

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF NOVEMBER 24, 2000**

**PROVISIONAL MEASURES REQUESTED BY
THE INTER-AMERICAN COMMISSION OF HUMAN RIGHTS
IN THE MATTER OF THE REPUBLIC OF COLOMBIA**

PEACE COMMUNITY OF SAN JOSÉ DE APARTADÓ CASE

HAVING SEEN*:

1. The brief of the Inter-American Commission of Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of October 3, 2000, which submitted to the Inter-American Court of Human right (hereinafter "the Court" or "the Inter-American Court), in keeping with 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, a request of provisional measures on behalf of the inhabitants of the Community of Paz de San José de Apartadó, Department of Antioquia, Republic of Colombia, to protect their lives and personal integrity, regarding case No. 12.325, which is currently in process before the Commission.

2. That, in said document, the Commission stated that the residents of said community "have been the object of serious acts of violence and harassment by paramilitary groups in the area," of which the members of the Colombian Army would also be liable. Specifically, the Commission notified the Court that has been informed of the "murder of 47 de the member(s) [of the community] within a nine-month period." Due to the seriousness of the situation, some of the facts that the Commission detailed in its request of provisional measures are detailed as follows:

2.1. On December 29, 1997, at about fifteen hours, members of the 17th Brigade of the National Army detained Antonio Tuberquia, Blanca Libia Guzmán, and Heriberto Usuga when, accompanied by other people, they were going to pick cocoa. They were separated from their peers; were hit while stepping on them; they put wet rags on their faces and accused them of being guerillas.

2.2. On February 6, 1998, at about 10:20 hours, when traveling between San José de Apartadó and La Unión trail, Joaquín Graciano, age 55, Jesús Emilio Tuberquia, age 35, Arnulfo Tuburquia, age 14, and Ovidio Tuberquia, age 16, were detained by members of the 17th Brigade of the National Army

* Judge Carlos Vicente de Roux Rengifo abstained before the Court from participating in the procedure of the preparation and adoption of these Provisional Measures.

and members of the *Autodefensas Campesinas de Córdoba y Urabá* (hereinafter ACCC") who undressed them and made them lie on the ground. Then, they "put revolvers and machetes on their necks and they [told] them they were going to kill them."

2.3. On February 12, 1998, at about 17 hours, members of the 17th Brigade of the National Army, in the Arenas Altas trail detained and threatened Manuel Zapata, age 50, with knives.

2.4. On February 15, 1998, between the 17:30 and 19 hours, in the Arenas Altas trail, members of the 17th Brigade of the National Army, accompanied by members of the ACCU, detained José Eusebio Caro, age 38, and his father, Ramón Emilio Velez, age 78, who were tied all night long; and they were beaten and accused of being guerrillas; they were beaten; they were kicked; they were hit with guns, and they were accused of "being guerrillas". On that same day, another group of soldiers of the 17th Brigade of the National Army detained Hubert Galvis and his wife, Consuelo, who were treated the same way mentioned above; in addition, their house was set on fire and their animals were killed. Also, on February 15, at 17 hours, other soldiers of the 17th Brigade of the Army detained Luis Hernando Goez, age 34, who was foot and hand tied, and they pretended to execute him.

2.5. On March 7, 1998, at 8 hours, members of the 17th Brigade of the National Army, along with ACCU members, tortured and assassinated Reynaldo Lara Ramos, age 60, Miguel Lara, age 17, and Juanita Osorio De Lara, age 58, in the Caño Seco trail.

2.6. On March 13, 1998, at about 15 hours, Gerardo Hildalgo, age 58, member of the Community of Paz de San José de Apartadó, was assassinated when leaving said community in a public transportation vehicle.

2.7. On March 19, 1998, at about 14 hours, in La Unión trail, members of the 17th Brigade of the National Army "retained, beat and raped" Gildardo Tuberquia.

2.8. On March 26, 1998, at about 12 hours, members of the 17th Brigade of the National Army fired against the house of a family in the Alto Bonito trail, seriously injuring Argemiro Jiménez, age 52, his wife, Rosmira Tabares, age 38, and their children Navier Antonio, age 7, Jorge, age 13, and Dorey, age 4.

2.9. On April 9, 1998, a contingent of the 17th Brigade of the National Army arrived to the Arenas Altas trail, at about 8 hours, and shot Darío Goez, age 42, who was at home accompanied by other people, and he was hurt. Then, he was taken out of the place by the military. Later, his body was found and reported to be a guerrilla killed in combat.

2.10. On April 4, 1999, at 23:15 hours, a group of men wearing civilian clothes and armed with guns and grenades, entered the territory of the community and assassinated Aníbal Jiménez, Daniel Pino, and Gabriel Graciano, the latter age 16. Other two people were seriously wounded.

2.11. On August 9, 1999, at 10:00 hours, a group of 30 armed men, among which there were a lieutenant and several paramilitaries, entered the house of Eduard Motaes, who was beaten and threatened to death, accusing him of being a guerilla deserter. A neighbor that was around, Luis Hidalgo, was also beaten.

2.12. On February 19, 2000, in the urban central area of the municipality of San José de Apartadó, Albeiro Montoya, Luis Ciro, and Alfonso Jiménez, Mario Urrego and Uvaldo Quintero were assassinated by a group of 20 men wearing military uniforms and carrying weapons AK, Galil and R-15.

2.13. On March 10, 2000, a peasant of El Gas trail, municipality of San José de Apartadó, found the house of one of his neighbors burned, the owner dead, and the rest of the family, his wife and five children, missing. According to some of the local authorities, the crime was committed by paramilitaries.

2.14. On May 13, 2000, at about 16 hours, Josmen Benitez, age 23, was forced to get off the public transportation vehicle where he was driving to San José de Apartadó, and he was later assassinated in the community of Policarpa de Apartadó by five paramilitaries wearing civilian clothes.

2.15. On June 8, 2000, men with their faces covered with balaclavas, supposedly militaries and paramilitaries, wearing military clothing and using AK guns, shot six members of the Community of San José de Apartadó.

2.16. On July 8, 2000, a group of about 20 hooded men assassinated Rigoberto Guzmán, Elodino Rivera, Diofanor Correa, Humberto Sepúlveda, Pedro Zapata and Jaime Guzmán, and retained other peasants. Before leaving the trail, the aggressors burned the community center where there was a telephone. The day after members of the 17th Brigade, along with paramilitaries, came in the house of Manuel Herrera, plundered the house, stole family goods, and threatened him and the entire community.

2.17. On July 16, 2000, Freddy Mazo, a young man of about 18 years of age, was taken out the municipality of San José de Apartadó that night, and his body was found nearby with visible evidence of having been injured with a machete.

2.18. On Friday August 25, 2000, at about 15:20 hours, armed people that would have identified themselves as members of the autodefensas campesinas, stopped a public transportation vehicle heading for San José de Apartadó, and forced Ignacio Arenas to get off. At about 16:20 hours, a group of peasants heading for San José de Apartadó saw on the highway edge the body of Arenas with a shot in his head.

2.19. On Tuesday September 19, 2000, at 13:45 hours, a group of five paramilitaries wearing civilian clothes and armed, along with a woman, intercepted a public transportation vehicle, forcing Luis Enrique Usuga to get off. His body, showing a shot in his head and another on his back, appeared in the community of La Chinita de Apartadó.

2.20. On Friday September 22, 2000, at 17:00 hours, paramilitaries forced Miguel Domico Balarín to get off the public transportation vehicle where he was driving. His body was found in Finca El Bajo del Oso with a shot in his body. Next to him was the body of a woman who had also been detained in the same paramilitary reserve. According to the Commission:

The woman [was] a wounded guerilla [whom] 'the delegates [of the Red Cross International Committee] were evacuating when the vehicle was intercepted by AUC. In spite of the opposition of the RCIC, which negotiated during one hour trying to safeguard the life of the evacuated person, the three men took her out of the vehicle and forced the delegates to leave the place'.

2.21. On September 23, 2000, at about 17:30 hours, six armed men entered a house on the urban central area of San José de Apartadó and kidnapped Luz Analia Retana Román, age 20, Hernando Arenas, age 18, and Duver Antonio Román, age 15, who were later assassinated.

3. That, based on the detailed facts, the Commission requested the Court "to resolve in favor of issuing provisional measures in order to protect the life and personal integrity of the members of the Community of San José de Apartadó" and filed several particular requests, which are detailed below:

1. That the protective measures be mutually agreed by the State and the Community members and the petitioners. In the sense, and in order to guarantee its effectiveness and relevance, it is necessary to consider the compatibility of the offered guarantee measures with the nature of the experience of the Community of Paz, because the personal and armed protection of these people may endanger the principles of collective neutrality and humanitarian area that inform their own existence and generate violent responses by the armed actors in the region.

2. That the political mechanism instrumented by the Vice-presidency of the Republic be reinforced and given true effectiveness, in order to restore the confidence between the Community of Peace and the local authorities.

3. That the preventive and protective measures of the Community be strengthened in compliance with the commitments assumed by the *Red de Solidaridad Social*, which include the supply of short wave radios for San José de Apartadó and other trails where the return of displaced people has taken place; the installation of reflectors for lighting of the surroundings of the urban central area; night exterior lighting of the urban central area and La Unión trail; installation of an alarm system; repairs of the roads between Apartadó and San José, and repair of the telephone system between the municipality and the trails.

4. That, as an essential part of the process of control and elimination of the violence against the Community of San José de Apartadó, more effective measures be adopted to investigate serious acts of violence and intimidation committed against its members in order to judge and sanction those who are liable.

4. That the Inter-American Commission, issued in December 17, 1997, precautionary measures in favor of the population of San José de Apartadó, in keeping with Article 29 of its Rules of Procedure which, however, would have not stopped the violence unleashed "against the members of the community and the harassment acts [that] seriously and continuously threaten the right to life and the personal integrity of the protected people."

5. The Decision of the President of October 9, 2000, wherein he considered

[...]

4. they the records produced by the Commission in its request demonstrate *prima facie* a situation of extreme seriousness and urgency as to the rights to life and personal integrity 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, Yazmín 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, William Guzmán, Blanca Lidia 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, José 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 Lucía 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, Ramón Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán, and Norber Sepúlveda.

5. That the Inter-American Commission has requested the State to adopt the precautionary measures, which have not rendered to the pursued protective effects, and that, on the contrary, the facts that have occurred recently make presume that the integrity and the lives of the members of the Community of Paz de San José de Apartadó are at a serious risk. Consequently, there are circumstances that make necessary to ask the State to adopt urgent measures in order to prevent irreparable harm to said people.¹

6. That Article 1(1) of the Convention states the duty of the State Parties to respect the rights and freedoms recognized therein and to guarantee free and full exercise for every person who is subject to its jurisdiction, included, in this case, the inhabitants of the Community of Paz de San José de Apartadó.

7. That on other occasions this Court has considered that it is essential to individualize the people who are in danger of suffering irreparable harm, in order to provide them with protective measures²; moreover, the protective measures adopted by the State in compliance with the decisions issued by the Court or its President are

¹ Cf. *Case of Alvarez et al.*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of July 22, 1997. Series E No.2, sixth considering clause.

² Cf. *Case of Haitians and Dominicans of Haitian Origin in the Dominican Republic*, Provisional Measures. Decision of August 18, 2000, eighth considering clause; *Case of Haitians and Dominicans of Haitian Origin in the Dominican Republic*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of September 14, 2000.

expected to benefit other people of the same community that may be in the same situation of vulnerability and risk.

8. That, as it has been asserted by this Court, "it is the State's responsibility to adopt security measures to protect every people who are subject to its jurisdiction; this duty becomes even more evident in relation to those who are involved in processes before the supervising organs of the American Convention."³

9. That the purpose of the provisional measures, in the national juridical systems (internal procedural law) in general, is to preserve the rights of the parties in dispute, guaranteeing that the future merit decision is not harmed by their actions *pendente lite*.⁴

10. That the purpose of the provisional measures, in the International Law of Human Rights, goes beyond this, since, besides its essentially preventive nature, they protect fundamental rights, as long as they seek to prevent irreparable harm to people.⁵

11. That the Court has not heard the case referred to in the request of the Commission as to matter, and therefore, adopting urgent measures does not imply a decision on the matter of the dispute existing between the petitioners and the State. Upon adopting urgent measures, this Presidency is only guaranteeing that the Court shall be able to exercise accurately its conventional mandate.⁶

[...]

And where it decided:

1. To request the State of Colombia to adopt, forthwith, as many measures as may be necessary to protect the lives and personal integrity 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, Yazmín 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, William Guzmán, Blanca Lidia 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, José Luis Borja, Maria 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

³ Cf. *Case of Digna Ochoa y Plácido et al.*, Provisional Measures. Decision of the Inter-American Court of Human Rights of November 17, 1999, seventh considering clause; *Case of the Constitutional Court*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of April 7, 2000, ninth considering clause; and *Case of the Constitutional Court*, Provisional Measures. Decision of the Inter-American Court of Human Rights of August 14, 2000, ninth considering clause.

⁴ *Case of the Constitutional Court*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of April 7, 2000, tenth considering clause.

⁵ *Case of the Constitutional Court*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of April 7, 2000, eleventh considering clause

⁶ Cf. *Case of James et al.*, Provisional Measures. Decision of June 19, 1999. Series E No. 2; *Case of James et al.*, Provisional Measures. Decision of May 11, 1999. Series E No. 2; *Case of James et al.*, Provisional Measures. Decision of July 22, 1998. Series E No. 2, *Case of James et al.*, Provisional Measures. Decision of July 13, 1998. Series E No. 2; *Case of James et al.*, Provisional Measures. Decision of June 29, 1998. Series E No. 2; and *Case of James et al.*, Provisional Measures. Decision of May 27, 1998. Series E No. 2.

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 Lucía Giraldo, Alfenis Cardona, Luz María Gomez, Marveli Giraldo, Marcela Guzmán, Libardo Guzmán, Senubia Higuita, 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 Higuita, Nohemi Tuberquia, Marlobe Higuita, Edilson Tuberquia, Heider Higuita, Deison Higuita, Francisco Higuita, Miro David, Uber Areiza, Teresa Guzmán, Jhon Guzmán, Beyanira Areiza, Davidson Areiza, Ramón Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán and Norber Sepúlveda.

2. To request the State of Colombia to present the Inter-American Court of Human Rights a first report on the measures adopted within a fifteen-day period after notifying the [...] decision and to the Inter-American Commission of Human Rights which will submit its observations on such report within a fifteen-day period upon receiving this document.
 3. To call 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 hours, with the purpose of listening to their views on the facts and circumstances that prompted the adoption of these urgent measures.
6. That the State's letter presented on October 30, 2000 which referred to the request of measures of this case and requested an extension for the presentation of the report ordered in the Decision of October 9, 2000, which was granted until November 6, 2000.
 7. The first report of Colombia of November 6, 2000, wherein it was pointed out that:
 - a) the Ministry of National Defense had taken measures, through the Lower Operating Unit, among others: meetings with the leaders of the Community, operations in the zone and capture of several members of the Audefensas and the Revolutionary Armed Forces of Colombia (FARC); control on the roads Apartadó-San José de Apartadó; orders of the command of the 17th Brigade of the Army to the units to respect human rights, emphasizing the Community; training of the troops on human rights and Humanitarian International Law by the High Commissioner of the United Nations for Human Rights; the Ombudsman's Bureau, the Red Cross International Committee (RCIC) and others; request to the Community to report on any irregular situations or investigations, even in the case of minor claims;
 - b) on November 1, a meeting took place with delegates from several state organs with a view to analyzing the situation of the Community of Paz, where it was agreed on sending, on November 7 to 9, 2000, an Inter-Institutional Commission formed by officers of the Vice-presidency of the Republic, the Office of the Attorney General and the General Prosecutor's Office;

c) with regards to the commitments of the Red of Solidaridad Social with the assistance of the Community, its local representation carried out procedures with the City Hall of Apartadó to promote the project and contract the repairs of the access road to the municipality of San José, which was funded by the city council. At present, the road is in passable conditions after carrying out the repairs, and the works go on. Additionally, some steps were taken to repair the telephone of the urban central region of the municipality of the Community, which is in operation at present;

d) with regards to the homicide of José Antonio Graciano Usaga and Jairo Valencia Vanegas for the facts that occurred on April 13, 1997, an investigation was opened for the individualization and identification of the liable parties and the Prosecutor's Office of Apartadó has tried to find witness by all possible means. At present, the investigation is in the phase of "Previews";

e) on the alleged disappearance of Ovidio Torres Ateiza, it was ordered to refer the investigation to the Specialized Prosecutor's Office of Apartadó in November 1998. It was proceeded likewise with respect to the homicides of Elías Zapata, Heliodoro Zapata, Alberto Valle and Félix Antonio Valle (investigation No. 4994); the homicides of Gilberto and Miguel Ramírez Giraldo (investigation No. 4909); the alleged kidnapping of Miguel and Bertha Guisao (investigation No. 4985). The latter investigation is in the phase of collection of evidence;

f) with regards the facts occurred on April 4, 1999 for the crimes of homicide and personal injuries, there have been several judicial actions to investigate them. At present, the investigation is in the phase of "Previews";

g) with regards to the homicide of Pedro José Zapata Velásquez, Eliodino Rivera Zapata, Jaime Antonio Guzmán Urrego, Rigoberto Guzmán Urrego, Diofanor de Jesús Sánchez Borja and Humberto Antonio Sepúlveda, resulting from the facts of July 8, 2000, some judicial actions and investigations have been carried out (No. 377.912), and at present, it is in the phase of collection of evidence; and

h) Colombian authorities have made enormous efforts to improve the security of the Community, as well as the promotion of the corresponding investigations. The State shall continue to develop the investigation and the protective measures.

8. The following people appeared in the public hearing on this request of provisional measures held at the seat of the Inter-American Court on November 16, 2000:

by the State of Colombia:

Fernando Alzate Donoso, agent, General Director of Special Affairs of the Ministry of Foreign Affairs;

Carlos Julio Vargas, member of the Human Rights Unit, Vice-presidency of the Republic;

Claudia Patricia Cáceres, advisor; and
Mónica Jiménez, advisor.

By the Inter-American Commission of Human Rights:

Robert K. Goldman, delegate;
Verónica Gómez, advisor;
Sister Clara Lagos, assistant;
Danilo Rueda, assistant; and
Viviana Krsticevic, assistant.

9. The arguments of the Commission presented in the aforementioned public hearing, are summarized below:

a) the provisional measures requested to the Court are aimed at protecting the life and personal integrity of the members of the Community of Paz de San José de Apartadó, located in the region of Urabá of Antioquia, "one of the epicenters of the internal armed conflict taking place in the Republic of Colombia". Said community is formed by approximately 1200 civilians, and since its inception in 1997, it has been constantly beaten by paramilitary violence and stigmatization, in spite of its efforts to isolate itself from the armed conflict.

b) in keeping with Article 29 of its Rules of Procedure, in 1997 the Commission requested the State to grant the precautionary measures in favor of said Community to adopt measures to protect its members, since there had been more than 40 summary executions and forced disappearances. Almost three years after these were granted, the Community is still living under dangerous conditions due to the continuous threats by armed individuals and their condition of total lack of protection. During the last 18 months, the Community has suffered three massacres with a total of 15 deadly victims. In spite of the active accompaniment of organizations such as the Peace Brigades, the interest of the foreign diplomatic representations in Colombia, and the Office of the High Commissioner of the United Nations, and, even, the actions of the Vice-presidency of the Republic, the members of the Community of Paz continue to be "prisoners of violence" specially from paramilitary groups, and they remain to be without the effective protection of the State's agents;

c) the Community of Paz de San José de Apartadó is ruled by several principles, to wit: neutrality before all armed actors; no direct or indirect participation in war; no arm carrying; and no offer or manipulation of information in favor of any of the armed actors. The Community of Paz is ruled by an internal council formed by eight peasants. They are elected democratically for a three-year term. One of them holds the legal representation and there is an extended council with the coordinators of the working groups;

d) three months after the creation of the Community, a paramilitary reserve troop was established between San José and the Municipality of Apartadó, four minutes away from the place where the Army had a base. In said reserve troop the passing of food is limited, and they make lists of the people, that later appear in the hands of paramilitaries, who assassinate the people appearing on said lists. At the beginning, the deaths that took place in

the reserve were selective. Dwellers of the Community are pointed out as guerillas, as people helping the guerrillas, that pass food to the guerillas;

e) there have been several massacres, among them those of April 4, 1999 and February 19, 2000. Since the latter, they started to take steps and they asked for the interlocution of the Vice-presidency. On March 20, they had a meeting where the Community proposed a number of measures that were not attained. However, the return of the inhabitants of the Community was prepared, and on July 8, there was another massacre. At three in the afternoon on that day, some hooded people entered the Community and killed six peasants who, according to the medical reports, had forty shots each,

f) in spite of the collaboration of the Community with the internal judicial authorities in the processes related to the facts and deaths occurred on said Community, a state of total impunity prevails;

g) a part of the investigation for the violent acts suffered by the Community are now moved forward by the Military Criminal Justice, specifically by the Military Criminal Initial Judge of the Seventeenth Brigade of the Army;

h) recently, on November 11 and 14, 2000, a bus travelling from Apartadó to San José, in a neighborhood called El Consejo, was boarded by some armed civilians who detoured the vehicle and made the passengers get off the bus with their identification at hand; they verified if they were in a list and took all the food that passengers were carrying. This happened one month later after asking the State for protective measures;

i) the effort of the Commission to identify a number of members of the Community in order to present the request of provisional measures led it to present a list of 189 people, but this is not complete, since "the great majority of the members of the Community fear stigmatization and violence resulting from such stigmatization, and this is the only reason for which they did not authorize to make their names known";

j) there is a number of elements that allow identifying the members of the Community in a collective way. One of these is the geographic element; this is a Community located in determined place, in the Municipality of Apartadó, formed by 32 surrounding trails, such as La Unión trails where the 189 people identified in the Decision of the President of October 9, 2000 come from. Furthermore, belonging to such Community has a series of norms, a bylaws, a representation system; the members are even identified with an identification card; in the Community there are people who, although not formally identified with said card, live there and are guided by said principles and want to become members of the Community. Therefore, they must be considered also as members. In this case, it is convenient to define the Community of Paz de San José de Apartadó collectively because this is an affectation of fundamental individual rights, such as life and personal integrity;

k) after three years of the precautionary measures, the State did not question or allege having had problems to identify the people that it had to protect. The Commission is convinced that the State understands the

collective dimension of the problem, knows which people to protect, understands the geographic limits and the element of belonging to the Community, as well as the functioning mechanisms;

l) there has been moving of the inhabitants of the Community to other areas of the country due to violence; and thus, it has been necessary to start a process of return of said families to the Community. In this way, there was a return to La Unión Trail that started with 25 families. Every year, there has been a return and almost all of them have been done by the Community itself, without the support of the State, and the results have been successful. In the case we are now dealing with, a group of inhabitants of the Municipality of Apartadó chose to exercise their right not to move to their place of origin, which is a right recognized in International Law and stipulated in the governing principles of the internal moving collected by the representative of the Secretary General of the United Nations for internal movings;

m) the Commission requested the Court to require the State:

i) to adopt the necessary measures to repel and neutralize the paramilitary groups acting in the region, since of the elements of the violence that has affected the Community is the free, public and open presence of paramilitary groups, which have been the main harassing elements of the Community because of its close bond of acting with agents of the Colombian State;

ii) to arrange for vigilance of the surrounding area of the Community of Paz de San José de Apartadó in order to guarantee that no group will act on the fringe of the law, and particularly, to carry out effective operations in order to repress the action of paramilitary groups in the region, and to order the State's agents to protect the Community of Paz de San José de Apartadó and not to make any statements or other stigmatization actions that may endanger said Community;

iii) to arrange for all means within its reach to carry out effective investigations of the claimed facts; and particularly, in order to facilitate the development of the investigations, to separate or suspend from their positions the State's agents with respect to which there may be some serious evidence of complicity with paramilitary groups. Furthermore, to investigate and timely punish the members of the 17th Brigade of the Army and the police de Urabá involved in the facts. On the other hand, that the investigation be developed by ordinary justice and suspend investigations through military justice, and that, for the effective development of these investigations, these be accumulated, so that they are not treated as fragmented facts as if they were 83 different acts of violence;

iv) to adopt the physical measures of protection of the Community of Paz de San José de Apartadó which have been recognized as necessary in the commitment assumed by the Vice-presidency of the Republic in order to allow the Community to ask for help, solve emergency situations and prevent that violent acts from taking place "under the protection of darkness". These physical measures are now in the implementation process, and among them are the supply of short wave radios, repair of the telephone system of the

place, repair of the road, and the installations of reflecting lights in the urban central area. It is essential to immediately complete the implementation of these measures in order to effectively guarantee the physical integrity of the members of the Community. Furthermore, it is requested that said measures be adopted by mutual agreement among the State, the members of the Community and the petitioners in order to guarantee their effectiveness and compatibility with the neutrality commitment by the Community of Paz, since the personal and armed protection to the inside of the Community may put said commitment at risk;

v) to take the measures that will prevent people from moving and ask Colombia to adopt as many actions as necessary to guarantee that the people of the Community of Paz de San José de Apartadó may continue living in their usual place of residence or to return to the homes, offering them the guarantee that they will not be persecuted or threatened by the State's agents or by people acting with their acquiescence or by particular individuals;

vi) to issue a presidential guideline stating clearly and expressly the recognition of the legality, legitimacy and support of the State to the experience of the Community of Paz, as well as the respect for the accompaniment of national and international organizations to said Community. Said guideline, in turn, must determine the responsibilities and limits of the actions of the authorities before the Community of Paz, and

n) finally, the Commission requested the Court to ratify the measures ordered by the President on October 9 of the current year, and to extend said measures to the members of this Community of Paz "who may be in a similar situation of vulnerability and risk."

10. The arguments of the State presented in the same public hearing are summarized below:

a) in Colombia there is no civil war, only confrontations and situations caused by non-state armed actors which are the object of the persecution and struggle of the State to reduce them, according to the Constitution and the law. This is not a civil war because there is no popular support for the actors. It cannot qualify the conflict that the country is going through because it is not the authorized political spokesmen, but it asserts that for the State the observation of the Geneva Conventions is clear to permit and facilitate all humanitarian assistance that may be required. The Colombian democracy has a solid, historic, and legitimate support that has allowed it to adopt a series of policies in the matter of human rights that have been made known of the public opinion and the Inter-American organs. The Vice-presidency of the Republic has been in charge of managing the actions that are necessary and leading to meet the recommendations that are presented through the international organizations competent in this matter;

b) it identifies itself with the same purposes of peace of the Community and it does not share the assertions of relation, acquiescence and omission of the State with paramilitaries or with illegal groups of armed actors, against which actions have been developed. On the other hand, the formation and training of the military forces is oriented for them to act according to both

national and international norms in the matter of Human Rights and Humanitarian International Law;

c) that a number of measures has been adopted as to programs of protection and cooperation to protect different members of the population, for which they aim at guaranteeing their right to integrity, life, to exercise their profession and civic activity within the parameters ordered by the Constitution and the Law;

d) a new Military Criminal Code was created within the national legislation, Law No. 522; Law No. 554 on discharging minors from service in the military forces of Colombia, and thus, to comply with the Convention on Children's Rights; Law No. 589 on forced disappearance, genocide and moving; the new Criminal Code and the passing of the Ottawa Convention on anti-personal mines;

e) multiple specific actions have been promoted through the Vice-presidency of the Republic for the Community of San José de Apartadó, such as: installation of light reflectors in the Community of San José and in La Unión, supply of communication radios and improvement of roads, which have been all promoted with the Municipality, the City Hall and the Red of Solidaridad Social. This type of actions confirms the commitment by the State with the Community of San José de Apartadó. Colombia has full capacity to contribute and attain said measures directly and to move on in this dialogue with the Community;

f) the Ministry of the Interior has followed up the Community of Paz since it was created. It has coordinated actions with local authorities, especially with the City Hall. It has provided humanitarian assistance to those who have moved, in coordination to the municipality and the governorship, and also technical assistance for the population. The position of the Community of Paz has been respected and they have worked with the public force to make the security provided to this Community be perimetric, without prejudice of the former entering the community in case it would be necessary. Both the Ministry of the Interior and the Office of Human Resources consider that the security of the Community of San José de Apartadó must be agreed on. In this sense, petitions have been responded through the Red de Solidaridad Social. Likewise, the Ministry has disposed a sum of thirty five million pesos in order to present the Community a project to be evaluated and studied to create workshops of distension between the authorities and the Community for restoring the confidence between the Community and the authorities. The policy of finishing with any commitment or bond that may exist between the members of the public force and the autodefensas may be added to the above; the idea of creating these workshops of training as an alternative solution of conflicts and reviewing the work done in the Community in the matter of justice, respecting self-control mechanisms. It is also sought to design an early alarm system that must be agreed upon by the Community and the public force to be effective.

g) a committee formed by representatives of the Office of the Attorney General of the Republic, the Office the General Prosecutor and the Office of the High Commissioner of the United Nations for Human Rights, visited the local authorities of San José de Apartadó with the purpose of promoting

investigations of the facts that took place in April of last year and February and July of the current year. This allowed, before the facts of April of last year, to arrange for the formal opening of the investigations with detention order for one person. These State's actions must aim at eliminating any traces of impunity and render important results in the medium term; and

h) assess positively any observations made by Committee and considers that the State's efforts are not only global, but they are also intended to attend specifically individual situations. These measures adopted with their collective nature are sustained on important background of international law. The hearing held in this case has allowed knowing more directly all these views, and with regards to the participating institutions, an additional purpose is stated: to be spokesmen and catalyst to the inside of the government for the actions to be executed promptly and completely in the entire country.

11. The document of the State of November 16, 2000 by which the following documents were attached: Letter No. 242736 of 2000 of the Direction of Communications to the 17th Brigade of the National Army; document titled "Hoy Urabá puede probar que la Paz genera Desarrollo"; Law 589 of 2000 by which the crimes of genocide, forced disappearance, forced moving and torture are defined and other provisions are stipulated; program of the formation course for members of the Public Force on the Prevention and Protection in Situations of Forced Moving—Urabá Region--, July 18 and 19, 2000; a document titled "La Oficina del Alto Comisionado de Naciones Unidas para los Refugiados en Colombia - ACNUR"; Schedule of the Seminar - Workshop on Human Rights, Humanitarian International Law and Forced Moving of August 14, 2000; document of the Red Cross International Committee; Delegation of Colombia, Diffusion of the Humanitarian International Law for the Public Force of Colombia, Training Workshop for instructors of the 17th Brigade of the National Army, Carepa October 12, 13, and 14, 2000, and letters of "Peace Brigades International" of August 18, 1999 and October 4, 2000.

12. The document of the Inter-American Commission of November 22, 2000 presenting the observations to the first State report, where the arguments related both in the request of provisional measures of October 3, 2000 and the public hearing were reiterated. The following documents were submitted besides such document: Statement related to the Community of Paz de San José de Apartadó; document titled "Nuestros Principios en la Comunidad de Paz de San José de Apartadó", Internal Rules and the Map of the Municipality of Apartadó (Municipalities and Trails).

CONSIDERING:

1. That Colombia is a State Party to the American Convention since July 31, 1973, and it recognized that competence of the Court, in keeping with Article 62 of the Convention on June 21, 1985.

2. That Article 63(2) of the American Convention stipulates that, in cases of "extreme seriousness and urgency, and whenever it is necessary to prevent irreparable harm to people", the Court, in cases that are not subject to its hearing and at the request of the Commission, will adopt the provisional measures that may deem relevant.

3. That under the terms of Article 25(1) of the Rules of Procedure of the Court:

[i]n any stage of the process, provided that they are cases of extreme seriousness and urgency, and when it will be necessary to prevent irreparable harm to people, the Court, pursuant to law or requested by a party, will order the provisional measures that may deem relevant, under the terms of Article 63(2) of the Convention.

4. That the Commission has described a situation of extreme seriousness and urgency that conforms to the basis under Article 63(2) of the American Convention with regards to 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, Yazmín 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, William Guzmán, Blanca Lidia 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, José Luis Borja, Maria 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 Lucía 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, Ramón Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán and Norber Sepúlveda.

5. That this Court has considered the fist report presented on November 6, 2000 by the State, as well as its arguments in the public hearing held on the 16th day of same month and year, where it did not oppose the application of the facts described

by the Commission that originate the adoption of urgent measures in this case by the President, and stated in a positive way, its disposition for the implementation of the measures.

6. That, likewise, it has taken into consideration the arguments of the Inter-American Commission submitted in said hearing, where it was stated that many members of the Community of Paz de San José de Apartadó did not want to be identified because of their fear for reprisals, as well as their observations in writing presented on November 22, 2000.

7. While it is true that, on other occasions, the Court has considered indispensable to individualize the people who are in danger of suffering irreparable harm in order to provide them with protective measures⁷, this case has special characteristics that make it different from the background considered by the Court. Indeed, the Community of Paz de San José de Apartadó, formed according to the Commission by about 1200 people, constitutes an organized community, locate in a determined geographic place, whose members can be identified and individualized and who, due to the fact of belonging to said community, all its members are in a situation of similar risk of suffering acts of aggression against their personal integrity and lives. Therefore, this Court considers that it is convenient to issue provisional protective measures in favor of the people already protected by the urgent measures ordered by Decision of the President of October 9, 2000, and for the reasons presented in the public hearing held on November 16, 2000, to expand them so that they cover all of the members of the aforementioned Community.

8. Since the situation that the Community of Paz de San José de Apartadó is going through has forced its dwellers to move to other areas of the country, it is necessary that the States guarantees that the people benefited with these measures may continue to live in the usual place of residence⁸ and provide the conditions necessary for the people of said Community, who had to move, to come back to their homes.

9. That Article 1(1) of the Convention stipulated the duty of the States Parties to respect the rights and freedoms recognized therein and to guarantee its free and full exercise of everybody that is subject to its jurisdiction. The States is obligated to adopt the security measures necessary for the protection of the rights and freedoms of all of the inhabitants that are under its jurisdiction; consequently, in this case, it must do for all of the members of the Community of Paz de San José de Apartadó.

10. That, as it has been asserted by this Court, it is the State's duty to adopt the security measures to protect all of the people that are under its jurisdiction becomes

⁷ Cf.. *Case of Haitians and Dominicans of Haitian Origin in the Dominican Republic*, Provisional Measures. Decision of August 18, 2000, eighth considering clause; and *Case of Haitians and Dominicans of Haitian Origin in the Dominican Republic*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of September 14, 2000.

⁸ Cf.. *Case of Giraldo Cardona*, Provisional Measures. Decision of the Inter-American Court of Human Rights of February 5, 1997, fifth considering clause; *Case of Giraldo Cardona*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of October 28, 1996; second operative paragraph; and *Case of Colotenango*, Provisional Measures. Decision of the Inter-American Court of Human Rights of June 22, 1994, second operative paragraph.

more evident when in association to those who are related to processes before the supervising organs of the American Convention⁹.

11. That the purpose of the provisional measures, in the national juridical systems (internal procedural law) is, in general, to preserve the rights of the parties in dispute, guaranteeing that the future merit decision is not harmed by their actions *pendente lite*.¹⁰

12. That the purpose of the provisional measures, in International Law of Human Rights, goes beyond, since, besides its essentially preventive nature, they protect fundamental rights, as long as they seek to prevent irreparable harm to people.¹¹

13. That the Court has not heard the case referred to in the request of the Commission as to matter, and therefore, adopting urgent measures does not imply a decision on the matter of the dispute existing between the petitioners and the State¹².

14. That Colombia has the obligation to investigate the facts prompting this request of provisional measures, in order to identify the liable parties and to impose on them the corresponding sanctions.

15. That the Court has examined the facts and circumstances that serve as the basis for the Decision of the President of October 9, 2000, which is ratified since it is found to be in conformance to law and the merit of the records.

NOW THEREFORE:

THE INTER-AMERICAN OF HUMAN RIGHTS,

based on Article 63(2) of the American Convention on Human Rights and in use of the attributions conferred upon it by Article 25 of its Rules of Procedure,

⁹ Cf. *Case of Digna Ochoa y Plácido et al.*, Provisional Measures. Decision of the Inter-American Court of Human Rights of November 17, 1999, seventh considering clause; *Case of the Constitutional Court*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of April 7, 2000, ninth considering clause; and *Case of the Constitutional Court*, Provisional Measures. Decision of the Inter-American Court of Human Rights of August 14, 2000, ninth considering clause.

¹⁰ *Case of the Constitutional Court*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of April 7, 2000, tenth considering clause.

¹¹ *Case of the Constitutional Court*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of April 7, 2000, eleventh considering clause.

¹² Cf. *Case of haitians and dominicans of haitian origin in the Dominican Republic*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of September 14, 2000, seventh considering clause; *Case of James et al.*, Provisional Measures. Decision of June 19, 1999. Series E No. 2, seventh considering clause; *Case of James et al.*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of May 11, 1999. Series E No. 2, fifth considering clause; *Case of James et al.*, Provisional Measures. Decision of the Inter-American Court of Human Rights of August 29, 1998. Series E No. 2, sixth considering clause; *Case of James et al.*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of July 22, 1998. Series E No. 2, sixth considering clause; *Case of James et al.*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of July 13, 1998. Series E No. 2, sixth considering clause; *Case of James et al.*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of June 29, 1998. Series E No. 2, sixth considering clause; and *Case of James et al.*, Provisional Measures. Decision of the President of the Inter-American Court of Human Rights of May 27, 1998. Series E No. 2, seventh considering clause.

DECIDES:

1. To ratify the Decision of the President of the Inter-American Court of Human Rights of October 9, 2000 in all its terms.

2. To require the State of Colombia to maintain any measures as may be necessary to protect the lives and personal integrity 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, Yazmín 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, William Guzmán, Blanca Lidia 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, José Luis Borja, Maria 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 Lucía 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, Ramón Tuberquia, Angela Guzmán, Luis Tuberquia, Miladis Tuberquia, Luis Albeiro Tuberquia, Yulie Guzmán and Norber Sepúlveda.

3. To require the State of Colombia to extend, forthwith, any measures as may be necessary to protect the lives and personal integrity of all of the other members of the Community of Paz de San José de Apartadó.

4. To require of the State of Colombia to investigate the facts prompting the adoption of these provisional measures, in order to identify the liable parties and to impose on them the corresponding sanctions, and to inform the people indicated in the above operative paragraphs about this situation.

5. To require the State of Colombia de adopt, forthwith, any measures as may be necessary to guarantee that the people benefited with these measures may continue living in the usual place of residence.

6. To require the State of Colombia to guarantee the conditions necessary for the people of the Community of Paz de San José de Apartadó who had been forced to move to other areas in the country to come back to their homes.

7. To require the State of Colombia to allow the participation of the petitioners in planning and implementing measures, and, in general, to keep them informed on the progress of the measures issued by the Inter-American Court of Human Rights.

8. To require the State of Colombia to inform the Inter-American Court of Human Rights every two months, from the date of notice of this Decision, on the provisional measures that have adopted in compliance thereof.

9. To require of the Inter-American Court of Human Rights to submit its observations to the reports of the State of Colombia within a six-week term from the date of its reception.

Judges Jorge Abreu and Burelli and García Ramírez made their Separate Concurring Opinion of the knowledge of the Court, which is attached to this Decision.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

Oliver Jackman

Alirio Abreu-Burelli

Sergio García-Ramírez

Manuel E. Ventura-Robles
Secretary

So ordered,

Antônio A. Caçado Trindade
President

Manuel E. Ventura-Robles
Secretary

**SEPARATE CONCURRING OPINION OF
JUDGES ALIRIO ABREU-BURELLI AND
SERGIO GARCÍA-RAMÍREZ**

1. The provisional measures provided under Article 63(1) of the American Convention constitute a fundamental element for the effective protection of human rights. Therefore, the Convention itself has established the possibility of the Court to adopt said measures not only in the process developed before it, but also in case the dispute has not been filed in the Court. The need to provide adequate and prompt protection to people justifies the jurisdictional performance of the Court, at the request of the Inter-American Court of Human Rights.

2. The justified interest in preserving rights determines that the Convention requires only certain objective conditions for the adoption of measures: that there are extreme seriousness and urgency in the case, which has to do with the characteristics of the fear affectation (possible harm relevant to fundamental rights) and its imminence. The above mentioned Article 63(1) does not stipulate other requirements that may delay or obstruct the issuance of such measures, and therefore, to risk the human rights that are intended to protect.

3. It is true that in most cases it is possible to identify, individually, the potential victims of the violations that is intended to impede. However, there are other assumptions where said precise individualization is difficult, at least for the time being. Think, for example, of the hypotheses where the real imminent threat is on an extensive number of individuals that are under a given common situation or assumption that exposes them to risk. Under said circumstances it is necessary to provide the protection of the rights that are at risk, although at the moment it is not possible to nominally identify all the subjects of the provisional protection, which is always, by definition, an urgent protection.

4. In some way, that situation corresponds with the one presented under the concept of diffuse interests: a plurality of individuals share a determined interest that is juridically relevant and that requires public protection, although none of the subjects may be considered as holder of a subjective right about the rendering or the measure that is sought or the legal framework that is relied upon, or that said entitlement may not be attributed in way excluding the other subjects that are in the same situation. Under these circumstances, any of them may appear before the corresponding organ and request the adoption of provisions or decisions that preserve the common interest. In such case, an *actio popularis* or a class action would work, in keeping with the characteristics reviewed in this matter in the specific proposed circumstances.

5. In a prior decision, the Court considered “indispensable to individualize the people that are in danger of suffering irreparable harm, for which it is not feasible—the Court added—order the provisional measures in a non-nominal way, in order to protect generally all those who are in a determined situation, or are affected by certain measures; however, it is possible to protect the individualized members of a community” (*Provisional measures requested by the Inter-American Commission of Human Rights regarding the Dominican Republic. Case on Haitians and Dominicans of Haitian origin in the Dominican Republic. Decision of August 18, 2000, eighth considering paragraph; cf., additionally, the Concurring Opinion of Judge A.A. Cançado on this same matter*).

6. This case goes beyond in a pertinent direction, and a clear protective criterion is established that reasonably extends the subjective scope of the provisional measures, with evident recognition of what is implied, in vast sense, by the protective measure. Indeed, it is admitted, since the measures may amount to a plurality of people although there are not previously identified, that are placed, potentially, in a situation of being victims of actions of the authority or people related to it one way or another.

7. In this sense, it has been established under the seventh considering clause of the Decision which this Concurrent Opinion relates to, that the Community of Paz de San José de Apartadó, in Colombia, formed by “approximately 1200 people, constitutes an organized community, located in a specific geographic place, whose members may be identified and individualized, and that, therefore, for the fact of being a part of said community, all of its members are in a situation of similar risk of suffering act of aggression against their personal integrity and their lives.”

8. Therefore, belonging to the group of beneficiaries of the measures who may be victimized does not occur from the precise knowledge and statement of each of the individuals, in a nominal way, but under objective criteria—attentive to belonging bonds and the risks that have been warned—that would allow to individualize the beneficiaries at the time of executing the measures. Finally, this is about embracing the danger under which are the members of the community, not only some of the individuals, as it generally happens. On the other hand, it is precise to take into account that under the circumstances of this case, and which may characterize others, the beneficiaries that may be victimized choose not to provide their names, before the real risk that said identification may expose them, even more, to the irreparable harm that it is intended to prevent.

9. Besides the considerations derived from the progressive interpretation of Article 63(2) of the Convention, it is worth citing, in any case, the extensive duty that a State has—and that justifies the actions of the authorities and the expectations of the individuals—of respecting the rights and freedoms recognized in the Convention and “to guarantee its free and full exercise of every person who is subject to its jurisdiction (Article 1(1)), as well as to adopt “the legislative measures or of measures of any other nature that may be necessary to make said rights and freedoms effective” (Article 2).

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