

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 80/2023**

Precautionary Measure No. 141-10
X and her two children regarding Colombia¹
December 22, 2023
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) has decided to lift these precautionary measures in favor of X and her two children regarding Colombia. At the time of making the decision, the Commission evaluated the actions taken by the State during implementation as well as the observations provided by the beneficiaries' representation. Following the request to lift and upon forwarding information between the parties, the IACHR considers that the State has implemented actions in relation to the precautionary measures at hand, in particular by establishing responsibilities with respect to the facts referred to the beneficiaries. Moreover, the Commission observes that the available information is not sufficient to consider that the requirements of Article 25 of the Rules of Procedure have been met. Consequently, the IACHR has decided to lift these precautionary measures.

II. BACKGROUND INFORMATION

2. On May 11, 2010, the IACHR granted precautionary measures in favor of Ms. X, whose identity the IACHR keeps in confidentiality, and for her two underaged children, in Colombia. The request alleged that Ms. X had been the target of threats and harassment since she reported having been raped by State agents in July 2009. The request indicates that following new threats she received in May 2010, Ms. X relocated to another city. The Inter-American Commission requested that the State of Colombia adopt the necessary measures to guarantee the life and physical integrity of X and her two children; to consult and agree upon the measures to be adopted with the beneficiary and her representation; and to report to the Commission on the steps taken to investigate the events that led to the adoption of precautionary measures.²

3. Representation is exercised by *Corporación Justicia y Dignidad* and *Corporación Jurídica Vida*.

III. INFORMATION PROVIDED DURING THE TIME THESE PRECAUTIONARY MEASURES HAVE BEEN 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 the parties. Furthermore, a working meeting was held on March 17, 2017 within the framework of the 161st Regular Session. The representation sent communications on the following dates:

2010	June 21, July 23, August 30, September 2
2012	January 18, March 2, July 26

¹ In accordance with Article 17.2 of the Rules of Procedure of the IACHR, the Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate and deliberation of this matter.

² IACHR, Annual Report 2007, Chapter III, [Section C: Petitions and Cases before the Inter-American Commission on Human Rights](#)

2013	May 27, June 18, November 12
2014	March 5, March 27, May 22, August 12, October 1
2016	March 18, April 5, October 19
2017	January 6, March 17, May 3, August 1, November 21
2018	March 9, December 7
2019	August 30
2023	December 14

5. The State submitted reports on the following dates:

2010	May 27, June 16 and 26, September 3, October 8, November 4
2012	July 5, September 12
2013	September 3 and 27, December 24
2014	April 25, July 16
2017	July 24, September 21
2018	May 7
2019	October 2

6. The Commission sent communications to the parties, forwarded reports, requested information, and submitted their comments on requests for information or extensions whenever appropriate on the following dates:

2010	June 1, July 19, July 28, October 4
2011	March 30
2012	March 8, August 15, September 24 (request to lift)
2013	May 2, May 8, September 12, October 11, November 20
2014	March 12, April 14, July 7, September 2, October 23
2016	May 4
2017	February 22, May 22, September 6
2018	April 19
2019	September 20, October 29
2020	February 24
2022	October 28
2023	November 27

7. Following the request to lift in 2012, the Commission continued to request information from the parties. On November 27, 2023, the IACHR requested information from the representation to examine the relevance of keeping these precautionary measures in force. The representation submitted information on December 14, 2023.

A. Information submitted by the State

8. Between 2010 and 2011, the State reported that the parties had agreed upon the measures. It indicated that the beneficiary reportedly stated that she did not wish the National Police to implement security measures at that time. The State indicated that the beneficiary was provided with access to emergency humanitarian aid as a displaced person and reported on progress in the criminal investigations for threats and violent carnal access, as well as with respect to the disciplinary investigation. In July and September 2012, the State requested the lifting of the precautionary measures

given that it had not been able to prove the persistence of a serious and urgent situation against the beneficiary. Reportedly no new acts of threat against her had been reported, nor had she requested special protection measures.

9. In 2014, the State referred to the fact that those allegedly responsible for the acts against the beneficiary had reportedly left the military service. It requested that the National Protection Unit (UNP) proceed with the adoption of material protection measures. In addition, the State indicated that the Prosecutor's Office was conducting the investigation for the crime of aggravated abusive carnal access with an underaged person who was under 14 years of age. The State reported that the Directorate of Indigenous, Roma and Minority Affairs (*Dirección de Asuntos Indígenas, Rom y Minorías*) of the Ministry of the Interior had provided support and unrestricted monitoring of the beneficiaries' situation.

10. In 2017, the State reported that the beneficiaries allegedly had access to the entire State offer for the displaced population, as their status had been recognized. In this regard, the State indicated that they had been provided with humanitarian aid, support through the Colombian Institute of Family Welfare, and family reunification had been achieved. In addition, the State indicated that in the framework of the consultation meeting held in May 2016, judicial issues were mainly addressed. The State also reported that the representation did not report specific situations that placed the life and integrity of the beneficiaries at risk. The State pointed out that by judgment of December 19, 2016, two persons were convicted of the crime of violent carnal access against a protected individual.

11. The State reported that the Ministry of National Defense has been developing training within the institution since 2011 in order to prevent the violation of the human rights of the civilian population, especially concerning the sexual rights of women. The State indicated that, through the Human Rights and International Humanitarian Law Office, bulletins had been issued to prevent violence against women. The State informed that representation of the Victims Unit reportedly maintains direct contact with the beneficiary and is allegedly aware of her requests. Their aim is reportedly to provide a solution within the legal framework that governs the entity. In relation to the protection measures implemented, the State reported that, through Resolution 3517 of June 2, 2016, the UNP resolved to implement a Type 1 protection plan in favor of the beneficiary for a period of one year. This plan would reportedly be composed of two protection agents, a vehicle, a vest, and a means of communication.

12. In October 2019, the State reported that the perpetrators of sexual violence against the beneficiary were prosecuted, convicted, and deprived of liberty. Regarding the threats and harassment, they indicated that three people are being prosecuted and the proceedings for the crimes of torture of a protected person, displacement, and others are in the trial stage. The State undertook to send an official letter to the Special Jurisdiction for Peace requesting information on the beneficiary's case. The State indicated that there were no reports of threats or security situations that could affect the beneficiary and her family. In addition, the State indicated that a follow-up and consultation meeting took place on May 30, 2019. The State also mentioned that the meeting was held as a follow-up to a previous meeting that took place on September 14, 2018. The State indicated that in the framework of the consultation meeting, the representatives reportedly expressed their satisfaction with the work carried out by the Prosecutor's Office due to the progress made in the investigation.

B. Information submitted by the representation

13. In 2010 and 2011, the representation reported that Ms. X was in a situation of forced displacement and that she was allegedly unable to reunite with her children. Regarding the criminal

investigation, it was reported that no information was received, aside from the disciplinary process due to the lack of investigation of the alleged sexual aggressors. In 2012, the representation alleged that the beneficiary had not received the corresponding humanitarian aid or psychosocial treatment.

14. In May 2013, the representative stated that, to date, the State has not taken any measures to guarantee the life and integrity of the beneficiary. She is still in a situation of forced displacement and has not been provided with effective conditions for her return or definitive relocation. The agency reported being followed by strange individuals who were alleged members of the National Army. It was indicated that her right to access justice was being violated by the fact that her case had been in progress for more than three years without a criminal proceeding being opened by the Prosecutor's Office.

15. In 2014, the representation reported that the aggressors were granted provisional freedom and house arrest due to the inaction of the Specialized Prosecutor's Office. Regarding the disciplinary process, it was decided to file charges against two of the alleged perpetrators and the definitive closure of the case regarding the third was ordered. The representation reported that the beneficiary was being followed, and pointed out that neither she nor her children had protection measures in place. In 2016, the representation informed that, regarding the disciplinary process, the Provincial Office of the Attorney General of Popayán declared the disciplinary action time-barred and absolved two of the military personnel allegedly responsible for the facts against the beneficiary. However, the case is currently under appeal. According to the representation, the beneficiary is allegedly being harassed via calls from alleged State officials.

16. In 2017, the representation reported on the conviction of the First Criminal Court against two military officers for the sexual assault against the beneficiary, indicating that both are fugitives. It was indicated that the State had not provided information on the arrests of the convicted persons, nor had it been clarified whether these facts could be subject to the Special Jurisdiction for Peace. Moreover, the representation informed that the beneficiary and her children are exposed since the UNP had issued an ordinary risk assessment that ordered the termination of the conventional vehicle and the protection agent. It also ordered to ratify a means of communication, a vest, and a protection agent for three months, which have already elapsed. This is the reported reason that led to the beneficiary moving to an indigenous reservation zone to request protection.

17. In 2018, the representation reported that there was no information regarding investigations into death threats that resulted in the forced displacement of beneficiaries, nor was there any information regarding bribery attempts by military superiors in regard to the facts against beneficiaries. In 2019, the representation reported that in 2014, hearings were held to legalize the arrest, indictment, and resolution of the legal situation of the beneficiary's sexual aggressors. The representation indicated that the lack of notification of the hearings allegedly prevented their intervention as human rights defense representatives and also prevented the filing of appeals against the decision of the supervisory judge to grant the conditional release and house arrest requested by the prosecutor.

18. On December 14, 2023, the representatives reported that the beneficiaries had taken refuge in the rural area of Jambaló, Cauca, where one of X's sons had been forcibly recruited by an armed group. The representative stated that due to the threats of reprisals to which X was allegedly subjected, the facts were not reported. The representatives also indicated that, as a result of the recruitment, there had been a new forced displacement of the beneficiaries. Furthermore, the representatives reported that the criminal proceedings had been suspended and referred to the Special Jurisdiction for Peace, which

had not dealt with X's case. In this regard, it was noted that there were no criminal proceedings for the forced recruitment of X's son.

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

19. 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 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.

20. 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, both protective and precautionary.³ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁴ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.⁵ 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

³ 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.

⁴ 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.

⁵ 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.

- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

21. 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) establishes that “[t]he 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 shall assess whether the serious and urgent situation and the risk of 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.

22. 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. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time. 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.⁶

23. The Commission observes that these precautionary measures were granted in 2010 for the purpose of adopting measures to protect the life and personal integrity of Ms. X and her two children. During the follow-up to the implementation of these measures, the Commission has received information from both the representation and the State on actions implemented for protection purposes. The Commission takes note of and acknowledges the following actions carried out:

- Holding of consultation meetings during the term of these precautionary measures;
- Access to the institutional offer for the displaced population;
- Activation of protection plans in favor of the beneficiary after risk assessments had been carried out;
- Progress in the investigations for the crime of aggravated abusive carnal access, which reportedly led to a criminal conviction, arrest of those responsible, and continuation of the process.

24. Following the Commission’s last request for information, the representatives presented information indicating that the beneficiaries had been forcibly displaced to a rural area and that, subsequently, one of X’s sons had been forcibly recruited by an armed group. They also questioned the actions of the Special Jurisdiction for Peace in Colombia.

25. In this regard, the Commission notes that requests for information were made on January 24, 2020, October 28, 2022, and November 27, 2023, and that it was not until December 17, 2023. With regard to the information sent by the representation, the Committee notes that the representation reported the existence of a situation of risk without presenting circumstances of time, manner and place that would allow an assessment of the elements that intervened for a displacement to occur and, likewise, no information was communicated that would indicate the nature of the threats allegedly received by the beneficiary or their imminence. On the other hand, the Commission notes that the situation reported by the representative has not provided information on the complaints filed with the competent authorities. The Commission has no elements of assessment to know when and how the alleged events occurred, given that no specific information was provided during the current proceeding. The Commission recalls that in approximately the last 4 years it has not received any information from the representation on specific

⁶ I/A Court H.R., [Provisional Measures regarding Mexico](#), Order of February 7, 2017, paras. 16 and 17.

events, with elements of assessment in time, manner and place, that have been presented against the beneficiaries. The information presented has focused on the investigation component and the actions taken in this regard. Considering the above situation, the Commission does not have the elements to continue to consider the requirements of Article 25 of the Rules of Procedure have been met.

26. Considering the aforementioned, taking into account the temporary, exceptional and complementary nature of the precautionary measures mechanism,⁷ the Commission considers that, in use of its regulatory powers, it is appropriate to lift the measures at hand given the nature of the information received prevents it from analyzing the current compliance with the procedural requirements.

27. 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 Colombia to respect and guarantee the rights recognized therein, including the life and personal integrity of the beneficiaries. In addition, the Commission considers that questions related to due process issues should be addressed in the framework of a petition or case, if the legal requirements are met.

28. Finally, in relation to the alleged forced recruitment, if the representation considers it pertinent, and with the objective of being able to adequately analyze the situation of the person involved, the Commission may evaluate a new request for precautionary measures, if a new request for precautionary measures is submitted. The Commission recalls, *inter alia*, the provisions of Article 25(4)(b) of the Rules of Procedure, which establishes that “[r]equests for precautionary measures addressed to the Commission shall contain, among other elements: [...] a detailed and chronological description of the facts that support the request and any other available information [...]”.

V. DECISION

29. The Commission, in the exercise of its regulatory powers, decides to lift the precautionary measures granted in favor of Ms. X and her children, in Colombia.

30. The Commission recalls that the lifting of the measures at hand does not prevent the representation from filing a new request for precautionary measures if they consider that they are at risk and meet the requirements set forth in Article 25 of the Rules of Procedure.

31. The Commission instructs the Executive Secretariat of the IACHR to notify this resolution to the State of Colombia and the representation.

32. Approved on December 22, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Edgar Stuardo Ralón Orellana; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary

⁷ 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.