

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUCIÓN 69/2024**

Precautionary Measure No. 972-24
Adolescent J.A.R.L. and his father regarding Colombia¹
October 2, 2024
Original: Spanish

I. INTRODUCTION

1. On September 5, 2024, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures filed by Corporación Justicia y Democracia; Corporación Justicia y Dignidad; Fundación Tierra de Paz, and Movimiento Nacional de Madres y Mujeres por la Paz (“the requesting party” or “the applicants”) urging the Commission to require that the State of Colombia (“the State” or “Colombia”) adopt the necessary measures to protect the rights to life and personal integrity of the adolescent J.A.R.L. (“the proposed beneficiary”)². According to the request, the proposed beneficiary has been missing since August 21, 2024, after being kidnapped by the armed group called “Jaime Martínez” in Colombia.

2. Pursuant to Article 25 of the Rules of Procedure, the IACHR requested information from the State on September 9, 2024, and granted it a deadline extension on September 23, 2024. The applicants submitted additional information on September 17, 2024. The State submitted its report on September 25, 2024.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considers that the proposed beneficiary is in a serious and urgent situation, given that his current location is unknown to date. Consequently, based on Article 25 of its Rules of Procedure, it requests that Colombia: a) adopt the necessary measures to determine the situation and whereabouts of the beneficiary, in order to protect his rights to life and personal integrity; b) implement the necessary measures to guarantee that J.A.R.L.’s father is not subjected to threats, intimidation, harassment, or acts of violence; c) consult and agree upon the measures to be implemented with J.A.R.L.’s father and his representatives; and d) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES

A. Information provided by the applicants

4. The request indicated that the adolescent J.A.R.L. is 15 years old. He is reportedly a member of a poor campesino family in the municipality of Jamundí, Valle del Cauca. It was emphasized that the Valle del Cauca region is characterized by the humanitarian crisis resulting from the armed conflict. Since 2018, Valle del Cauca has been the scene of increasing violence. It was alleged that illegal armed groups, such as dissidents from the FARC-EP, the ELN, and other criminal organizations, have transformed the region into a camp of terror and repression.

5. According to the applicants, on August 21, 2024, J.A.R.L. was allegedly forcibly recruited by the illegal armed group “Column Jaime Martínez of the armed structure of the FARC General Staff, Iván Mordisco line.” On that day, the proposed beneficiary went with his father to a farm located between the district of Portrero and Gato de Monte. At the spot, a van stopped abruptly. From it, seven heavily armed men descended,

¹ In accordance with Article 17(2) of the Rules of Procedure of the IACHR, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate and deliberation of this matter.

² His father was added as a proposed beneficiary, whose identity is reserved given the nature of the information presented.

dressed in camouflage uniforms, who identified themselves as members of the armed group “Jaime Martínez.” They took J.A.R.L. and threatened to kill him if his father tried to report what had happened. The situation was classified as a “kidnapping.” According to the information provided, the family does not have any information about his whereabouts since then. The day after the events, the kidnappers contacted the father demanding that he leave a suitcase with clothes at a point on the road, warning him that any attempt to denounce would endanger the life of his son.

6. The applicants stated that the situation was aggravated when the proposed beneficiary’s father began to receive constant threats. The captors allegedly warned him that, if he continued looking for his son or denounced, they would hand his son over in a coffin, and would kill him. These armed actors also visited his house to directly threaten him. Despite the intimidation, he reportedly continues to search the rural areas of Jamundí to find his son alive.

7. According to the request, the State entities have not complied with their responsibilities to find his whereabouts. The Movimiento Nacional de Madres y Mujeres por la Paz was approached to receive support in their search for justice, both nationally and internationally. In addition, the following complaints and requests were made:

- By mail dated September 2, 2024, addressed to the President of the Republic, Attorney General of the Republic, and Colombian Family Welfare Institute (ICBF), a complaint is presented about the forced recruitment of the adolescent J.A.R.L. Similarly, immediate protection measures are requested for the proposed beneficiary, as well as the immediate activation of the Urgent Search Mechanism to locate him. According to the applicants, the Office of the Attorney General assigned a case number and it is reportedly under investigation. However, they maintain that the Urgent Search Mechanism has not been activated. Regarding the ICBF, no adequate measures have been implemented to respond to the situation. It was indicated that the Presidency of the Republic has not sent a response.
- Complaint to the Municipal Ombudsperson’s Office of Jamundí to initiate the attention process as a victim. However, the officers of that entity reported that they could not attend to his case at that time, since they were prioritizing situations related to terrorist actions of the ‘Jaime Martínez’ structure, linked to the theft of a sugarcane train in the municipality. Therefore, he was denied the possibility of making a formal statement and was not assigned a new date for his attention.
- Email from the Secretariat of Coexistence and Citizen Security dated September 9, 2024, addressed to the Sectional Director of Prosecutor’s Offices Cali, in which support is requested in the speed of the investigative process related to the events that occurred to the proposed beneficiary and the activation of an urgent search mechanism.

8. The applicants pointed to the lack of institutional attention and response in the instant case. Omissions and inaction by the competent authorities such as the lack of activation of the Urgent Search Mechanism purportedly prevent timely action from being taken.

B. Response from the State

9. Through the Commission for the Search of Disappeared Persons³, the State reported that when validating the information of J.A.R.L., no related record or annotation was found. However, by letter CBPD-2024-1314 addressed to the Office of the Attorney General, the activation of the Urgent Search Mechanism was requested, with the intention of verifying and requesting information on the case in question. For its part, the State affirmed that it will continue to send additional information provided by the competent entities on the progress and actions taken in this case. Finally, the State reaffirms its commitment and willingness to advance

³ CBPD official letter No. 2024-1334 dated September 19, 2023, sent by the Commission for the Search for Missing Persons (CBPD) is attached.

in the actions that may take place and overturn its institutional solidity with the purpose of an effective and expeditious implementation of the request for precautionary measures.

III. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY, AND IRREPARABLE HARM

10. 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 provided for in Article 41 (b) of the American Convention on Human Rights, as well as in Article 18 (b) of the Statute of the IACHR; while 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 an irreparable harm to persons.

11. The Inter-American Commission and the Inter-American Court of Human Rights ("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 precautionary⁴. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁵ 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.⁶ Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the study of the IACHR. Their 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 (*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 reparations⁷. In the process of reaching a decision, and according to Article 25(2) of the 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.

⁴ I/A Court H.R., Matter of the Yare I and Yare II Capital Region Penitentiary Center (Yare Prison), Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of March 30, 2006, considerandum 5; Matter of Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of July 6, 2009, considerandum 16.

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 February 8, 2008, considerandum 8; Matter of Bámaca Velásquez, Provisional Measures regarding Guatemala, Order of January 27, 2009, considerandum 45; Matter of Fernández Ortega et al., Provisional Measures regarding Mexico, Order of April 30, 2009, considerandum 5; Matter of Milagro Sala, Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5.

⁶ I/A Court H.R., Matter of Milagro Sala, Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish); Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; Matter of the Criminal Institute of Plácido de Sá Carvalho, Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6 (Available only in Spanish).

⁷ I/A Court H.R., Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 7; Matter of "El Nacional" and "Así es la Noticia" newspapers, Provisional Measures regarding Venezuela, Order of November 25, 2008, considerandum 23; Matter of Luis Uzcátegui, Provisional Measures regarding Venezuela, Order of January 27, 2009, considerandum 19 (Available only in Spanish).

12. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie* standard of review to determine whether a serious and urgent situation exists.⁸ Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments.⁹ This is better suited to be addressed by the Petition and Case system. The following study relates exclusively to the requirements set forth in Article 25 of its Rules of Procedure, which can be resolved without making any determination on the merits¹⁰.

13. In this sense, pursuant to Article 25, paragraph 6, the Commission highlights that it has been closely monitoring the escalation of structural violence in Colombia in general, and the situation in the Department of Valle del Cauca in particular. In May 2022, the IACHR expressed concern regarding the acts of violence in Colombia related to the actions of non-state armed groups.¹¹ In its 2023 Annual Report, the Commission identified the ongoing acts of violence derived from armed conflicts in Colombia, with a special impact on certain groups, such as peasant communities.¹² Additionally, an increase in the disappearances of children and adolescents was reported.¹³ This situation is allegedly concentrated, among other areas, in the Valle del Cauca region, where the proposed beneficiary and his family reside.

14. Following its *on-site* visit to Colombia in April 2024, in its Preliminary Observations, the Commission evaluated the information received regarding the recruitment of children and adolescents in Colombia by non-state armed groups and criminal organizations. During the visit, the IACHR received with extreme concern information about the scourge of the forced recruitment of indigenous, Afro-descendant, and rural adolescents, children, and teenagers by non-state armed groups and criminal organizations.¹⁴ According to reports, armed groups and criminal organizations have developed different recruitment methods, including kidnapping, monitoring of children and adolescents in educational centers, and coercive persuasion.¹⁵ Armed groups often moved victims of forced recruitment to areas far from their communities and familiar territories, making it more difficult for their families to search for them and for efforts to secure their disengagement.¹⁶ In addition, other armed groups keep recruitment victims in their territories to ensure greater control of community spaces, including schools.¹⁷ In this context, victims of recruitment were allegedly found after being brutally murdered¹⁸.

15. In this vein, the Commission identified that there are challenges in the protection of children who are separated from their families, which puts their lives at risk.¹⁹ The Commission observed that, in addition to poverty and the lack of opportunities for youth, this phenomenon persists due to several reasons,

⁸ I/A Court H.R., Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua, Extension of Provisional Measures, Order of August 23, 2018, considerandum 13 (Available only in Spanish); Matter of children and adolescents deprived of liberty in the “Complexo do Tatuapé” of the Fundação CASA, Provisional Measures regarding Brazil, Order of July 4, 2006, considerandum 23.

⁹ IACHR, Resolution 2/2015, Precautionary Measure No. 455-13, Matter of Nestora Salgado regarding Mexico, January 28, 2015, para. 14; Resolution 37/2021, Precautionary Measure No. 96-21, Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua, April 30, 2021, para. 33.

¹⁰ In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any arguments pertaining to issues other than those which relate strictly to the extreme gravity and urgency and the necessity to avoid irreparable damage to persons.” See: I/A Court H.R., Matter of James et al. regarding Trinidad and Tobago, Provisional Measures, Order of August 29, 1998, considerandum 6; Matter of Barrios Family v. Venezuela, Provisional Measures, Order of April 22, 2021, considerandum 2.

¹¹ IACHR, Press Release 109/22, [IACHR Concerned About Violence Linked to the Actions of Non-State Armed Groups in Colombia](#), May 20, 2022.

¹² IACHR, 2023 Annual Report, Ch. IV.a, Colombia. OEA/Ser.L/V/II. Doc. 386 rev. 1, approved on December 31, 2023, para. 252.

¹³ IACHR, already cited, para. 253.

¹⁴ IACHR, Preliminary Observations, On-site Visit to Colombia, April 15-19, 2024, page 10.

¹⁵ IACHR, already cited.

¹⁶ IACHR, already cited.

¹⁷ IACHR, already cited.

¹⁸ IACHR, already cited, p. 11.

¹⁹ IACHR, already cited.

including: the lack of state authority presence in the territories; deficiencies in technical capacities and coordination for implementing public policies to address this grave situation; and impunity²⁰.

16. These contextual elements are relevant to the extent that they show seriousness and consistency in the allegations presented regarding the proposed beneficiary and his father in Colombia.

17. In analyzing the requirement of *seriousness*, the Commission takes into account, in addition to the indicated context, the situation faced by the proposed beneficiary, a 15-year-old adolescent allegedly kidnapped by an illegal armed group, with the aim of forcibly recruiting him, whose whereabouts have been unknown since August 21, 2024. In this regard, the Commission notes that since he was involuntarily taken by armed actors, the proposed beneficiary has not been contacted nor has he been aware of his location and current status. Only the captors allegedly demanded that family members leave a suitcase with his clothes at a point on the road. In addition, according to the information provided in the file, the father of the proposed beneficiary has continued to receive death threats from the armed group given his persistence in the search for his son, as well as in denouncing the facts to the state authorities. Given the alleged conditions, the Commission considers the current situation of the adolescent J.A.R.L. to be extremely serious. It also considers that the efforts of his relatives to find his whereabouts could be limited in the face of the threats and perpetrated by the armed group.

18. For its part, the Commission notes, as indicated by the applicants, that J.A.R.L.'s situation has been reported to the state authorities through their different institutions (President of the Republic, Attorney General of the Republic, and Colombian Family Welfare Institute-ICBF) requesting protection measures and the activation of the Urgent Search Mechanism to find his whereabouts. Likewise, a complaint was filed with the Municipal Ombudsperson's Office of Jamundí. For its part, the Commission takes note of the State's report; however, there is no concrete information on the specific actions and progress made by the state authorities to find the whereabouts of the proposed beneficiary, beyond requesting the Office of the Attorney General of the Republic to activate the Urgent Search Mechanism. While the Commission values the commitment expressed by the State, the information provided does not confirm whether the mechanism was actually activated. Nor is there evidence of the implementation of protection measures in favor of J.A.R.L.'s father or any other additional measure - particularly of the state institutions that purportedly know of the situation - in order to provide support in locating the proposed beneficiary.

19. Considering the foregoing, the Commission has no elements to affirm that the situation initially alleged has been mitigated. The Commission emphasizes that the facts alleged by the applicant were not disproved by the State. The Commission recalls the special reinforced protection that must be adopted for children who are direct or collateral victims of violence; this reinforced protection should translate into specific and concrete actions by the State²¹.

20. Under these circumstances, and based on the *prima facie* standard applicable to precautionary measures, the Commission concludes that it is sufficiently established that there is a serious risk to the proposed beneficiary's rights to life and personal integrity, given the situation he has been facing since August 21, 2024. In addition, the Commission considers that this serious situation has a direct impact on the proposed beneficiary's father, who is currently the subject of threats and extortion, being even visited at home by members of the armed group, after denouncing what happened to his son and persisting in his search.

21. Regarding the *urgency* requirement, the Commission considers that it has been met, inasmuch as while the circumstances that the proposed beneficiary faces remain, the passage of time in itself is likely to lead to the materialization of further violations of his rights. This is in addition to the fact that, since his

²⁰ IACHR, already cited.

²¹ IACHR, [Violence and Discrimination against Women and Girls: Best Practices and Challenges in Latin America and the Caribbean](#), OAS/Ser.L/V/II, November 14, 2019, para. 77.

recruitment, his relatives have been subjected to direct threats and intimidation after their actions of denunciation and requests for intervention by the state authorities to find his whereabouts. Therefore, given the ongoing risk factors identified, it is necessary to immediately adopt measures to safeguard the rights to life and integrity of the proposed beneficiary and his father.

22. As it pertains to the requirement of *irreparable harm*, the Commission finds it met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARIES

23. The Commission declares adolescent J.A.R.L. and his father to be the beneficiaries of the precautionary measures, who are duly identified in these proceedings.

V. DECISION

24. The Inter-American Commission considers that this matter meets, *prima facie*, the requirements of seriousness, urgency, and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, it requests that Colombia:

- a) adopt the necessary measures to determine the situation and whereabouts of the beneficiary, in order to protect his rights to life and personal integrity;
- b) implement the necessary measures to guarantee that J.A.R.L.'s father is not subjected to threats, intimidation, harassment, or acts of violence;
- c) consult and agree upon the measures to be implemented with J.A.R.L.'s father and his representatives; and
- d) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

25. The Commission also requests that the State of Colombia report, within 15 days as from the day after this resolution, on the adoption of the required precautionary measures and to update that information periodically.

26. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected under the applicable instruments.

27. The Commission instructs its Executive Secretariat to notify this Resolution to the State of Colombia and the applicants.

28. Approved on October 2, 2024, by Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice-President; Arif Bulkan; Stuardo Ralón Orellana; and Andrea Pochak, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary