

**Order of the
Inter-American Court of Human Rights
of January 31, 2008
Provisional Measures
with regard to Colombia
Matter of Mery Naranjo *et al.***

HAVING SEEN:

1. The Order of the Inter-American Court of Human Rights (hereinafter “the Court”, “the Inter-American Court”, or “the Tribunal”) of July 5, 2006, in which it ordered that the State of Colombia (hereinafter “the State” or “Colombia”) adopt provisional measures in the present matter.

2. The Order of the Inter-American Court of September 22, 2006, through which it decided to:

[...]

2. To reiterate to the State that it should maintain the measures adopted and order, forthwith, those necessary to protect effectively the life and personal integrity of the following persons: Mery Naranjo Jiménez and her next of kin: Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Javier Augusto Torres Durán, Heidi Tatiana Naranjo Gómez, Sebastián Naranjo Jiménez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo and Esteban Torres Naranjo.

3. To reiterate to the State that it should maintain the measures it has adopted and order, forthwith, those necessary to protect effectively the life and personal integrity of the child, Luisa María Escudero Jiménez.

4. To require the State, when María del Socorro Mosquera Londoño returns to her residence and the representatives inform the State or when the State is advised about her location, to adopt, forthwith, all necessary measures to protect her life and personal integrity, in accordance with the twelfth considering paragraph.

5. To reiterate to the State that it should ensure that the measures of protection are not provided by the “security units” which, according to the beneficiaries, were involved in the reported facts; consequently, the beneficiaries or their representative should participate in the designation of those who will provide security.

6. To reiterate to the State that it should maintain and, if applicable order, forthwith, the necessary measures of permanent protection to ensure the safety of the place of residence of Mery Naranjo Jiménez and her family.

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

8. To reiterate to the State that it should allow the beneficiaries of these measures to take part in their planning and implementation and, in general, keep them informed about progress in implementation of the measures ordered by the Inter-American Court of Human Rights.

[...]

3. The State's reports of October 20, 2006, January 4th, July 24th, August 16th, September 4th, and September 24, 2007.

4. The briefs of the representative of the beneficiaries of the provisional measures (hereinafter "the representative") of December 12, 2006, March 30th, April 27th, July 5th, October 5th, and December 7, 2007, and January 29, 2008.

5. The observations of the Inter-American Commission of Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of December 8, 2006, February 21st and August 23, 2007.

CONSIDERING:

1. That Colombia has been a State Party to the American Convention on Human Rights (hereinafter "the Convention") since July 31, 1973, and that it accepted the compulsory jurisdiction of the Court on June 21, 1985.

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 shall adopt such provisional measures as it deems pertinent in matters it has under consideration. With regard to a case not yet submitted to the Court, it may act at the request of the Commission."

3. That, in this regard, Article 25 of the Rules of Procedure establishes that:

[...]

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

[...]

6. The beneficiaries of provisional measures or urgent measures ordered by the President may address their comments on the report made by the State directly to the Court. The Inter-American Commission of Human Rights shall present observations to the State's report and to the observations of the beneficiaries or their representatives.

4. That the States must offer effective and adequate guarantees to the defenders of human rights so that they may carry out their activities freely and that it is convenient to pay special attention to actions that limit or hinder their work, since the work they perform is a positive contribution, which complements the efforts made by the State, the guarantor of the rights of the people under its jurisdiction.¹

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¹ Cfr. *Case of Gloria Giralt de García Prieto et al.* Provisional Measures. Order of the Inter-American Court of Human Rights of September 26, 2006, considering paragraph number eight; *Matter of Mery Naranjo et al.* Provisional Measures. Order of the Inter-American Court of Human Rights of July 5, 2006, considering paragraph number eight; *Matter of the Forensic Anthropology Foundation regarding Guatemala.* Provisional Measures. Order of the Inter-American Court of Human Rights of April 21, 2006, considering paragraph number nine.

5. That with regard to the measures adopted to protect the life and personal integrity of Mrs. Mery Naranjo and her next of kin, the State informed that on the 26, 27, and 28 day of November 2006 the National Police carried out interviews in the city of Medellín, among others, with Mrs. Naranjo, in order to “[s]ee for themselves the security situation reported [...] in the follow-up meeting regarding the measures held in the Ministry of Foreign Affairs last November 23[, 2006].” The State indicated that, in compliance of the provisional measures, the National Police maintains a permanent security unit 24 hours a day at the home of Mrs. Naranjo, and that the same consists of police cars per shift, and that the beneficiary has a cellular phone provided by the Protection Program of the Department of the Interior and Justice. Likewise, the State indicated that Mrs. Mery Naranjo “[c]ontinues to leave her place of residence for prolonged periods of time, without accepting the police escort established for her security” and that “[s]imilarly, she does not inform her location in order to coordinate with other police units that have territorial competence wherever she is located.”

6. That the representative stated his concern about Mrs. Mery Naranjo’s current situation of risk. Among others, he stated that on November 14 and 15, 2006 two youngsters reported, before the Permanent Unit of Human Rights of the Municipal Office of the Public Prosecutor that “[a] police officer publicly stated that according to the paramilitaries Mrs. MERY NARANJO is a commander of the guerrilla” and that “[t]he paramilitaries [...] located in that district, have a picture of Mrs. MERY NARANJO.” In this regard, the representative confirmed the visit made on November 27, 2006 by the Human Rights Director of the National Police to Mrs. Naranjo, during which he verified the version of both youngsters. However, the representative mentioned that he is not aware of any conclusion or report from said visit. Likewise, the representative mentioned that on the day of the visit of the National Police Mrs. Naranjo heard when a police agent in charge of her security stated that “those that defended this member of the guerrilla were leaving.” The representative considers that the aforementioned proves a lack of interest on behalf of the State to protect the beneficiary’s life.

7. That the representative also informed that the protection offered to Mrs. Mery Naranjo and her family has been carried out as mentioned by the State. However, he stated that the threats and harassment against her continues. In the month of January 2007 police officers in charge of the security of the neighborhood where the beneficiary lives issued strong threats against her. As mentioned by the representative, a police lieutenant said to Mrs. Naranjo “[t]hat she wasn’t good for anything else than a couple of bullets to her head.” On April 26, 2007, three days after the murder of Mrs. Judith Adriana Vergara, also a leader of the 13th County, Mrs. Naranjo was contacted by the President of the Community Action of the “20 de Julio” neighborhood who stated that an unidentified youngster went to her house and said: “[D]on’t go reporting anything, because some guys from the Independencias II, told me that they were going to kill all the Presidents of the Community Actions of the 13th County, because they were reporting too many of the violations that occurred in the neighborhood.” The representative informed that in view of the aforementioned, Mrs. Mery Naranjo moved from the neighborhood out of fear of what could happen to her and her next of kin, and therefore she has only seen her children in an intermittent manner after that.

8. That due to this situation, the representative stated that the beneficiary had not been contacted by the State to agree on the mechanism of protection when she leaves the neighborhood. In this sense, he informed that he has insistently asked the State to provide a vehicle with a driver and bodyguards for these movements and that, despite these efforts, the Department of the Interior has stated that this is not economically viable due to the

high cost it implies. According to the representative, the State had proposed the hiring of independent services on its account, which was accepted by the beneficiary, however, after the two first charges, none have been covered by the State.

9. That regarding the beneficiary's alleged absences from her place of residence and the negative to accept police escort, the representative stated that "[i]t is logical and understandable, that if the agents in charge of the care and material protection of Mrs. Mery Naranjo, are the originators of threats against her life and personal integrity, the beneficiary abstains from informing the Police of her permanent location" and that if the State would have provided the transportation and bodyguards requested on several occasions, it would know the permanent location of Mrs. Naranjo.

10. That in its observations, the Inter-American Commission stated that it is awaiting the information that the State may provide with regard to the protection measures actually agreed on and implemented in the light of the Court's Orders.

11. That the State must adopt in an effective manner the measures addressed to protecting the life and personal integrity of Mrs. Mery Naranjo and her next of kin, especially if it is a measure proposed by the State itself and accepted by the beneficiaries. In the present matter there is no evidence that Colombia has distorted the affirmation made by the representative regarding the lack of payment of the car with private bodyguards hired by Mrs. Mery Naranjo. This situation compromises the effectiveness of the beneficiary's protection and security measures, reason for which it requires an immediate response from the State.

12. That for the adequate implementation of the provisional measures, the State must adopt all the necessary and adequate protection measures at the margin of the agreement regarding the hiring of private bodyguards for Mrs. Mery Naranjo. These measures must be agreed on with complete participation of the beneficiaries in their planning and implementation, as stated by the Court in the mentioned Order (*supra* Having Seen Paragraph 2), which means that all the parties must propose and agree on the measures if any of them considers that the existing ones are not adequate. Besides, the Court reiterates to the State that the protection must not be offered by the "security units" that, according to the beneficiaries, were involved in the facts reported, thus the appointment of the same should be done with the participation of the beneficiaries or their representative (*supra* Having Seen Paragraph 2).

13. That based on the above it is necessary that the Tribunal receive more information from the parties regarding the current status of the measures adopted with regard to this matter, in order to supervise the correct implementation of these provisional measures.

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14. That with regard to the protection of the life and personal integrity of Mrs. María Socorro Mosquera Londoño, the State informed that, to the effect that this beneficiary return to her home, there are two police units placed outside of what is considered her residence and that of her family unit, and that motorized reaction units are present 24 hours a day in the sector of La Independencia maintaining control of the 13th County, area where the beneficiary supposedly lives. The State also indicated that in compliance of the provisional measures ordered by the Court it maintains a fixed security unit, which consists

of two police cars per shift, 24 hours a day at the home of Mrs. Socorro Mosquera, and that she also has a cellular phone provided by the Protection Program of the Department of the Interior and Justice.

15. That in its observations, the representative indicated that the adequate security conditions that will allow Mrs. María del Socorro Mosquera to return home are not those informed by the State since the latter “[i]s in the obligation to offer the beneficiaries and their representative participation in the planning and implementation of the measures to be taken.”. The representative stated that he has repeated to the State that Mrs. Socorro Mosquera “[d]oes not live at the home where her children reside, but the Metropolitan Police insists on guarding it, assuming on occasions hostile attitudes against [her] children” who live there. Besides, the representative informed that the security offered by agents of the Metropolitan Police has been suspended upon request of the beneficiary even though the State has not taken any effective measure of material protection. In these terms, it asked this Tribunal that the measures adopted by the State be agreed on with the beneficiary and the representative maintaining her domicile undisclosed.

16. That the Inter-American Commission reiterated that it does not have elements regarding the determination of the location of Socorro Mosquera, which must be provided by the representative to the State in order to assign the protection. Besides, it referred to “[t]he importance that the design and coordination of material protection measures be decided with the participation of the beneficiaries and their representatives, without overlooking the efforts destined to eliminating the risk factors within the framework of mechanisms of commitment.”

17. That in its Order of September 22, 2006 (*supra* Having Seen paragraph 2) the Inter-American Court stated that “[w]ith regard to María del Socorro Mosquera Londoño, the Commission and the representatives have reported that she is an intra-urban displaced person and that, due to the danger that exists, it has been decided to keep information on her current place of residence confidential; moreover, at the present time, she has no plans to return to her family home [...]” In this sense, the Tribunal ordered that once the beneficiary informed of her desire to return to her home it be informed to the State so that it could immediately adopt all necessary measures to protect her life and personal integrity (*Considering Paragraph number 12 of the Order of September 22, 2006*). Of the information presented by the representative it cannot be concluded that this situation has occurred, which prevents the State from implementing the measures of protection in favor of Mrs. Mosquera Londoño. The Court reiterates that the beneficiary’s decision to maintain her domicile confidential must be respected and that the implementation of the measures of protection in her favor must be previously agreed on with the representatives (*supra* Having Seen Paragraph 2).

18. In view of the aforementioned, it is necessary that the parties inform the Tribunal of the measures agreed on with regard to this matter in order to supervise their correct implementation.

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19. That regarding the investigation of the facts that motivated the adoption of provisional measures in the present matter, the representative stated that the Public Prosecutor’s Office “[h]as not made any advances in the investigation, because the

assessment of the Prosecutor in charge is that the facts, in which a joint command of the army and paramilitaries illegally entered and searched the home of the NARANJO family and injured a minor [Luisa María Escudero Jiménez], do not constitute anything different to personal injuries. Said crime is not of her competence [...].” Likewise, it informed that after the order of the Inter-American Court of September 22, 2006 (*supra* Having Seen Paragraph 2), a meeting was held with the State’s representatives in which, among others, they agreed to promote the investigation and the reassignment of competence, however, the investigation has not had any important advances.

20. That the Inter-American Commission stated that the State omits making any reference to the progress of the investigations of the facts that justify the validity of the present provisional measures, reason for which it is correct to assume that it is still in a preliminary stage.

21. That the State has not presented information on the investigations carried out within the framework of these provisional measures, reason for which it is necessary that it refer specifically to this matter in the next state report regarding the implementation of the present measures.

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22. That the representative stated that on December 2, 2007 Javier Augusto Torres Durán, son-in-law of Mrs. Mery Naranjo and beneficiary of the present provisional measures, was murdered. The murder took place in the 13th County in the neighborhood las Independencias II. As stated by the representative, “[c]urrently the 13th County is living a situation of territorial domain, where the youngsters in charge of those reinserted dedicate themselves to looking out for their neighborhood [...] This situation is reflected in the fact that the youngsters of the different neighborhoods can only remain where they live, since if they go beyond the ‘borders’, outside of their neighborhood, they are killed.” The representative stated that the aforementioned was precisely what happened to Javier Augusto Torres, who lived in the neighborhood of las Independencias III and in order to go to his mother’s house he had to go through las Independencias II, for which he was murdered. He argued that these facts put in evidence the danger in which the leaders of the 13th County are and the imminent risk to Mrs. Mery Naranjo, María del Socorro Mosquera, and their next of kin.

23. That the representative also brought before the Tribunal that on January 23, 2008 the youngster Juan David Naranjo, beneficiary of these provisional measures, was arrested by the Police due to facts that are a reason for an investigation by the Public Prosecutor’s Office, “[w]hich are not related with the community leader activities carried out by his mother, or with the other facts that resulted in the granting of the provisional measures.”

24. That the Tribunal has requested that the State present information on the alleged murder of Javier Augusto Torres Durán through communications CDH-S/2386 of December 7, 2007 and CDH-S/2443 of December 14, 2007, which, however, has not been forwarded. The murder of a beneficiary of provisional measures is a grave fact, whose circumstances must be clarified by the State in order to allow the Tribunal to determine how this fact is related to those that originated the adoption of the provisional measures. Therefore, this Court considers it necessary that the State present the information requested as soon as

possible. Likewise, the Court asks the State and the Inter-American Commission to present their observations regarding the arrest of Mr. Juan David Naranjo.

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25. That neither the State, the representative nor the Inter-American Commission have referred to the situation of the minor Luisa María Escudero Jiménez, in the terms of the third operative paragraph of the Order of September 22, 2006 (*supra* Having Seen paragraph 2). Therefore, it asks the parties to present detailed and updated information in this regard.

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26. That based on all the aforementioned, the Court considers it necessary to maintain the validity of the present provisional measures. In this regard, the State requests the presentation of an updated report on the measures adopted and that, specifically, it refer to the murder of Javier Augusto Torres Durán and the arrest of Juan David Naranjo (*supra* Considering Paragraphs number 23 and 24).

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,

DECLARES:

1. That the provisional measures adopted through the Order of the Inter-American Court of Human Rights on September 22, 2006, in what refers to Javier Augusto Torres Durán, have stopped having an object due to his death, pursuant to the Considering Paragraphs 23 and 24 of the present Order.

DECIDES:

1. To reiterate to the State the stipulation to immediately adopt the measures necessary and to maintain those already adopted, in order to protect effectively the life and personal integrity of the following persons: Mery Naranjo Jiménez and her next of kin: Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, Sebastián Naranjo Jiménez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo, and the minor Luisa María Escudero Jiménez.

2. To reiterate to the State that it should adopt the measures necessary to protect effectively the life and personal integrity of the child of Mrs. María del Socorro Mosquera Londoño, pursuant to Considering Paragraph number 14 of the present Order.

3. To reiterate to the State that it should ensure that the measures of protection are not provided by the "security units" which, according to the beneficiaries, were involved in

the reported facts, in a manner such that the designation of the same must be made with the participation of the beneficiaries or their representative.

4. To reiterate to the State that it should maintain the necessary measures of permanent protection to ensure the safety of the place of residence of Mery Naranjo Jiménez and her family.

5. To require that the State of Colombia inform the Inter-American Court of Human Rights, no later than April 25, 2008, of the measures adopted in compliance of this Order. In said report, the State must refer to the alleged murder of Javier Augusto Torres Durán and the alleged arrest of Juan David Naranjo, pursuant to Considering Paragraph number 26 of the present Order.

6. To require that the representatives of the alleged victims and their next of kin present their observations to the State's report within a four-week term, as of the receipt of the mentioned state report, and that the Inter-American Commission of Human Rights present its observations to the State's report within a six-week term, as of the receipt of the latter.

7. To reiterate to the State that it should allow the beneficiaries of these measures to take part in their planning and implementation and, in general, keep them informed about progress in implementation of the measures ordered by the Inter-American Court of Human Rights.

8. To reiterate to the State that it should 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 submit their observations within four weeks of notification of the State's reports, and the Inter-American Commission on Human Rights to submit its observations within six weeks of reception of the State's reports.

9. To request 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 of Colombia.

Cecilia Medina Quiroga
President

Diego García-Sayán

Sergio García Ramírez

Manuel E. Ventura Robles

Leonardo A. Franco

Margarette May Macaulay

Rhadys Abreu Blondet

Pablo Saavedra Alessandri
Secretary

So ordered,

Cecilia Medina Quiroga
President

Pablo Saavedra Alessandri
Secretary