

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF MARCH 4, 2011**

**PROVISIONAL MEASURES
REGARDING THE REPUBLIC OF COLOMBIA**

MATTER OF MERY NARANJO *ET AL.*

HAVING SEEN:

1. The Orders issued by the Inter-American Court of Human Rights (hereinafter “the Inter-American Court,” “the Court,” or “the Tribunal”) of July 5, 2006, September 22, 2006, January 31, 2008, and November 25, 2010, whereby the Court ordered provisional measures and monitored compliance in this matter. In the latter, the Court decided to, *inter alia*:

1. Rule that the provisional measures adopted to the benefit of Sebastián Naranjo Jiménez [had] ceased to have a purpose due to his death, in accordance with what was set forth in [that] Order.
2. Require the State to continue adopting the necessary measures to protect the rights to life and personal integrity of Mery Naranjo Jiménez and her relatives, to wit, Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo and Luisa María Escudero Jiménez.
3. Require the State to guarantee that the measures of protection are not provided by the security officials who, according to the beneficiaries, were involved in the reported facts, in a manner such that the officials must be designated with the participation of the beneficiaries or their representatives.
4. Require the State to continue adopting the necessary measures of permanent protection to ensure the safety of the place of residence of Ms. Mery Naranjo Jiménez and her family.
5. Require the State to continue adopting the measures necessary to protect the life and personal integrity of Ms. María del Socorro Mosquera Londoño.

[...]

9. 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 the progress in their execution.

[...]

2. The brief of the representatives of the beneficiaries (hereinafter "the representatives") dated February 4, 2011, whereby they reported on the alleged murder of the grandson of beneficiary María del Socorro Mosquera Londoño and requested that the provisional measures be broadened to cover that beneficiary's children and grandchildren.

3. The note from the Secretariat of the Court (hereinafter "the Secretariat") dated February 11, 2011, that, following the instructions of the President of the Court (hereinafter "the President"), informed the representatives that pursuant to Article 63(2) of the American Convention on Human Rights (hereinafter "the American Convention or "the Convention") and 27(2) of the Rules of Procedure of the Court (hereinafter "the Rules of Procedure"), "this Tribunal cannot, without an explicit request from the Inter-American Commission [on Human Rights (hereinafter "the Inter-American Commission" or "the Commission")], extend the protection of provisional measures that were ordered in a matter not brought before it." Nevertheless, it forwarded the aforementioned brief to the representatives of the State and to the Commission that it might "take whatever measures it deems pertinent."

4. The brief of March 3, 2011 and the annexes thereto, by which the Inter-American Commission filed a request for the broadening of these provisional measures to the benefit of 10 relatives of beneficiary Maria del Socorro Mosquero Londoño.

5. The alleged facts on which the Inter-American Commission's request for broadening is based:

- a) On July 29, 2010, Ms. Maria del Socorro Mosquera was the victim of an act of harassment at the hands of a young man dressed as civilian whom the defender had seen occasionally at different locations in Comuna XIII.
- b) On November 3, 2010, the child Lubin Alfonso, age 14, and Marlon Daniel Herrera Mosquera, grandson and son, respectively, of beneficiary Maria del Socorro Mosquera, were beaten and threatened by police officers in the neighborhood called Las Independencias III. According to the complaint on the incident filed with the Attorney General's Office by Lubin Alfonso, four police officers approached him and kicked and punched him with a metal object. The police officers also beat Marlon Daniel Herrera Mosquera, the minor's uncle, when he approached. When Lubin Alfonso tried to run away, the police officers shot at him and killed a nearby dog. When the police officer at the permanent security post set up for beneficiary Mery Naranjo appeared, "the aggressor police officers stood down." In the complaint filed by Lubin Alfonso with the authorities over these incidents, he said that the police officers told him that they were going to "legalize him", which worried him and which he understood to mean "pass him off as a positive." In the complaint, Lubin Alfonso indicated that "this situation [was] the result of [his] grandmother's status as a community leader [...]", referring to the work of beneficiary María del Socorro Mosquera;
- c) On January 21, 2011, Hilda Milena Villa Mosquera, daughter of Maria del Socorro Mosquera and mother of Lubin Alfonso, was the victim of verbal and physical attacks at the hands of officers of the National Police when they tried to search her and she refused to be searched by men;
- d) On February 1, 2011, Lubin Alfonso Villa Mosquera was shot and immediately died under circumstances there were not clear to the representatives or the child's relatives.

- e) On the same day of the murder of Lubin Alfonso, the children of Maria del Socorro Mosquera, accompanied by two human rights defenders with the Grupo Interdisciplinario (GIDH) – the representatives in this matter - were subjected to an aggressive police search. Moreover, they indicated that a photograph was taken of the vehicle they were driving and that the authorities classified it as “suspicious,” and
- f) On February 10, 2011, Lubin Arjadi Mosquera, son of beneficiary Maria del Socorro Mosquera, was verbally assaulted, threatened and intimidated with a gun by officers of the National Police.

6. The Commission’s arguments on which it based its request for the broadening of provisional measures, including the following:

- a) During the period that these provisional measures have been in force, "the risk that initially evidenced itself in threats against the two human rights defenders has gradually extended itself to their immediate families." There is "sufficient evidence to assume that the attacks and the facts on which the initial adoption of these measures were based are related." They highlighted that in the complaint brought before the Attorney General by Lubin Alfonso months before his death, he stated that the "threats and attacks on him and his uncle [...] were the result of his grandmother's leadership;"
- b) The aforementioned incidents of attacks and intimidation "taken as a whole and analyzed with regard to the facts on which these provisional measures were based allow one to argue that the immediate family of human rights defender [María del] Socorro Mosquera is in a situation of extreme gravity and urgency," this based on: i) the repeated way in which attacks have taken place against the proposed beneficiaries, given that "the sequence of acts of intimidation, threats, and physical and verbal attacks that the relatives have suffered [...] repeated itself multiple times between November of 2010 and February of 2011;" ii) the intensification of the seriousness of the acts committed, up to the point that one of the relatives was murdered, as the child Lubin Alfonso was "first beaten, threatened with death, and finally murdered," evidencing "a steady increase in the seriousness of the acts to which he was a victim," and iii) the alleged participation of State agents in several of the attacks;
- c) Other members of the family of beneficiary Mosquera Londoño have also been threatened "and as happened in the case of Lubin Alfonso, an attack against life or personal integrity could be repeated;"
- d) The "acts of aggression and harassment added to the alleged participation of State agents in their perpetration exposes the relatives of human rights defender Socorro Mosquera to a situation of extreme gravity and urgency considering that with the exception of the murder of the child Lubin Alfonso - which took place under circumstances that have not yet become clear - all the other attacks and harassment alleged by her relatives have been committed by [...] State agents;" and
- e) "In addition to presenting a situation of extreme gravity and urgency with regard to their lives and personal integrity, the context of attacks and harassment against the relatives of [María del] Socorro Mosquera translates into an obstacle to the community activities carried out by Ms. Mosquera to the benefit of the rights of the victims of the displacement of Comuna XIII," as "her children [...] also work for the benefit of the young people of Comuna XIII in Medellín."

7. The Inter-American Commission's request, based on Article 63(2) of the American Convention and Article 27 of the Rules of Procedure, that the Court require the State to carry out the following:

- a) Take urgent measures to protect [the] life and personal integrity [of the proposed beneficiaries];
- b) Investigate the facts behind this request for the broadening of provisional measures as a means of protection and in order to ensure that the threats are not carried out[,] and
- c) Coordinate the provisional measures with the proposed beneficiaries and their representatives.

CONSIDERING THAT:

1. Colombia has been a State Party to the American Convention since July 31, 1973, and it accepted the contentious jurisdiction of the Inter-American Court, in keeping with Article 62 of the Convention, on June 21, 1985.

2. Article 63(2) of the American 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 respect to a case not yet submitted to the Court, it may act at the request of the Commission”.

3. In this regard, Article 27 of the Rules of Procedure of the Court¹ (hereinafter, the Rules of Procedure”) establishes, in its relevant part, that:

1. 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, on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

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

[...]

4. According to the provision established in Article 63(2) of the Convention, provisional measures ordered by this Tribunal are binding on the State pursuant to a basic principle of

¹ Rules of Procedure of the Court approved during its LXXXV Period of Ordinary Sessions, held from November 16 to 28, 2009.

international law, as supported by international case law, under which States are required to comply with international treaty obligations in good faith (*pacta sunt servanda*).²

5. According to international human rights law, provisional measures are not only precautionary in the sense that they preserve a legal situation, but are also fundamentally protective, as they protect human rights insofar as they seek to prevent irreparable damage to people. Provisional measures are adopted provided the basic requirements of extreme gravity and urgency and the prevention of irreparable damage to persons are met. In this sense, provisional measures become a real jurisdictional guarantee of a preventive nature.³

6. According to the Orders of the Court of July 5, 2006; September 22, 2006; January 31, 2008; and November 25, 2011, the State was required, *inter alia*, to adopt the measures necessary to protect the life and integrity of the following people: (i) Mery Naranjo Jimenez and her immediate family, namely, Juan David Naranjo Jimenez, Alejandro Naranjo Jimenez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo and Luisa María Escudero Jiménez; and (ii) Maria del Socorro Mosquera Londoño.

7. According to the facts brought to the Court's attention by the Commission, Ms. Mery Naranjo Jimenez and Maria del Socorro Mosquera Londoño are human rights defenders in Medellín's Comuna XIII. In particular, Mrs. Mosquera Londoño stands out as a community leader and defender of the human rights of women and girls in the Las Independencias neighborhood. She is also the president of the Las Independencias Women's Association. The Commission noted that these women "have constantly denounced State representatives and agents for their alleged participation in serious human rights violations in Comuna XIII,"⁴ where the population "is comprised mainly of families that have been broken apart, many of them victims of the forced displacement."⁵ The Commission indicated that urban militias are active in that area and that in 2002 "several military operations were carried out in that area" to eradicate the militias. It noted that, "There have been complaints that following the military operations and after the militias were eradicated, the areas were infiltrated by paramilitary groups."⁶

² Cf. *Case of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of July 14, 1998, Considering 6, and *Matter of María Lourdes Afuni*. Provisional Measures regarding Venezuela. Order of the President of the Court of December 10, 2010, Considering 4, and *Matter of José Luis Galdámez Álvarez et al.* Provisional Measures regarding Honduras. Order of the President of the Court of December 22, 2010, Considering 3.

³ Cf. *Case of the Newspaper "La Nación."* Provisional Measures regarding Costa Rica. Order of the Court of September 7, 2001, Considering 4; *Matter of Gladys Lanza Ochoa*, *supra* footnote 2, Considering 6, and *Matter of Centro Penitenciario de Aragua "Cárcel de Tocorón," supra* footnote Error! Bookmark not defined.

⁴ *Matter of Mery Naranjo et al.*, Provisional Measures regarding Colombia. Order of the Court of July 5, 2006, Having Seen 2.a.

⁵ *Matter of Mery Naranjo et al. Supra* footnote 4, Having Seen 2.b.

⁶ *Matter of Mery Naranjo et al.*, *supra* footnote 4, Having seen 2.c. Recently, the representatives informed the Tribunal that "there is a general situation of human rights violations in the neighborhood where the beneficiaries live as a result of the permanent incursion of paramilitary forces in a large part of the city, of the 'failure of the demobilization, disarming and reinsertion process,' and of the activities of criminal gangs." For its part, the State has also made reference to "the context of violence in Medellín's Comuna 13" which it argued was

8. On March 3, 2011, the Inter-American Commission asked that these provisional measures be broadened to the benefit of 10 relatives⁷ of beneficiary María del Socorro Mosquera based on the argument that the beneficiary and her relatives "have in recent months suffered a series of attacks and acts of harassment that place them in a situation of risk, vulnerability and constant persecution."

9. On November 25, 2010, the Court issued an Order by which it monitored the implementation of these provisional measures in favor of their current beneficiaries. In the instant Order, the Tribunal will exclusively analyze the above mentioned request for expansion of provisional measures.

10. Article 63(2) of the Convention requires three conditions to be met for the Court to be able to order provisional measures: i) "extreme gravity"; ii) "urgency" and iii) that they attempt to "avoid irreparable damage to people". These three conditions must coexist and must be present in every situation in which the Tribunal's intervention is requested.⁸

11. The Court notes that the facts described by the Commission evidence *prima facie* a situation of grave risk to the detriment of the proposed beneficiaries. In particular, it takes note of what the Commission has mentioned regarding State agents having allegedly taken part in almost every incident reported by the representatives. The Tribunal recalls that the urgency required for the adoption of provisional measures refers to special and exceptional situations that require and deserve immediate actions and responses aimed at averting the threat. These are circumstances that due to their very nature present an imminent risk. The nature of the response to repair the situation derives from the urgency of the threat. This, above all, should imply an immediate and, in principle, rapid measure to address the situation, as a lack of a response would in itself be a danger.⁹ Likewise, in matters like this one, the extreme gravity of the threat should be assessed taking into account its particular context, as it is clear that should fundamental rights such as the right to life and physical integrity be threatened, the context is one that would require that the adoption of protective measures be considered.¹⁰ In this case, the irreparable nature of the damage that may be caused to the right

the result of, among other things, the criminal groups, the forming of and clashes between criminal gangs, murders, and arms trafficking. It has indicated that in response to the situation, "measures are being taken to reduce the levels of violence and criminality currently being seen." *Matter of Mery Naranjo et al.* Provisional Measures regarding Colombia. Order of the Court of November 25, 2010, Considering 65 and 66.

⁷ Namely, her children, Lubin Arjadi Mosquera, Hilda Milena Villa Mosquera, Iván Alberto Herrera Mosquera, Marlon Daniel Herrera Mosquera; her grandchildren, Luisa María Mosquera Guisao, Luis Alfonso Mosquera Guisao, Daniel Steven Herrera Vera, Luisa Fernanda Herrera Vera, Sofía Flores Montoya and her daughter-in-law, María Eugenia Guisao González.

⁸ Cf. *Case of Carpio Nicolle et al.* Provisional Measures regarding Guatemala. Order of the Court of June 6, 2009, Considering 14; *Matter of Alvarado Reyes et al.* Provisional Measures regarding Mexico. Order of the Court of November 26, 2010, Considering 43, and *Matter of José Luis Galdámez Álvarez et al.*, *supra* footnote 2, Considering 8.

⁹ Cf. *Matter of Capital El Rodeo I & El Rodeo II Judicial Confinement Center*, Provisional Measures regarding Venezuela. Considering 18; *Matter of Alvarado Reyes et al.* Provisional Measures regarding Mexico. Order of the Court of May 26, 2010, Considering 9, and *Matter of Alvarado Reyes et al.* *Supra* footnote 8, Considering 47.

¹⁰ Cf. *Matter of Capital El Rodeo I & El Rodeo II Judicial Confinement Center*, *supra* footnote 9, Considering 17, *Matter of Pérez Torres et al.* ("Cotton Field"). Provisional Measures regarding Mexico. Order

to life and physical integrity of the relatives of beneficiary Maria del Socorro Mosquera Londoño is evidenced *prima facie* by the murder of Lubin Alfonso Mosquera, who was allegedly attacked and threatened by police officers prior to his death, a situation that other relatives of the beneficiaries have also allegedly faced.

12. The Court takes into account that, according to documentation furnished by the Commission, the majority of the alleged acts of attacks and intimidation have been reported to State authorities. In addition, the Court recalls that in its Order of November 25, 2010, it took note of what the representatives reported regarding some of the alleged incidents to the detriment of relative of Mrs. Mosquera Londoño. However, since the “State [did] not have an opportunity to present its comments on them” and “the alleged victims of said attacks [were] not the beneficiaries of the provisional measures”, it indicated at that time that it could not rule on facts or situations that were not exclusively related to the beneficiaries of the measures.¹¹ Moreover, it notes that the alleged threats against the proposed beneficiaries were also brought to the State’s attention in the representatives’ brief dated February 4, 2011 (*supra* Having Seen 3).

13. The standard of *prima facie* assessment of a case and the making of assumptions in response to a need for protection have on a number of occasions led the President and the Court to order provisional measures.¹²

14. Based on all these considerations, the Tribunal finds that the above-described alleged facts reveal, *prima facie*, a situation of extreme gravity and urgency that justify the adoption of protective measures in order to avoid irreparable damage to people. Consequently, the Court deems it necessary for the State to adopt the measures necessary to protect the lives and physical integrity of the children, grandchildren and daughter-in-law of beneficiary Maria del Socorro Mosquera Londoño, namely: Lubin Arjadi Mosquera, Hilda Milena Villa Mosquera, Iván Alberto Herrera Mosquera, Marlon Daniel Herrera Mosquera, Luisa María Mosquera Guisao, Luis Alfonso Mosquera Guisao, Daniel Steven Herrera Vera, Luisa Fernanda Herrera Vera, Sofía Flores Montoya and María Eugenia Guisao González.

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 27 and 31 of the Rules of Procedure,

DECIDES TO:

of the Court of April 24, 2009, Considering 11, and *Matter of Alvarado Reyes et al.*, *supra* footnote **Error! Bookmark not defined.**, Considering 47.

¹¹ Cf. *Matter of Mery Naranjo et al*, *supra* footnote 6, Considering 73.

¹² Cf. *inter alia*, *Matter of Monagas Judicial Confinement Center ("La Pica")*. Provisional Measures regarding Venezuela. Order of the President of the Inter-American Court of Human Rights of January 13, 2006, Considering 16; *Matter of Alvarado Reyes et al*, *supra* footnote 8, Considering 27, and *Matter of María Lourdes Afiuni*, *supra* footnote 2, Considering 22.

1. Order the State to adopt the measures necessary to protect the right to life and humane treatment of the following relatives of beneficiary Maria del Socorro Mosquera Londoño: Lubin Arjadi Mosquera, Hilda Milena Villa Mosquera, Iván Alberto Herrera Mosquera, Marlon Daniel Herrera Mosquera, Luisa María Mosquera Guisao, Luis Alfonso Mosquera Guisao, Daniel Steven Herrera Vera, Luisa Fernanda Herrera Vera, Sofía Flores Montoya and María Eugenia Guisao González.
2. Order the State to continue adopting the measures necessary to protect the right to life and humane treatment of María del Socorro Mosquera Londoño and Mery Naranjo Jiménez and their relatives, namely, Juan David Naranjo Jiménez, Alejandro Naranjo Jiménez, Sandra Janeth Naranjo Jiménez, Alba Mery Naranjo Jiménez, Erika Johann Gómez, Heidi Tatiana Naranjo Gómez, María Camila Naranjo Jiménez, Aura María Amaya Naranjo, Esteban Torres Naranjo and Luisa María Escudero Jiménez.
3. Order the State to ensure that the protective measures are not provided by security officers who, according to the beneficiaries, may have been involved in the reported facts, such that their appointments must be made with the participation of the beneficiaries or their representatives.
4. Ask the State to allow the beneficiaries of these measures to take part in their planning and implementation and, in general, keep them informed of the progress made in their execution.
5. Ask the State to report to the Inter-American Court of Human Rights on the measures adopted toward complying with the terms of the first operative paragraph of this Order by no later than March 23, 2011, and to forward any information it deems pertinent regarding the alleged facts on which this broadening of measures is based.
6. Ask the representatives of the beneficiaries to present their comments on the State report indicated in the previous operative paragraph within two weeks of its receipt.
7. Ask the Inter-American Commission on Human Rights to present its comments on the State's report indicated in operative paragraph five of this Order within four weeks of its receipt.
8. Ask the State to continue to report to the Inter-American Court of Human Rights on the measures adopted toward complying with the terms of operative paragraph one of this Order in its bi-monthly reports on the implementation of the provisional measures in this matter, and ask the representatives of the beneficiaries and the Inter-American Commission on Human Rights to submit their comments within four and six weeks – respectively – of receipt of notice of the State's reports.
9. Order the Secretariat of the Court to notify the State, the Inter-American Commission on Human Rights and the representatives of the beneficiaries of this Order.

Diego García-Sayán
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Rhadys Abreu Blondet

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary