

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 21/2014
PRECAUTIONARY MEASURE No. 252-14¹

Matter of members of the Contralínea Magazine regarding Mexico
July 18, 2014

I. INTRODUCTION

1. On July 10, 2014, the Inter-American Commission on Human Rights (hereinafter ‘Commission’ or ‘IACHR’) received a request for precautionary measures presented by the ‘Center for Human Rights and Advise to Indigenous People, A.C.’; the ‘House of Rights for Journalists, A.C.’ and the ‘Contralínea’ Magazine (hereinafter ‘the applicants’), requesting that the IACHR requires the Mexican State (hereinafter ‘Mexico’ or ‘the State’) to adopt the necessary protective precautionary measures to safeguard the lives and personal integrity of the members of the Contralínea Magazine, composed by Flor Irais Maldonado Goche, Rosa Elva López Mendoza, Mauricio Gabriel Romero Patiño, Marcos Chávez Maguey, Erika Soemi Ramírez Pardo, Nancy Paola Flórez Nández, Zósimo Camacho Ibarra, José Nicolás Reyes Hernández, and Agustín Miguel Badillo Cruz (hereinafter, ‘the proposed beneficiaries’). According to the request for precautionary measures, the proposed beneficiaries have been threatened and attacked because of their engagement as journalists and the exercise of their right to freedom of expression.

2. After analyzing the factual and legal arguments put forth by the applicants, the Commission considers that the information presented shows prima facie that the members of the Contralínea Magazine are in a serious and urgent situation, since their lives and personal integrity face an imminent risk. Consequently, according to Article 25 of the Rules of the IACHR, the Commission requires that Mexico: a) adopt the necessary measures to protect the lives and personal integrity of the identified members of the Contralínea Magazine; b) agree on the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure in order to prevent its repetition.

II. SUMMARY OF THE FACTS AND ARGUMENTS ALLEGED BY THE APPLICANTS

3. According to the request for precautionary measures, the Contralínea Magazine, a weekly publication in both print and digital format, was founded in April 2002, and publishes articles related to corruption cases, abuse of power and violations to human rights, among others, becoming a reference in investigation journalism. The Magazine generally consists of special and exclusive reports, biographic interviews, essays and opinion articles. Currently, the editorial staff is composed of nine individuals, who are being presented as the proposed beneficiaries of this request for precautionary measures. The request for precautionary measures is substantiated in the following alleged facts and arguments:

- A) In recent years, Mexico has been one of the most dangerous countries for journalists. According to information collected by many organizations, from 2000 to 2013, 76 journalists have allegedly been murdered and, since 2003, another 16 have disappeared. In 2013, the aggressive atmosphere against journalists spread and increased. For instance, 330 ‘general attacks’ have

¹ According to Article 17.2 of the Rules of the Commission, Commissioner José de Jesús Orozco Henríquez, a Mexican citizen, did not take part in the debate or in the deliberation process of the present precautionary measure.

allegedly been recorded with a monthly rate of 27 attacks, which is 59% more than the previous year. Following this trend, at the end of May 2014, 137 attacks allegedly occurred against journalists and social communicators. In this regard, the applicants affirm that the State created a series of protective mechanisms, although they indicate that such mechanisms are not efficient as 'protective measures for journalists.' In the words of the applicants, '[t]his aggressive atmosphere and the evident inefficiency of the State caused self-censorship to increase, as well as the imposition of silence zones through violence.'

B) The members of the Contralínea Magazine allegedly faced a situation in which their right to life and personal integrity was violated. In particular, they indicate a series of purported threats, harassments, and criminal claims for 'moral harm,' as well as damages to property, stealing of professional material, abductions and murders. Specifically, the applicants indicate that the proposed beneficiaries allegedly faced the following acts:

- i) Since 2007, the company Oceanografía, S.A. de C.V., among others forming part of the Zeta Gas and the Blue Marine Technology groups, and a senator from the National Action Party filed many civil claims and a criminal complaints against the International Communication Media Corporation for 'moral harm.' These actions have been filed in some cases in relation to the '[...] use of federal government resources in public procurement [...]' and purported links in '[...] tenders and public contract adjudications to the parastatal company Pemex [...]' According to the applicants, in some processes the relevant authorities condemned the Contralínea Magazine and the proposed beneficiaries to pay compensations, violating in some cases guarantees of due process.
- ii) On August 5, 2007, individuals allegedly related to the Zeta Gas group forcibly entered into the Contralínea office, demanding that they be given the names of certain sources of information, threatening to make the publication disappear. On August 13, 2008, lawyers of the Zeta Gas group, together with an auxiliary expert, armed bodyguards and '[...] agents of the Public Security Department of the Federal District' broke into the Magazine's installations and demanded to have access to the journalists' and administrative workers' desks and archives. On April 10, 2010, unidentified individuals entered and ransacked the office.
- iii) On April 27, 2010, the 'Caravan for Peace' which was headed to San Juan Copala had allegedly been ambushed. Two of its members, the proposed beneficiary Erika Soemi Ramirez Pardo and the reporter David Cilia 'disappeared' for two days and were 'rescued' on April 29, 2010. Both of them presented symptoms of dehydration and, in the case of David Cilia, suffered three gunshot wounds.
- iv) On August 31, 2011, Ana Maria Marcela Yarce, founder and reporter of Contralínea, and Rocio Gonzalez Trapaga, an independent reporter, had allegedly been abducted when they were leaving their office, and murdered. On September 1, 2011, their dead bodies had been found in a park of the delegation of Iztapalapa in the Federal District. Their bodies were naked, with their fists, feet and neck tied.
- v) On April 18, 2014, the private residence of Agustin Miguel Badillo Cruz, Director of Contralínea and proposed beneficiary, had allegedly been broken into. To date, the Office of the Prosecutor General of the Federal District could not solve the case, despite

the existence of video recordings that captured the purported attackers and the vehicle they used.

- vi) In the early morning of June 24, 2014, the office of Contralínea has been ransacked. The purported attackers stole 19 computers, a professional video camera, 3 television screens, audio and radio equipment, as well as compact discs with editorial information. Also, the safe had been violently forced open, ransacking desks, drawers, and damaging property.
- C) Despite reporting all these facts to the Office of the Special Prosecutor for Crimes against Freedom of Expression (hereinafter 'FEADLE'), the initial investigation in relation to the '[...] systematic attacks against Contralínea [...] did not lead to any result.' In this regard, the applicants sustain that FEADLE did not prove to be sufficiently effective in ensuring that the alleged offenses and crimes were 'fully' investigated, or that the purported attackers be put under the competence of the relevant authorities. In this sense, the applicants highlight that the impunity exacerbated the aggressive atmosphere against the reporters of Contralínea.
- D) The Protection Mechanism for Human Rights Defenders and Journalists did not make a 'risk evaluation duly revised and approved by its Board in favor of the proposed beneficiaries. Also, the applicants affirm that they provided 'some urgent measures, although they were not adequately implemented' to protect the proposed beneficiaries. For instance, the applicants sustain that: i) four video cameras have been installed in the office of Contralínea but were not working 'until last April'; and ii) the 'police guard' was not enough, in the light of the alleged facts which occurred on June 24, 2014.

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

4. The mechanism of precautionary measures is a part of the Commission's function of overseeing Member State 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 set forth in Article 41 (b) of the American Convention on Human Rights, and Article 18 of the Commission's Statute. The mechanism of precautionary measures is set out in Article 25 of the Commission's Rules of Procedure. According to this Article, the Commission issues precautionary measures in situations that are serious and urgent, and where such measures are necessary to prevent irreparable harm to persons.

5. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding their protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR. Their precautionary nature aims to preserve those rights at risk until the petition in the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, avoid infringement of the rights at issue, a situation that may adversely affect the useful purpose (effet utile) of the final decision. In this regard, precautionary measures or provisional measures thus enable the State concerned to fulfill the final decision and, if necessary, to comply with the reparations ordered. As such, for the purposes of making a decision, and in accordance with 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.

6. In the present situation, the Commission considers that the requirement of seriousness is met, in light of the alleged threats and attacks that violate the lives and personal integrity of the members of the *Contralínea Magazine*, within the framework of their right to freedom of expression. In particular, the information presented suggests that many of the purported facts were oriented to prevent the members of *Contralínea* from freely exercising their work as journalists, related to a series of reports on corruption cases, abuse of power and human rights violations, among others. In this regard, in addition to the purported threats, it must be highlighted that, supposedly, the offices of *Contralínea* have recently been ransacked, and that relevant professional information has been stolen.

7. Within the analysis of the present requirement, the Commission observes that the information presented by the applicants is consistent with public information that the IACHR received regarding the particular situation of risk faced by certain journalists, social communicators and media workers in Mexico, within the exercise of their right to freedom of expression. Such information has continually been incorporated into the IACHR Annual Reports – specifically, into the Special Rapporteurship for Freedom of Expression reports.² Concerning the members of *Contralínea*, the United Nations Special Rapporteur for the Promotion and Protection of the Right to Freedom of Expression and Opinion expressed its consternation for the murders occurred in 2011 against a reporter of *Contralínea*.³ In the same way, in its Annual report of 2012, the IACHR Special Rapporteurship for Freedom of Expression indicated that 'for many years the reporters of *Contralínea* [...] faced a series of civil and criminal claims filed by the companies Zeta Gas, Oceanografía and Blue Marine, which made this Special Rapporteurship become concerned, as well as the National Commission on Human Rights (CNDH).'⁴

8. Taking into consideration the specific characteristics of the present situation and the general context in which it is submitted, the Commission considers *prima facie* that the rights to life and personal integrity of the identified members of the *Contralínea Magazine* face a situation of risk.

9. Regarding the requirement of urgency, the IACHR considers that it is met, in light of the recent facts that allegedly occurred in the offices of *Contralínea* and the private residence of its Director, which suggest that the proposed beneficiaries have been facing a history of violence and that the purported attackers know their private addresses. In this sense, the continuity and proximity of the situations of risk in the present matter determine the necessity of immediate protection. In this scenario, the

² See: IACHR. IACHR Special Rapporteurship for Freedom of Expression Reports from 2013, 2012, 2011, and 2010, among others. Available at <http://www.oas.org/en/iachr/reports/annual.asp>

³ See. UN. United Nations Special Rapporteur for the Promotion and Protection of the Right to Freedom of Opinion and Expression, press release from September 4, 2011. Available at: <http://www.un.org/spanish/News/story.asp?NewsID=21688>

⁴ See. IACHR. Annual Report of the Special Rapporteurship for Freedom of Expression, from March 5, 2013, paragraph 354. Available at: <http://www.oas.org/en/iachr/reports/annual.asp>

Commission takes into account that, according to the applicants, the State allegedly granted some protective measures to the members of Contralínea. However, the IACHR observes that, according to the request for precautionary measures and public information, such measures were not effective and did not provide an effective and secure space, considering the nature of Contralínea's work, the visibility of the reports and investigations made, and the history of violence that they previously faced. Additionally, the Commission observes the applicants' allegations, according to which the investigations related to these facts did not lead to any result, which might stimulate reiteration of violent acts in the future.

10. Regarding the requirement of irreparable harm, the Commission considers it fulfilled, to the extent that the possible effect on the right to life and personal integrity represents the most irreparable situation.

11. Under Article 25.5 of the Rules of the IACHR, the Commission generally requests that the State concerned present information prior to taking its decision on a request for precautionary measures, except in a matter such as the present case where the immediacy of the potential harm allows for no delay.

IV. BENEFICIARIES

12. The request for precautionary measures is presented in favor of the members of Contralínea, composed by Flor Irais Maldonado Goche, Rosa Elva López Mendoza, Mauricio Gabriel Romero Patiño, Marcos Chávez Maguey, Erika Soemi Ramírez Pardo, Nancy Paola Flórez Nández, Zósimo Camacho Ibarra, José Nicolás Reyes Hernández, and Agustín Miguel Badillo Cruz.

V. DECISION

13. In view of the above-mentioned information, the Commission considers that this matter prima facie meets the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Mexico:

- a. adopt the necessary measures to protect the lives and personal integrity of the identified members of the Contralínea Magazine;
- b. agree on the measures to be adopted with the beneficiaries and their representatives; and
- c. report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure to prevent its repetition.

14. The Commission also requests that the Government of His Excellency provide information within a time limit of 15 days from the date that the present resolution is issued, on the adoption of precautionary measures, and provide updated information periodically. In view that the present precautionary measures have been granted without having previously requested information from the State, the Commission will revise this decision once it received reports from both parties.

15. The Commission wishes to point out that in accordance with Article 25(8) of its Regulations, the granting of precautionary measures and their adoption by the State shall not constitute a prejudging of any violation of the rights protected in the American Convention on Human Rights or any other applicable instrument.

16. The Commission requests that the Executive Secretariat of the IACHR notify the present resolution to the State of Mexico and to the petitioners.

17. Approved on July 18, 2014, by: Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice-President; Felipe Gonzalez, Second Vice-President; Commissioners, Rosa Maria Ortiz, Paulo Vannucchi and James Cavallaro.

Signed by Elizabeth Abi-Mershed
Assistant Executive Secretary