifted, since he no longer works with the ECAP Team.

8. That, based on the information provided by the representative (*supra* Having seen paragraph 4), the Court considers it advisable to maintain the provisional measures in favor of: Eugenia Judith Erazo Caravantes, Leonel Meoño, Carlos Miranda, Evelyn Lorena Morales, Dorcas Mux Casia, Víctor Catalan, Fredy Hernández, Olga Alicia Paz, Nieves Gómez, Paula María Martínez, Gloria Victoria Sunun, Dagmar Hilder, Magdalena Guzmán, Susana Navarro, Inés Meneses, Olinda Xocop, Felipe Sarti, María Chen Manuel, Andrea González, María Isabel Torresi, Celia Aidé López López, Jesús Méndez, Juan Alberto Jiménez, Fernando Suazo, Manuel Román, Mónica Pinzón, Maya Alvarado, Gloria Esquit, Carlos Paredes, Santiago Tziquic, Franc Kernaj, Lidia Pretzantzin Yoc, Bruce Osorio, Paula María López, Adder Samayoa, Glendy Mendoza, Jacinta de León, Pedro López, Claudia Hernández, Amalia Sub Chub, Anastasia Velásquez, Cruz Méndez, Isabel Domingo, Marisol Rodas, Luz Méndez, Magdalena Pedro Juan, Vilma Chub, Petrona Vásquez, Mariola Vicente, Joel Sosof, Ana Botán, Cristian Cermeño, Margarita Giron, Juan Carlos Martínez, Daniel Barczay and Evelyn Moreno.

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9. That the Court recalls that the State must comply with all aspects of the Court's decisions in its Orders and report periodically on all the actions it has taken to protect the beneficiaries of the provisional measures (*supra* Having seen paragraph 1). The State's obligation to report to the Court on how it is complying with the Court's decisions is fundamental for evaluating the implementation of the measures ordered in this case. The Court also deems it necessary to indicate that the information and the observations provided by the representative are essential for understanding the situation of the beneficiaries of the provisional measures and, if applicable, to be able to assess the implementation of these measures by the State.¹

12. That, the State must submit information to the Court on any actions it has taken to comply with measures required by the Court in its Order of November 25, 2006 (*supra* Having seen paragraph 1).

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS

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

DECIDES:

1. To reiterate the pertinent elements of the Order of the Inter-American Court of Human Rights of November 25, 2006.

¹ Cf. *Matter of Colotenango v. Guatemala*. Provisional measures. Order of the Inter-American Court of Human Rights of September 5, 2001, eighth considering paragraph; *Case of the 19 Tradesmen v. Colombia*. Provisional measures. Order of the Inter-American Court of Human Rights of July 4, 2006, fifteenth considering paragraph; *Matter of Colotenango v. Guatemala*. Provisional measures. Order of the Inter-American Court of Human Rights of July 12, 2007, eighth and ninth considering paragraphs; and *the Matter of Carlos Nieto et al. v. Venezuela*. Provisional measures. Order of the Inter-American Court of Human Rights of July 3, 2007, fifteenth considering paragraph.

2. To lift the provisional measures ordered by the Inter-American Court of Human Rights in its Order of November 25, 2006, in favor of Bonifacio Osorio Ixtapá.

3. To reiterate to the State its decision that the State must maintain the measures adopted and order forthwith any other measures necessary to provide effective protection to the life, integrity and liberty of Eugenia Judith Erazo Caravantes, Leonel Meoño, Carlos Miranda, Evelyn Lorena Morales, Dorcas Mux Casia, Víctor Catalan, Fredy Hernández, Olga Alicia Paz, Nieves Gómez, Paula María Martínez, Gloria Victoria Sunun, Dagmar Hilder, Magdalena Guzmán, Susana Navarro, Inés Meneses, Olinda Xocop, Felipe Sarti, María Chen Manuel, Andrea González, María Isabel Torresi, Celia Aidé López López, Jesús Méndez, Juan Alberto Jiménez, Fernando Suazo, Manuel Román, Mónica Pinzón, Maya Alvarado, Gloria Esquit, Carlos Paredes, Santiago Tziquic, Franc Kernaj, Lidia Pretzantzin Yoc, Bruce Osorio, Paula María López, Adder Samayoa, Glendy Mendoza, Jacinta de León, Pedro López, Claudia Hernández, Amalia Sub Chub, Anastasia Velásquez, Cruz Méndez, Isabel Domingo, Marisol Rodas, Luz Méndez, Magdalena Pedro Juan, Vilma Chub, Petrona Vásquez, Mariola Vicente, Joel Sosof, Ana Botán, Cristian Cermeño, Margarita Giron, Juan Carlos Martínez, Daniel Barczay and Evelyn Moreno, in compliance with the Order of the Inter-American Court of Human Rights of November 25, 2006.

4. To require the State to ensure the participation of the beneficiaries of these measures in their planning and implementation and, in general, to keep them informed of progress in the implementation of the measures ordered by the Inter-American Court of Human Rights.

5. To reiterate to the State that it must continue reporting to the Inter-American Court of Human Rights every two months on the provisional measures adopted, and to require the beneficiaries of these measures or their representative to present observations within four weeks of notification of the State's reports, and the Inter-American Commission on Human Rights to present its observations on the said State reports within six weeks of receiving them.

6. To require the Secretariat to notify this Order to the Inter-American Commission on Human Rights, the representative of the beneficiaries of these measures, and the State.

Sergio García Ramírez
President

Cecilia Medina Quiroga

Manuel E. Ventura Robles

Diego García-Sayán

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Sergio García Ramírez
President

Pablo Saavedra Alessandri
Secretary