
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 14/2022**

Precautionary Measure No. 72-11
Leonel Casco Gutiérrez regarding Honduras
March 14, 2022
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of Lionel Casco Gutiérrez. In making the decision, the Commission evaluated the actions taken by the State during implementation as well as the observations of the representatives. Following the request to lift the measures made by the State, the IACHR repeatedly requested observations from the representatives, who last responded in 2017 and failed to respond to the requests for information made in 2018, 2020, and 2022. Upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these measures.

II. BACKGROUND INFORMATION

2. On April 4, 2011, the IACHR granted precautionary measures in favor of Leonel Casco Gutiérrez, in Honduras. The request for precautionary measures, filed by Mr. Casco himself, alleged that he was the director of the legal area of the Ecumenical Observatory of Human Rights (*Observatorio Ecuménico de los Derechos Humanos*) in Honduras. He was reportedly involved in a series of public complaints regarding an alleged plan to assassinate certain individuals in Honduras. In addition, the applicant stated that he and his wife were receiving threats via phone messages. Upon analyzing the submissions of fact and law, the Commission considered that the beneficiary was in a situation that implies risk and that met the requirements set forth in Article 25 of its Rules of Procedure. The Inter-American Commission requested that the State of Honduras: (a) adopt the necessary measures to guarantee the life and physical integrity of the beneficiary; and (b) consult and agree upon the measures to be adopted.¹ The representation is exercised by the beneficiary himself.

III. INFORMATION PROVIDED DURING THE TIME THE MEASURES WERE IN FORCE

3. During the time the precautionary measures were in force, the Commission has followed-up on the situation that is the subject matter of these precautionary measures through requests for information from the parties. On April 15, 2011, the State submitted a report. On June 17, 2011, the Commission forwarded the report submitted by the State to the representatives for comments. On July 14, 2011, the representatives submitted a report. On September 20, 2011, the Commission forwarded the State's response to the representatives. On October 18, 2011, the State submitted a report. On October 26, 2011, the Commission forwarded State's report to the representatives. On November 18, 2011, the representatives submitted a report. On December 29, 2011, the Commission forwarded the State's response to the representatives. On January 31, 2012, the State submitted a report. On February 28, 2012, the Commission forwarded the State's response to the representatives. On March 1, 2012, the representatives submitted a communication. On March 14, 2012, the

¹ IACHR. Precautionary Measures 2011. Available [in Spanish] at <https://www.oas.org/es/CIDH/decisiones/MC/cautelares.asp?Year=2011&Country=HND>

Commission forwarded the representatives' communication to the State. On March 30, 2012, the State submitted a report. On April 17, 2012, the Commission forwarded the State's report to the representatives. On April 18 and 22, 2012, the representatives submitted a report. On April 24, 2013, and October 5, 2015, the Commission requested that the parties submit updated information.

4. On October 8, 2015, the representatives submitted a report. On January 28, 2016, the Commission forwarded the representatives' response to the State. On February 18, 2016, the State submitted a report. On July 15, 2016, the Commission forwarded the State's response to the representatives. On July 25, 2016, the representatives submitted a communication. On November 16, 2016, the Commission forwarded the representatives' response to the State. On December 15, 2016, and January 18, 2017, the State submitted a report. On January 25, 2017, the Commission forwarded the State's response to the representation. On May 30, 2017, the representatives submitted a report.

5. On August 29, 2017, the Commission forwarded the representatives' response to the State. On September 28, 2017, the State submitted a report which was forwarded to the representatives for comments on July 25, 2018. The representatives did not provide a response. On October 18, 2019, the State submitted a report requesting that the precautionary measures be lifted. On February 19, 2020, the Commission forwarded the request to lift the measures to the representatives for their observations. The IACHR received no response. On January 4, 2022, the Commission reiterated the request for information it had sent the representatives in 2020. The IACHR received no response.

A. Information provided by the State

6. On April 15, 2011, the State reported that Mr. Leonel Casco Gutiérrez was summoned, by telephone, to a consultation meeting on June 24, 2010, where the parties agreed as follows: a) to maintain communication via telephone in order to act diligently in case of an emergency; b) to carry out periodic patrols to the beneficiary's home; and c) to hold periodic meetings to implement protection measures. On October 18, 2011, the State stated that: (i) the investigation that registers the beneficiary as a victim is at the preliminary investigation stage and the necessary investigation procedures are being carried out; and (ii) since June 24, 2010, the beneficiary had received protection measures due to a complaint prior to the request for precautionary measures. These measures were extended on April 16, 2011.

7. On January 31, 2012, the State reported that on January 18, 2012, a consultation meeting was held, in which: a) the beneficiary's police liaison was assigned to the Deputy Commissioner of Police and Deputy Chief of Police of the M1-2 police district; and b) Deputy Officer III of the investigation undertook the responsibility of prioritizing the investigations. On March 30, 2012, the State reiterated the previously submitted information. On February 18, 2016, the State stated that: (i) the beneficiary has a protection measure consisting of a police liaison; (ii) on September 9, 2015, and February 17, 2016, meetings were held to agree on the measures. During the meetings, the parties reiterated the police liaison measure and the beneficiary was requested to submit information regarding his situation on a monthly basis. On December 15, 2016, and January 18, 2017, the State reported that a follow-up meeting was held on November 4, 2016, in which the beneficiary expressed his willingness to have the precautionary measure transferred from the Human Rights Department of the Secretariat of Security (*Departamento de Derechos Humanos de la Secretaría de Seguridad*) to the General Directorate of the Protection System of the Secretariat of Human Rights, Justice, Governance and Decentralization (*Dirección General del Sistema de Protección de la Secretaría de Derechos Humanos, Justicia, Gobernación y Descentralización*).

8. On September 28, 2017, the State stated that: (i) the following protection measures were adopted in favor of the beneficiary: providing police liaison for emergency situations, preparing a risk analysis and providing a self-protection course; (ii) on August 17, 2017, a session of the Protection Mechanism for Human Rights Defenders, Journalists, Social Communicators and Justice Operators (*Mecanismo de Protección para las y los Defensores de Derechos Humanos, Periodistas, Comunicadores Sociales y Operadores de Justicia*) was held, in which the following recommendations were made: to provide an emergency number of the Protection Mechanism, to maintain the police liaison measure and for the National Council for Protection (*Consejo Nacional de Protección*) to publicly recognize the work that the beneficiary carried out as a human rights defender.

9. On October 18, 2019, the State requested that the precautionary measures be lifted and stressed that the last internal risk assessments showed a “moderate” level of risk as there were no situations that implied any risk.

B. Information provided by the representatives

10. On July 14, 2011, the representatives reported that the beneficiary received a complaint regarding human rights violations by certain individuals against authorities of the National Directorate of Criminal Investigation (*Dirección Nacional de Investigación Criminal, DNIC*) in the framework of his work. In addition, the beneficiary acknowledged that he had been receiving protection measures since June 24, 2010. The beneficiary also reported that: (i) due to self-protection measures, he limited his participation in public events, mass protests, visits to public spaces, and even the media; (ii) the Special Prosecutor’s Office for Human Rights was in charge of the investigation for the alleged facts; (iii) the beneficiary and his wife no longer receive threats; and (iv) since March 24, 2011, the beneficiary has been working as “Human Rights Conflict Analyst” and “Official of the General Directorate of Analysis, Mediation, and Conflict Resolution with a Focus on Human Rights of the Ministry of Justice and Human Rights.” On November 18, 2011, the representatives stated that the beneficiary had protection measures in place. Additionally, they stated that there were certain modifications regarding those in charge of these measures due to alleged police corruption. In this sense, the Police Commissioner who was responsible for the beneficiary’s protection measures was transferred to the city of San Pedro Sula. The position has reportedly been filled by another individual, but the beneficiary has allegedly not been informed of their identity.

11. On March 1 and April 18, 2012, the representatives submitted a communication confirming the information provided by the State on January 31, 2012. On April 22, 2013, the representatives requested the suspension of the security measure in his favor, consisting of home visits, as these measures were not agreed upon. The beneficiary also reported that: (i) on October 4, 2012, a consultation meeting was held by request of the beneficiary as he was unjustifiably dismissed from the Secretariat of State and subject to threats by the Director General of Analysis of the Secretariat for Justice and Human Rights; (ii) he was assigned a new police liaison; (iii) on January 16, 2013, the beneficiary was detained for five hours by the Deputy Commissioner of Police and head of the Metropolitan Police No. 1 of Tegucigalpa as the detention was questioned; (iv) the Unified Criminal Court of Francisco Morazán (*Juzgado Unificado de lo Penal de Francisco Morazán*) issued a detention order, on April 9, 2013, against the Deputy Commissioner who detained him in January 2013; (v) since March, police agents had showed up at the beneficiary’s home to sign a book to register police visits, which were to be implemented daily; and (vi) an explanation was requested regarding the visits to the Human Rights Unit of the Ministry of Security, in charge of precautionary measures, as this measure was allegedly not agreed upon. The beneficiary subsequently requested the suspension of these visits.

12. On October 8, 2015, the representatives stated that: (i) on September 4, 2012, a work-related claim for reimbursement was filed regarding the alleged unjustified dismissal of the beneficiary; (ii) it was reported that the process for the beneficiary's detention continued in 2013; (iii) on the night of January 25, 2013, the beneficiary was subject to reported surveillance and monitoring in a situation in which three individuals who were in a vehicle allegedly filmed the beneficiary with a professional camera. The incident was reported to the Committee for the Defense of Human Rights in Honduras (*Comité para la Defensa de los Derechos Humanos en Honduras, CODEH*) and the Human Rights Prosecutor's Office (*Fiscalía de los Derechos Humanos*); (iv) the officer assigned as the beneficiary's police liaison allegedly no longer answered his calls; (v) on September 9, 2015, a follow-up meeting on the precautionary measures was held, in which a police liaison was reportedly assigned; (vi) on March 19, 2014, the beneficiary allegedly questioned the appointment of the new head of the National Commissioner for Human Rights (*Comisionado Nacional de los Derechos Humanos, CONADEH*); and (vii) the beneficiary reportedly consulted for the Association of Former Police Officers Affected by the State of Honduras (*Asociación de Ex Policías Afectados por el Estado de Honduras, ASEPOVIH*). In the framework of this consulting, he allegedly presented a Constitutional Action of Habeas Corpus in favor of the former National Director of the Police on August 24, 2015, who was removed from his position for directing arrest operations against alleged drug traffickers.

13. On July 25, 2016, the representatives presented a communication stating that they agree with the report presented by the State in February 2016. On May 30, 2017, the representatives reported that the beneficiary was given a personal identification card as Human Rights Defender and Procurator, an instrument that has helped him carry out his work of accompanying and counselling human rights to vulnerable sectors.

14. The IACHR requested information from the representatives in 2018, 2020, and 2022, including its observations on the State's request to lift the precautionary measures. To date, the representatives have not submitted its responses and the granted timelines have expired.

IV. ANALYSIS OF THE REQUIREMENTS OF URGENCY, SERIOUSNESS, AND IRREPARABLE HARM

15. The precautionary measures mechanism is part of the Commission's functions of overseeing Member States' compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States. These general functions are set forth in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. Moreover, the precautionary measures mechanism is enshrined in Article 25 of the Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

16. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional measures have a dual nature, protective and precautionary.² Regarding the protective nature, these

² See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures, Order of July 6, 2009, considerandum 16.

measures seek to avoid irreparable harm and protect the exercise of human rights.³ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.⁴ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. The precautionary nature aims at safeguarding the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

17. With respect to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that “decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth that “the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission should assess if the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider whether new situations have subsequently arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

18. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation.⁵ In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.⁶ The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures.⁷

³ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45 [only in Spanish].; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5. [only in Spanish].

⁴ See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5 [only in Spanish].; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

⁵ I/A Court H.R., Provisional Measures regarding Mexico, Order of February 7, 2017, paras. 16 and 17. Available [in Spanish] at http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf

⁶ *Ibid.*

⁷ *Ibid.*

19. In this matter, the Commission recalls that the precautionary measures were granted in 2011 in favor of Leonel Casco Gutiérrez. During the Commission's follow-up, the State submitted reports responding to the Commission's request. Thus, the Commission observes that the State referred to the adoption of security measures in favor of the beneficiary, such as the establishing a police liaison and placing patrols to the beneficiary's home, which were suspended in accordance with the beneficiary's request. Similarly, it mentioned that several meetings for agreement and follow-up of the precautionary measures were held between the parties, the last of which took place on November 4, 2016.

20. The Commission also notes that the State requested the lifting of these precautionary measures on October 18, 2019. In accordance with Article 25(9) of the Rules of Procedure, the request to lift the measures was forwarded to the representatives. The Commission recalls that when a State requests the lifting of a precautionary measure, it must present sufficient evidence and arguments to support its request.⁸ In the same manner, the representatives of the beneficiaries that want the measures to continue must present evidence of any reasons to do so.⁹ Similarly, Article 25(11) of the Rules of Procedure sets forth that the Commission may lift or review a precautionary measure when the beneficiaries or their representatives unjustifiably fail to provide the Commission with a satisfactory response to the requests made by the State for its implementation.

21. In this matter, the IACHR notes that the representatives have not submitted any information since 2017. The last communication was reportedly sent on May 30, 2017, and the last concrete facts were reported in January 2013. In this sense, approximately nine years have elapsed without information on the occurrence of specific events against the beneficiary. Despite requests for information in 2018, 2020, and 2021, the Commission has not received a response. Consequently, following the request to lift the precautionary measures, the Commission does not have any assessment elements that would indicate that the beneficiary is currently in a situation posing an "imminent" risk in accordance with Article 25 of the Rules of Procedure. In addition to the representatives' lack of information, the Commission observes that the beneficiary reportedly no longer serves as director of the legal area of the Ecumenical Observatory of Human Rights in Honduras, task he was performing at the time the precautionary measures were granted in 2011.

22. In this matter, the Commission notes that the representatives have not submitted information since 2017 and that more than four years have elapsed since that date. In this regard, considering the analysis that was previously carried out and in view of the State's request to have the measures lifted, the Commission understands that the factual circumstances that called for the granting of these precautionary measures have changed significantly due to the measures taken in favor of the beneficiary. Thus, the Commission deems that it is not possible to identify any situation that currently fulfills the requirements of Article 25 of the Rules of Procedure. In view of the above and taking into account the exceptional and temporary nature of precautionary measures,¹⁰ the Commission deems it appropriate to lift these measures.

⁸ Ibid.

⁹ Ibid.

¹⁰ I/A Court H.R., Matter of Adrián Meléndez Quijano et al. Provisional Measures regarding El Salvador. Order of the Court of August 21, 2013, para. 22, and Matter of Galdámez Álvarez et al. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of November 23, 2016, para. 24 [only in Spanish].

23. In line with what was indicated by the Inter-American Court in various matters,¹¹ a decision to lift measures does not imply that the State is relieved from its general obligations of protection, contained in Article 1(1) of the Convention, within the framework of which the State is especially obliged to guarantee the rights of persons at risk and must promote the necessary investigations to clarify the facts, followed by the consequences that may be established. Lastly, the Commission emphasizes that regardless of the lifting of these measures, in accordance with Article 1(1) of the American Convention, it is the obligation of the State to respect and guarantee the rights recognized therein, including the life and personal integrity of the persons identified in the matter at hand.

V. DECISION

24. The Commission decides to lift the precautionary measures granted in favor of Leonel Casco Gutiérrez, in Honduras.

25. The Commission recalls that the lifting of these measures does not prevent the representatives from filing a new request for precautionary measures in case they consider that there exists a situation that meets the requirements established in Article 25 of the Rules of Procedure.

26. The Commission instructs its Executive Secretariat to notify this resolution to the State of Honduras and to the representatives.

27. Approved on March 14, 2022, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary

¹¹ See: I/A Court H.R. Case of Velásquez Rodríguez. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, Considerandum 3 [only in Spanish], and Matter of Giraldo Cardona et al. Provisional measures regarding Colombia. Order of the Inter-American Court of Human Rights of January 28, 2015, considerandum 40 [only in Spanish].