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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 45/2023**

Precautionary Measure No. 422-11  
Cledy Lorena Caal Cumes regarding Guatemala<sup>1</sup>  
August 20, 2023  
Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Cledy Lorena Caal Cumes in Guatemala. At the time of making the decision, the Commission confirmed that it does not have updated information to identify an ongoing situation that places the beneficiary at risk, taking into account that it has not received information from the representation since 2016. Upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these measures.

**II. BACKGROUND INFORMATION**

2. On November 14, 2011, the IACHR granted precautionary measures on behalf of the members of the Nasa people of Toribio, San Francisco, Tacueyo, and Jambalo Reservations, in Colombia. The request for precautionary measures alleged that journalists Lucía Carolina Escobar Mejía and Gustavo Girón, who worked for the newspaper “El Periódico” and other media outlets, had been threatened after publishing articles on alleged acts of violence which were reportedly committed by a group self-proclaimed as the “Panajachel Security Commission” and which was allegedly operating with the complicity of state authorities. In addition to the above, Ms. Cledy Lorena Caal Cumes had been the target of threats due to the procedural support she provided to the investigations into the disappearance of her partner, in which members of the aforementioned group were allegedly involved. The Commission requested that the State of Guatemala adopt the necessary measures to guarantee the life and personal integrity of the beneficiaries; agree upon the measures to be adopted with the beneficiaries and their representatives; and to report on the actions taken to investigate the facts that led to the adoption of this precautionary measure.

3. In July of 2013, the IACHR decided to partially lift these precautionary measures in regard to Lucía Carolina Escobar Mejía and Gustavo Girón, and keep these precautionary measures in force in favor of Cledy Lorena Caal Cumes. This decision was notified to both parties on July 30, 2013.

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

4. During the time the precautionary measures were in force, the Commission followed up on the subject matter of these precautionary measures by requesting information from both parties.

5. The State submitted observations on the following dates:

2011	December 16
2012	February 2
2015	January 20
2023	February 17

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<sup>1</sup> In accordance with Article 17(2)(a) of the IACHR Rules of Procedure, Commissioner Edgar Stuardo Ralón Orellana, a Guatemalan national, did not participate in the meeting or deliberation for this matter.

6. The representation has submitted information on the following dates:

2012	February 14
2013	June 17
2014	October 9
2015	August 19

7. The Commission submitted requests for information to the parties on December 16, 2011; January 17, 2012; February 8, 2012; March 14, 2012; February 22, 2013; September 11, 2014; July 16, 2015; January 5, 2016; November 21, 2022; and April 17, 2023.

8. Following the decision to partially lift the precautionary measures, the State requested the measures be lifted in 2015 and 2023. The most recent request from February 17, 2023 was forwarded to the representation on April 17, 2023. To date, they have not submitted a response.

9. The representation is exercised by the Unit for the Protection of Human Rights Defenders - Guatemala (*Unidad de Protección a Defensoras y Defensores de Derechos Humanos - Guatemala, UDEFEGUA*).

**A. Information provided by the State**

10. On December 16, 2011, the State reported that a consultation meeting with the representatives and beneficiaries had been scheduled for December 2, 2011. However, this meeting was reportedly canceled due to beneficiaries' personal and work-related reasons. Therefore, this meeting was to be allegedly rescheduled.

11. On February 2, 2012, the State reported that on January 18, 2012, a consultation meeting was held and it included the beneficiaries' risk assessment. The beneficiary Gustavo Girón indicated, by telephone, that he had decided not to file a complaint for the threats, that he did not require any type of security measures, and that he would not be participating in the meeting. Beneficiary Lucía Carolina Escobar Mejía indicated that she had not received any additional threats and that she no longer lived in the municipality of Panajachel. Beneficiary Cledy Lorena Caal Cumes indicated that she lives in the municipality of San Andrés Semetabaj, where she feels safe, and that she has not received any recent threats either. It was agreed that the National Police would provide the beneficiary with perimeter security, police liaison for emergency contact, and a police escort during the judicial process hearings which are related to the disappearance of her partner.

12. On January 20, 2015, the State reported that the authorities had implemented security measures in favor of the beneficiary Cledy Caal since 2012, and that they had provided her with a police escort during the hearings in the case investigating her partner's disappearance. Moreover, regarding the investigations in relation to this case, conducted by the District Prosecutor's Office of Sololá, it was indicated that there were four injured parties. In this regard, a series of proceedings have been carried out, such as: statements by the injured parties and witnesses, visual inspection and looking for the victim at two locations; expert proceedings regarding evidence; request for information from state agencies, and according to the proceedings it was established that "possibly (...) members of the Security Board of the municipality of Panajachel, department of Sololá" are involved in such events. The State requested to lift the precautionary measures.

13. On February 17, 2023, the State informed that on February 7, 2016, the Division of Protection of Persons and Security (*División de Protección de Personas y Seguridad*) of the Ministry of the Interior conducted a risk assessment of the beneficiary Cledy Lorena Caal Cumes, which determined that she had a low risk level. In 2016, the perimeter security measures to her residence could not be renewed due to the fact that

neighbors of the beneficiary's alleged place of residence reportedly indicated that the beneficiary has not resided there for several years. In this regard, the State argued that the beneficiary is not participating in the implementation of the measures and mentioned a lack of updated information in this regard.

14. Concerning the investigation into the facts related to the precautionary measures, the State indicated that in regard to the complaint of the disappearance of the beneficiary's partner Cledy Caal on October 5, 2011, the Court of First Criminal Instance, Drug Trafficking and Crimes against the Environment of the city of Sololá declared the dismissal and filing of the judicial file on June 15, 2022 to be admissible. In addition, it indicated that there are no pending complaints or investigations regarding threats against the beneficiary. Lastly, the State reiterated the request to lift these precautionary measures, considering that the beneficiary's current conditions have substantially changed from those alleged in 2011.

#### **B. Information provided by the representation**

15. On January 18, 2012, the beneficiaries Cledy Lorena Caal Cumes and Lucía Escobar Mejía and their representatives met with the Presidential Commission for the Coordination of the Executive's Human Rights Policy (*Coordinadora de la Política del Ejecutivo en Materia de Derechos Humanos*, COPREDEH) and the Division for the Protection of Persons and Security (*División de Protección de Personas y Seguridad*, DPPS). The beneficiary Gustavo Girón did not attend the meeting as he informed the representative that he had withdrawn his decision to file a complaint. At that meeting, security measures were agreed upon in favor of beneficiary Cledy Caal.

16. On June 17, 2013 and October 9, 2014, the representation indicated that the beneficiary Gustavo Girón decided to not file a complaint which resulted in a decreased risk level. In addition, it was indicated that he has never participated in the implementation of the precautionary measures. It was indicated that the situation that placed the beneficiary Lucía Carolina Escobar Mejía at risk has decreased since moving to another municipality, and that she mentioned that she has not received any further threats. The representation also indicated that on August 29, 2012, the Criminal Court of First Instance, Narcoactivity and Crimes against the Environment of the municipality of Santa María Nejab, department of Quiché, issued a sentence for the crimes of discrimination and threats against the beneficiary, thereby sentencing an individual to three years and eight months in prison. Moreover, regarding the beneficiary Cledy Lorena Caal Cumes, the representation indicated that they have not been able to reach her. However, considering that the latest information available to them is regarding the lack of progress in the investigation into the disappearance of their partner, they argued that the situation that places her at risk reportedly continues. Due to the foregoing, the representation requested that the precautionary measures in regard to Lucía Escobar and Gustavo Girón be lifted, and that the measures in favor of Cledy Caal be kept in force.

17. On August 19, 2015, the representation confirmed that the State had provided perimeter security measures, as well as police escort in favor of beneficiary Cledy Caal during 2012. The representation stated that they were unable to contact the beneficiary and therefore do not have any information on her current situation. However, considering that there has been little progress in the investigations into her husband's disappearance, despite the passage of time, it is considered that the situation that places her at risk allegedly continues, and that the State should be called upon to continue investigating the facts.

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

18. 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 this Article, the IACHR grants precautionary measures in urgent and serious 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.

19. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary<sup>2</sup>. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights<sup>3</sup>. 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.<sup>4</sup> 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. They aim to safeguard 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 (*effet utile*) 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.

20. With regard 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 whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall

<sup>2</sup> 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](#). Interim measures, Order of the Inter-American Court of Human Rights of July 6, 2009, considerandum 16 (Only Available in Spanish).

<sup>3</sup> 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 available 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 (Available only in Spanish); 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 (Available only in Spanish).

<sup>4</sup> 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 (Available 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 8; 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 (Available only in Spanish).

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consider whether there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.

21. 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<sup>5</sup>. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.<sup>6</sup> The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.<sup>7</sup>

22. 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.<sup>8</sup> By the same token, the representatives of the beneficiaries that want the measures to continue must present evidence of any reasons why.<sup>9</sup> In this sense, the granting and keeping precautionary measures in force are of a precautionary or protective nature, and are therefore subject to compliance with the requirements established in Article 25 of the Rules of Procedure.

23. In the matter at hand, the Commission recalls that on July 30, 2013, the parties were notified of the decision to partially lift the precautionary measures in favor of Lucía Carolina Escobar Mejía and Gustavo Girón, and to keep the precautionary measures in favor of Cledy Lorena Caal Cumes. Furthermore, the Commission observes that the State requested that these precautionary measures be lifted on January 20, 2015 and, recently, on February 17, 2023. Under the terms of Article 25.9 of the Rules of Procedure, these requests to lift were forwarded to the representation. More recently, and despite the request for information submitted by the IACHR on April 17, 2023, the representation has not sent a response.

24. The Commission takes note of the information provided by both parties, indicating that the beneficiary Cledy Caal received perimeter security measures for her residence during 2012 and had a police escort during the hearings of the judicial process regarding the disappearance of her partner in that same year (see *supra* paras. 11, 12, and 17). According to information from the State, in 2016, a risk assessment was conducted and it determined a low risk level for the beneficiary. In addition, the security measures were allegedly not renewed because neighbors had indicated that she had changed her residence (see *supra* para. 13). In this regard, the Commission observes that the representation did not present elements that indicate the lack of effectiveness or suitability of these measures, nor did it present new facts that would place the beneficiary at risk.

25. The Commission observes that, since the granting of the precautionary measures, the representation has not reported events of threat or harassment against the beneficiary. Moreover, the Commission notes that, as indicated in the last communications from the representation, they have not been able to contact the beneficiary. The Commission confirms that the representation has not provided updated information on the beneficiary's situation despite the requests for information, and that almost eight years have elapsed since the last available information. In view of the foregoing, the Commission considers that, based on the information available, it is not possible to determine that the situation that placed the beneficiary at risk is ongoing to date. In this regard, it is noted that the Commission has not received any information on the beneficiary situation since 2015.

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<sup>5</sup> I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional measures regarding Mexico. Order of the Inter-American Court of Human Rights of February 7, 2017. 16 and 17 (Available only in Spanish).

<sup>6</sup> *Ibid.*

<sup>7</sup> *Ibid.*

<sup>8</sup> *Ibid.*

<sup>9</sup> *Ibid.*

26. The Commission also takes note of the information presented by the State on the proceedings and decisions in the framework of the investigations into the facts that gave rise to the precautionary measures, in particular with respect to the judicial proceeding on the disappearance of the beneficiary's partner, reported on October 5, 2011 (see *supra* para. 14). In this regard, while the representation indicated that the investigations should continue and that the beneficiary was facing a situation of risk, the Commission notes that although the continuity of the investigations is imposed on the State as a duty to guarantee human rights in Guatemala, the representation did not provide any concrete facts on situations she has faced in recent years. Following the forwarded information between the parties in 2015 and 2023, the Commission notes that this situation has persisted over time.

27. Considering the analysis carried out above, the Commission considers that it does not have sufficient elements of assessment to support a situation of risk for the beneficiaries in the terms 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,<sup>10</sup> the Commission deems it appropriate to lift these measures. It also recalls the inescapable duty of the State to comply with the corresponding investigations and to act with due diligence under the terms of the American Convention and applicable international standards.

## V. DECISION

28. The Commission decides to lift the precautionary measures granted in favor of Cledy Lorena Caal Cumes in Guatemala.

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

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

31. Approved on August 20, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary

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