
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 16/2022**

Precautionary Measure No. 52-16
María Dolores López Godoy, Nelly Lizeth Martínez Martínez, and family regarding
Honduras
March 15, 2022
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of María Dolores López Godoy, Nelly Lizeth Martínez Martínez, and family. In making its decision, the Commission assessed the actions taken by the State during implementation. Following the requests to have the measures lifted made by the State, the IACHR repeatedly requested observations from the representatives, who have not presented information since the precautionary measures were granted. Upon not identifying compliance with the procedural requirements, the IACHR decided to lift these measures.

II. BACKGROUND INFORMATION

2. On December 6, 2016, the IACHR granted precautionary measures in favor of María Dolores López Godoy, Nelly Lizeth Martínez Martínez, and family, in Honduras, represented by the Committee for the Defense of Human Rights in Honduras (CODEH). The request alleged that both had served as judges in Tegucigalpa until 2015 and had heard high-impact cases in the country. In that year, Ms. López was provisionally suspended and Ms. Martínez was dismissed. It was alleged that after leaving their positions, they had been constantly chased by unknown persons, who reportedly knew about their residences, workplaces, and routines. Such people are said to have sometimes showed up heavily armed. Similarly, the lack of adequate protection measures was alleged.

3. Upon analyzing the submissions of fact and law offered by the parties, the Commission considered that the information provided showed, *prima facie*, that María Dolores López Godoy, Nelly Lizeth Martínez Martínez, and the identified members of their immediate families were in a serious and urgent situation, given that their lives and personal integrity were at risk. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requested that Honduras: a) adopt the necessary measures to safeguard the life and personal integrity of María Dolores López Godoy, Nelly Lizeth Martínez Martínez, and the identified members from their respective nuclear families; b) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the facts that gave rise to the adoption of this precautionary measure, so as to prevent them from reoccurring.¹

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

4. Throughout the time the precautionary measures have been in force, the Commission has followed-up on the situation that is the subject matter of this resolution through the request for

¹ IACHR. Resolution 61/2016. Precautionary Measure No. 52-16. Matter of María Dolores López Godoy, Nelly Lizeth Martínez Martínez, and family regarding Honduras. December 6, 2016. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2016/mc259-16-es.pdf>

information from the parties. On August 13, 2019, the Commission requested that the parties submit updated information. On August 28 and October 17, 2019, the State presented a report and requested that the precautionary measures be lifted. On February 20, 2020, the Commission forwarded the State's response to the representatives for them to provide their observations. On April 29 and May 20, 2021, the State reiterated its request to lift the measures. On January 11, 2022, the Commission forwarded the State's response to the representatives and asked them to present their observations.

A. Information provided by the State

5. On October 17, 2019, the State presented a report on the measures implemented. It was stated that on December 27, 2016, the following protection measures were agreed in favor of the beneficiaries and their families: a) police patrols at their homes and workplaces, b) police liaison, c) emergency liaison of the Directorate General of the National System for the Protection of Human Rights Defenders, Journalists, Social Communicators, and Justice Operators, and d) a card that certifies the judges as beneficiaries of the aforementioned protection mechanism. Subsequently, on April 10, 2018, the following additional protection measures were agreed upon: a) send a communication to the Supreme Court of Justice, recommending that the judicial cases of the beneficiaries be promoted and b) send a communication to the Office of the Attorney General of the Republic, recommending the analysis of the beneficiaries' legal cases.

6. In 2019, the State indicated that the beneficiaries María Dolores López Godoy and Nelly Lizeth Martínez Martínez were reinstated as judges of the Tegucigalpa Criminal Court of First Instance, through administrative resolutions issued by the Technical-Legal Unit of the Presidency of the Supreme Court of Justice. In the same way, the State indicated that, by 2019, the Directorate of Personnel Administration of the Judiciary had been instructed to proceed to the following: a) reinsert the beneficiaries in the payroll of officials and permanent employees of the Judiciary, b) issue an official letter to the National Institute of Retirement and Pensions for Employees and Officials of the Executive Power (INJUPEMP), for the recognition of the years of service of the judges, and c) issue an official letter to the Department of Social Benefits, so that their respective incorporation in the life and hospital medical insurance policy in force within the institution. Finally, the State indicated that there is a Special Protection Unit for Judges, Magistrates, and Public Defenders, which is a technical body of the Supreme Court of Justice, in charge of managing the implementation of the special protection mechanism for justice operators of the Judiciary. The beneficiaries can resort to this mechanism to denounce the threats to which they are subjected. In 2019, the State requested the lifting of these precautionary measures.

7. On April 29, 2021, the State again requested that the precautionary measures be lifted. It recalled that the precautionary measures were granted when Ms. Nelly Lizeth Martínez and Ms. María Dolores López Godoy no longer held the position of Judges of Criminal First Instance of the Tegucigalpa Judicial Section. Considering that the beneficiaries have purportedly resumed their jobs, the precautionary measures should be lifted. On May 20, 2021, the State's request to have the measures lifted was reiterated once again.

B. Information provided by the representation

8. Following the granting of the precautionary measures, the representatives did not send the IACHR any type of response in the framework of the procedure of precautionary measures. Despite requests for information from 2019, 2020, and 2021, the representatives did not provide a response either. To date, all deadlines have expired without having received observations from the representatives.

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

9. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's 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.

10. 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 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.

11. 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

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.

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; 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.

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; 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].

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.

12. 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

13. In the instant matter, the Commission recalls that the precautionary measures were granted in 2016 in favor of María Dolores López Godoy and Nelly Lizeth Martínez Martínez, as well as their families. Since then, and upon having requested information from the parties, the Commission observes that the State mentioned that the factual circumstances that motivated the granting of the precautionary measures have changed over time. In this sense, the State specified the following with respect to the two beneficiaries:

- They resumed their positions as judges in Honduras with the same salary, social benefits, and rank comparable to that which would correspond to them if the employment relationship had not ended; and
- They received protection measures consisting of police patrols, police liaison, emergency liaison, and a card accrediting the beneficiaries in their capacity as such.

14. Despite having forwarded information and requested information from the representatives, the IACHR did not receive a response from them. In this sense, it understands that the measures implemented by the State, as well as the alleged change in circumstances, have not been disproved by the representatives. In this regard, the IACHR emphasizes that the representatives have not provided any type of response after the precautionary measures were granted in 2016.

15. In addition to the above, the Commission notes that the State has requested the lifting of these precautionary measures on three occasions between 2019 and 2021. Additionally, 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 By the same token, the representatives of the beneficiaries that want the measures to continue must present evidence of any reasons why.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.

16. Under the terms of Article 25(9) of the Rules of Procedure, the State’s request to have the measures lifted was forwarded to the representatives, which has not submitted information throughout

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.

⁸ Ibid.

⁹ Ibid.

the time the precautionary measures have been in force. In this sense, the Commission does not have assessment elements to identify that there exists a situation presenting a risk in the terms of Article 25 of the Rules of Procedure. Since the granting of the precautionary measures in 2016, the IACHR has not received information on the occurrence of specific events against the beneficiaries or their families, and approximately 7 years have gone by since then.

17. Consequently, considering the measures adopted by the State, and in response to 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. 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.

18. Finally, 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 of Honduras to respect and guarantee the rights recognized therein, including the life and integrity of the persons identified in the instant matter. In line with what was indicated by the Inter-American Court in various matters,¹¹ the lifting of the precautionary measures does not imply a possible decision on the merits of the controversy within the framework of a petition, nor does it prejudice the State's responsibility for the facts denounced.¹²

V. DECISION

19. The Commission decides to lift the precautionary measures granted in favor of María Dolores López Godoy, Nelly Lizeth Martínez Martínez, and family, in Honduras.

20. 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.

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

22. Approved on March 15, 2022, by Julissa Mantilla Falcón, President; Margarete May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; Roberta Clarke; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary

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

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, 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.

¹² See: I/A Court H.R. Matter of Guerrero Larez. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, Considerandum 16, and Matter of Natera Balboa. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, considerandum 16.