
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 18/2021**

Precautionary Measure No. 185-10
M.S.T. and his nuclear family regarding Ecuador
February 25, 2021
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures granted to M.S.T. and his nuclear family in Ecuador. At the time of adopting this decision, the Commission considered the concerned State's request to lift the measures at hand, assessed the protection measures adopted by the State over time and identified that approximately 9 years have elapsed without any reported events that would put the beneficiary and his nuclear family at risk.

II. CONTEXTUAL INFORMATION

2. On June 20, 2011, the IACHR granted precautionary measures in favor of Major ("Passive Service" or "PS") M.S.T. and his nuclear family in Ecuador.¹ The request for precautionary measures filed by E.N.O. alleged that Mr. M.S.T. was at risk, due to his involvement in a series of investigations derived from the work he allegedly carried out when he was a Major in the National Police, and from the reduction in his protection detail. Moreover, an alleged plot to murder him was taking place and, at that time, there had reportedly been a series of alleged murders of other National Police officers.

3. Thus, the IACHR requested that Ecuador adopt the necessary measures to guarantee the life and physical integrity of M.S.T. and his nuclear family, consult and agree upon the measures to be adopted with the beneficiaries and their representatives, and report on the actions taken to investigate the events that led to the adoption of precautionary measures.

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

4. Upon granting these precautionary measures, the parties provided information in response to the IACHR's requests of September 8, 2011, September 29, 2011, November 21, 2011, March 6, 2012, March 20, 2012, August 3, 2012, September 12, 2012, October 26, 2012, March 25, 2013, June 13, 2013, December 5, 2013, April 15, 2014, and December 11, 2020. In addition, the IACHR convened a working meeting on March 24, 2012, within the framework of its 144th ordinary sessions.

5. In particular, the IACHR requested information from the parties on April 26, 2013, "in order to examine the relevance of maintaining the precautionary measures in force." Subsequently, the State requested that the precautionary measures be lifted on September 16, 2014, and the beneficiaries' representation provided its observations on January 7, 2021. The State submitted additional information on January 29, 2021.

A. Information provided by the State

¹ IACHR, PM 185-10-EC. X, June 20, 2011. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/cautelares.asp?Year=2011>

6. On September 19, 2011, the State reported that it proceeded to analyze the actions that would be most appropriate in order to adequately and effectively fulfill the obligations ordered by the Commission, and which imply compliance with international instruments and full respect for human rights. On the basis of several meetings held between the institutions involved and with the beneficiary and his representation, immediate action was taken. The State held several inter-institutional meetings to determine the most appropriate measures and to duly coordinate their implementation.² These meetings were held on July 22, August 1, August 25, August 31, September 5, and September 9, 2011. Furthermore, meetings were held with the beneficiary and his legal representative on July 4, July 22, August 29, August 31, and September 9, 2011.

7. The State emphasized the following measures adopted:

- Development of a “Security Plan” (*Plan de Seguridad*) which became operational in August 2011.
- Creation of a “Security Commission” (*Comisión de Seguridad*) composed of the Chief of Operations of the Intervention and Rescue Group (GIR)-Quito, the Chief of the Protection Department of the General Intelligence Directorate and the Operational Chief of the Victim and Witness Protection Department of the Judicial Police.
- Creation of a “Personal Protection Group” (*Grupo de Protección Personal*) for the beneficiary, composed of four GIR police officers, the General Intelligence Directorate and the Victim and Witness Protection Unit of the Judicial Police, with the following responsibilities: permanently guarding the beneficiary, anticipating problems or dangers, recognizing threatening situations, neutralizing or avoiding problematic situations, preparing temporary security plans, and preparing emergency plans for evacuation in the event of incidents;
- Police Support Units with responsibility for preventive patrolling in the beneficiary’s places of residence and work, as well as for travel.
- In accordance with the “Specific Agreement for the Execution of Precautionary, Provisional and Urgent Actions” (*Convenio Específico de Ejecución de Medidas Cautelares, Provisionales y Acciones Urgentes*), a precautionary measure card would be granted to the beneficiary and his nuclear family, which will serve to request assistance from any member of the National Police in case of imminent risk against their lives and personal integrity, upon presentation of the card; communicate with the 911 number, so that immediate and preferential assistance can be provided with the beneficiary’s card code.
- At the request of the beneficiary, the Joint Command of the Armed Forces issued a permit to bear arms, following the corresponding legal procedures and requirements. The State emphasized that it considers that the delivery of a weapon to the beneficiary “does not contribute but rather alters the security plan.”
- Two risk analyses: In July 2011, the result was a 55% risk factor (“medium risk”), and recommendations were issued for the safety of the beneficiary and his family. In July 2012, the risk factor was 53.5% (“medium risk”) and several recommendations were issued for the safety of the beneficiary and his family. Consequently, a “Letter of commitment to implement precautionary measures” was drawn up, which contains the measures that the State considers appropriate to effectively guarantee the rights of the beneficiary and his family. In that letter, most of the actions proposed by the beneficiary were introduced, except for those that, according to technical criteria, did not correspond to the situation placing the beneficiary at risk and those that

² According to the State, the following have participated permanently: Ministry of Justice, Human Rights and Worship (Undersecretary of Human Rights); Ministry of the Interior (Under-Secretary of Democratic Guarantees:); Office of the Attorney General of the State (Victim and Witness Protection Unit); National Police (Under-Secretariat of Police, General Directorate of Intelligence; and Intervention and Rescue Group)

could place him in a possible situation of vulnerability. The “Letter” was discussed with the beneficiary, and it was not possible to reach an agreement.

- At the request of the beneficiary, the National Intelligence Secretariat was required to communicate the existence or not of an investigation file or order involving the beneficiary. Such body literally communicated that “there is no investigation file or order on the beneficiary.”

8. The State noted that there have been several drawbacks in the implementation of the security plan due to the lack of cooperation by the beneficiary, who has repeatedly failed to respond to the police personnel in charge of protection and has even told them that on certain days he does not require their protection. The State requested the beneficiary and his legal representative to file the corresponding complaints with the Attorney General’s Office in order to contribute to the investigation and punishment process. Nevertheless, such request was not accepted by the beneficiary, who had allegedly further refused to provide documentation that would allow the proper substantiation of an investigation and sanction, although he even indicated that he has it in his possession.

9. The State reported that on January 20, 2012, an inter-institutional meeting was held³ to inform of the beneficiary’s various requests. It was concluded that it was necessary to request the Police Under-Secretary to issue an updated report on the situation placing the beneficiary at risk, as well as to provide him with a copy of the “Security Plan” prepared by the GIR of the National Police. On January 27, 2012, the GIR of the National Police issued an analysis of the situation placing the beneficiary at risk in response to those requests, with the following conclusions:

- The beneficiary has received personal security since March 2008, consisting of three police officers from the Intervention and Rescue Group (GIR), who have progressively been withdrawn according to risk levels, leaving the beneficiary with two members of the security detail. Once the new “Personal Security Plan” was completed, it was concluded that it was necessary to restructure the security team integrated with other police units. The formation of the Beneficiary’s Personal Protection Group was made up of police personnel from the following units: Intervention and Rescue Group (1), General Intelligence Directorate (1), Unit for the Protection of Victims and Witnesses of the Judicial Police (2). This amounts to 4 people. In addition, the Personal Protection Group was supported by the Community Police Unit “La Floresta,” where there are 3 police officers, and by the Community Police Unit “Batan Bajo,” where there are 3 further police officers.
- The Police Support Units of the “La Floresta” and the “Batan Bajo” Community Police Units were responsible for sporadic patrols around the protected person’s place of residence and work.
- The Personal Protection Group was divided into two groups: on the one hand, Team 1, constituted by the GIR Security Chief and a Victim and Witness Protection officer, and on the other Team 2, constituted by a General Intelligence Directorate protection officer and a Victim and Witness Protection officer. Each security team worked from 8 a.m. and 10 p.m. and remained in response to emergencies until 8 a.m. the following day.
- The beneficiary requested that the members of the security detail be provided with a vehicle, as well as the necessary logistics to carry out their work. In this regard, the personnel were provided with a police vehicle for transportation, with the respective internal communication from the security team.

10. On September 28, 2012, the State submitted a series of documents referring to the activities carried out to protect the beneficiary’s rights. In particular, it sent memoranda of March 7, 13 and 27, April

³ The Ministry of Justice, Human Rights and Religion, the Ministry of the Interior, the Police Under-Secretary and the General Directorate of Intelligence.

10 and 25, May 1 and August 24, 2012, “in which weekly informative reports are attached, signed by the Commander of the Intervention and Rescue Group of the National Police, related to the activities carried out for the beneficiary’s personal security, from which it is inferred that there have been no news regarding the protection and security that the Ecuadorian State is providing them as a result of the precautionary measures that keeps in his favor.”

11. On September 16, 2014, the State requested the lifting “since the precautionary measures would not be necessary or pertinent.” The State argued that, according to a report of July 3, 2014 “related to the security granted to the older policeman (PS),” the following elements and conclusions were presented:

- “the events that occurred in Angostura on March 1, 2008, and which were publicly known, are the starting point of the personal protection provided to the beneficiary, who was the visible leader of the extinct Special Investigations Unit UIES, in his capacity as head of it.”
- “the legal and political environment surrounding the figure of the officer, who was a visible figure in the media in general, and even making known about his actions against organized and transnational crime, definitely caused high levels of risk on the officer and his family environment. Definitively, the handling of information at that moment of social upheaval was not the best, and consequently, the risk analysis carried out at that date showed high levels of risk for the officer and his family.”
- “It should be noted that, as Head of Security of Swishotel and in the period of protection as a security advisor of the *Universidad Tecnológica Equinoccial* UTE, the protected official carries/carried out work activities which could undoubtedly generate risks to his personal integrity.”
- “Immediately, the General Command arranged a personal security detail comprising 4 men of the GIR with a Dmax Pickup Van with number plate PEA-1045. This security detail by GIR remained active since March/2008 to May/2013 and its activity reduced over time due to the assistance of other units such as the National Intelligence Secretariat (DGI) and the Victim and Witness Protection Program.”
- “On May 28, 2013, [...] it was announced that the GIR personnel would no longer participate in the protection of Mr. [beneficiary], under authorization of the General Command. However, the personal security detail of the official, as it remained in charge of the DGI, who does retain a security detail according to legal regulations.”
- “That during the time that the GIR staff remained on duty, no incident, threat, or event that suggests any sort of real risk to the security of Mr. [beneficiary] has occurred.”
- “That the time allowed by law to provide personal security has been exceeded, without any determination that there is a legal framework for the protection [of the beneficiary].”

12. On January 29, 2021, the State reiterated previous allegations,⁴ mainly its request to lift the measures, and attached information on the protection measures adopted by the Police (stating that, according to the last report of 2014, the situation of the beneficiary was classified as “minimal” risk). The State expressed its willingness to hold meetings to review the beneficiary’s situation considering that the current establishment of the risk level, in accordance with the applicable internal regulations, requires a “personal and formal request” before the Ministry of Government, according to information provided to the National Security and Protection Directorate of the National Police.

⁴ Moreover, based on a communication dated August 21, 2020, the State referred to a meeting of the portfolio of precautionary measures on August 12, 2020 and the application of Resolution 3/2018. In this regard, it is recalled that, by communication dated October 22, 2020, it was indicated that “PM-185-10-EC is a precautionary measure currently granted with procedural status in force, so Resolution 3/2018 is not applicable to it.”

B. Information provided by the beneficiary's representation

13. On July 27, 2011, the representation presented a communication to the Inspector General of the State (*Procurador General del Estado*), the female Minister of Justice and Human Rights, and the Ministry of the Interior. The Under-Secretary of the Ministry of Justice and Human Rights held a meeting with the representation on July 5, 2011, and with the Police Under-Secretary of the Ministry of the Interior on July 11, 2011. Both seemed willing to assist. The representation stated to have learned that various units of the National Police, the Victim and Witness Protection Program and the Intervention and Rescue Group (GIR) have been commissioned to perform a risk assessment for the beneficiary. The representation stressed the openness of the Under-Secretary of Justice and Human Rights. The representative referred to events that allegedly occurred in September and October 2011.⁵ The representation questioned the State's measures in various briefs. Throughout various communications in the course of the proceeding, the representation considered that the State did not comply with the precautionary measures.

14. On October 28, 2011, the representation reported that it was purportedly not possible to reach an agreement on "the most appropriate measures" for the protection of the beneficiary. The representation stated that the protection plan does not cover 8 hours of the day (nights) or Saturdays, Sundays, and holidays. The representation indicated that, in August 2011, computer reports of alleged activities of the beneficiary were issued. According to these, "he is not respecting personal security protocols, he refuses the protection and shows excessive confidence." The representation questioned what the State had indicated regarding security protocols. In its first briefs after the precautionary measures were granted, the representation requested that the State administratively authorize in an "immediate manner" that the beneficiary may carry a weapon. They deemed unacceptable to only receive information of the requirements to carry weapons and that the beneficiary should start the process. Similarly, the representation declared that the State could make use of its faculties *ex officio* without waiting for a report from the other party, according to domestic law.

15. On February 10, 2012, the representation stated that the Commander of the GIR of the National Police held a private meeting at the Ministry of Justice and Human Rights in January 2012, where a "Security Protocol" was presented. On March 16, 2012, the representation questioned the "Personal Security Plan" as it refers to the beneficiary only and does not include his nuclear family; there is no protection during nights, Saturdays, Sundays, and holidays; and it does not include intelligence work around the building. The representation requested a change of address.

16. On September 28, 2012, the representation reported that a security company in Costa Rica carried out a "technical examination" of the beneficiary's situation and his family environment, as well as the characteristics of the protection provided by the State. The results produced the same questioning as previously mentioned and others regarding the risk assessments carried out by the police.⁶ In 2012, the representation confirmed that the beneficiary's protection detail comprises four officers of the GIR units, the Victim and Witness Protection Program and the Directorate of Police Intelligence. Every member of

⁵ In September 2011, a "drug trafficker" reportedly appeared at the beneficiary's workplace, which is a public place; a yellow taxi purportedly plowed his home; and in October 2011, two drug traffickers were caught near his workplace, one of them armed, who claimed to be members of the so-called FARC.

⁶ The representation indicated that no coordination meetings have been held and that there are no crisis management plans. Based on that assessment, the representation considered that the beneficiary is at a high risk level with imminent contact with an adversary; that the 12-hour protection during working days is not enough; the threatening situation allegedly comes from international criminal organizations that have consolidated in Ecuador, who reportedly not operate through threats or harassment of people and carry out intelligence activities in anonymity; and there is reportedly no progress in the investigations.

the detail has a Glock brand weapon, model 17, pistol type, caliber 9 mm. Some carry two clips of ammo, others three. For security duties, the police allegedly deployed a Grand Vitara vehicle which had a constant noise in the back and worn-out front tires. Notwithstanding this, the representation stated that “it is likely” that the GIR made the decision to replace the Grand Vitara vehicle.

17. The representation indicated that the beneficiary received a call from a person who refused to identify themselves in the afternoon of November 19, 2012. Emphasis was made on news regarding international crime in Ecuadorian territory. On May 23, 2013, the representation referred to an increase in criminal activities in the country and reiterated previous allegations.

18. On August 1, 2013, the representation questioned the end of deployment of the security detail. It was reported that two policemen remained in deployment for security reasons, one from the Directorate of Intelligence and the other from the Victim and Witness Protection Program. According to the police documents forwarded by the representation on May 30, 2013, the internal regulations only allowed personal security to be deployed for a period of 6 months, renewable only once for the same period. In the case of the beneficiary, the scheme had been extended for approximately 2 years and 5 months. Therefore, this “represents a violation of the terms set forth by the legal bodies” regarding the Regulations for the Individual Security of Dignitaries, Authorities and Officers of the State, Public Entities, Diplomatic Corps and International Organizations under responsibility of the National Police. The police report stated that it was possible to request that the beneficiary be adjoined to the “Program for Victims, Witnesses, and other participants in the criminal process” led by the Attorney General’s Office.

19. In the afternoon of August 27, 2013, Mr. Chauvin Alvear⁷ and another person appeared at the beneficiary’s workplace. Later that afternoon, two persons on a motorcycle allegedly monitored the entrance of his home. On April 1, 2014, the beneficiary received two calls by unknown callers. These events were reported to the General Directorate of Intelligence of the National Police.

20. On July 22, 2015, the representation attached a letter from the Ecuadorian National Police stating that the beneficiary “has not been legally determined to be a person protected by the System of Protection and Assistance to Victims, Witnesses and other Participants in the Criminal Process, as they did not request that right through the Attorney General’s Office or a Court and then to the Provincial System Analyst, acts that are mandatory for entry in said system as determined by Art. 33 of the Regulations for the System of Protection and Assistance to Victims, Witnesses, and other participants in the Criminal Process.” Similarly, as stated in the same letter, it was assessed that the beneficiary is considered to be at “minimal risk” as of March 2014.

21. On January 7, 2021, the representation referred to previous requests. According to their statement, the beneficiary “does not have any protection detail” and “there are no updated reports on the risk situation of [beneficiary].” Lastly, it was reported that ‘the [beneficiary] changed his address within the Metropolitan District of Quito on March 2, 2019, to a place that provides better protection conditions for his safety and that of his family.”

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

⁷ As background information, the representatives indicated that as a high-ranking official of the government of Rafael Correa Delgado, he was involved in the investigations on terrorism and drug trafficking carried out by the Special Investigations Unit of the National Police, a unit whose commander was the beneficiary. In general terms, it was also indicated that extremely dangerous persons appear at the beneficiary’s workplace, which they have reported to the General Directorate of Intelligence of the National Police on August 28, 2013.

22. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in the Charter of the Organization of American States and, in the case of the Member States that have not yet ratified the American Convention, the Declaration of the Rights and Duties of Man. These general oversight functions are established in Article 18 of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. 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.

23. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that the precautionary and provisional measures have a double character, both precautionary and protective. As regards the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are under consideration by the IACHR. Regarding the process of decision making 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 impact on rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

24. With respect to the foregoing, Article 25(7) of the Commission's Rules of Procedure establishes that "the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions." Article 25(9) establishes 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 evaluate if the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures, persist. Moreover, the Commission should consider if new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

25. In this matter, the Commission notes that the State has requested that these precautionary measures be "lifted." That request was sent to the representation in the terms of Article 25(9) of the Rules of Procedure, with a view to obtaining their observations. The representatives submitted their response in January 2021. Additionally, the Commission recalls that when a State requests the lifting of a precautionary measure, it must present evidence and arguments sufficient to support its request.⁸ In the same way, the representation of the beneficiaries who wish the measures to continue must present evidence of reasons for this.⁹ Similarly, subsection 11 of Article 25 of the Rules of Procedure establishes that the Commission may lift or review a precautionary measure when the beneficiaries or their representatives, unjustifiably, refrain from providing a satisfactory response to the Commission on the requirements raised by the Status for implementation.

⁸ 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

⁹ Ibidem

26. In this matter, the Commission recalls that the precautionary measures were granted in 2011 with the objective of “adopting the necessary measures to guarantee the life and physical integrity” of Mr. M.S.T. and his nuclear family. While the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, maintaining such measures in force requires a more rigorous evaluation.¹⁰ In this sense, the burden of proof and argument increases as time goes by and there is no imminent risk.¹¹ The Inter-American Court has indicated that the passage of a reasonable period of time without threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures.¹²

27. Considering the foregoing, the Commission observes that, upon having granted the precautionary measures, the State adopted a series of articulated and coordinated protection measures designed to protect the rights of the beneficiary and his nuclear family. Although the representation has generally questioned such measures, arguing a “non-compliance with the precautionary measures” throughout the proceedings, and has requested further actions (see *supra* paras. 8, 13 and 15), having even carried out a particular risk study parallel to that of the competent authorities of Ecuador in 2012 (see *supra* para. 16), the Commission notes that it cannot be disputed that protection measures were effectively implemented in favor of the beneficiary over time, and within the framework of these precautionary measures. In this regard, with a view to ensuring that the measures to be implemented are the most appropriate, the Commission observes that the State mainly adopted the following actions:

- Inter-institutional coordination meetings with the presence of competent state authorities (see *supra* paras. 6 and 9).
- Meetings with the beneficiary and his legal representative (see *supra* paras. 6, 13, and 15).
- A protection detail implemented with various security officers based on the risk analyzes prepared by the competent entities since 2008. The State detailed the structure, composition, modifications made, and purposes of the protection detail known as the “Personal Security Plan” (see *supra* paras. 7 and 16).
- Adjustments to the detail, made based on the coordination spaces between the parties and in the implementation of the detail (see *supra* paras. 9 and 16).
- Attention to various requests for information (for instance, on files in which the beneficiary is reportedly involved and the procedure to obtain a permit to use a weapon). (See *supra* paras. 7 and 9)
- Actions aimed at obtaining information from the beneficiary in order to initiate the corresponding investigations (see *supra* para. 8).

28. The Commission positively assesses the actions taken by the State to implement these precautionary measures over time and based on the specific situation in which the beneficiary found himself. In view of the above, there are no elements sufficient to indicate that the State did not implement, or sought to implement, the precautionary measures. In any case, the Commission takes note of the challenges presented at a certain time when the collaboration of the beneficiary was sought (see *supra* paras. 8 and 14), which allegedly had a particular impact on the possibility of obtaining information from him to advance the corresponding investigations. In this regard, the Commission recalls that the presidency of the Inter-American Court has indicated that “the beneficiaries and their representatives are required to provide all the collaboration that is necessary to promote the effective implementation of the

¹⁰ Ibidem

¹¹ Ibidem

¹² Ibidem

measures,”¹³ which was described as “a duty of cooperation of the beneficiaries and their representatives for an adequate implementation of the security measures.”¹⁴

29. However, when analyzing the effect of these precautionary measures, the Commission considers that it is not a matter of dispute that in the 2013-2014 period, based on a new risk assessment for the beneficiary, some protection measures were reduced, which it did not imply that the beneficiary was left without any security detail during that period. Both parties have agreed that, although there were reductions in the protection detail, the beneficiary continued with the support of police officers (see *supra* paras. 11 and 18). In any case, as reported by both parties, for 2014, the beneficiary’s situation was classified as a “minimal” risk by the competent entities. In this sense, according to the State, “during the time that the GIR staff remained in security, no incident, threat, or fact has transpired whatsoever that could suggest any type of real risk to the security of the [beneficiary]” (see *supra* para. 11). This led to not to continue implementing security measures based on the risk assessments by the competent entities. According to the available information provided by the representation itself, in the aforementioned period the State informed it that he could join the “Program for Victims, Witnesses, and more participants in the criminal process,” led by the Office of the Attorney General of the State, for which it is purportedly required a manifestation of consent by the beneficiary. According to the information available in the file, there are no elements indicating that the beneficiary or his representative has requested such enrollment in the protection program. In this regard, it is also observed that the representation only reported on the occurrence of specific events up to 2013 (see *supra* para. 19), which are also not sufficient to assess the existence of an “imminent risk” against the beneficiary.

30. In line with the foregoing, the Commission observes that it is not a matter of dispute that the background, context, and situation on which the IACHR decided to grant precautionary measures in 2011, have changed significantly to date. In this regard, it is noted that the beneficiary:

- is not the head of the former Special Investigations Unit, so he allegedly does not continue with the corresponding investigations within the framework of that unit, while the temporal context in which his situation was inserted has also changed;
- during the time the precautionary measures have been in force, has held various positions other than the abovementioned, such as head of security at a hotel or security advisor at a university;
- has not reported the occurrence of specific facts involving him since at least 2013, while approximately 9 years have elapsed since then;
- in case of deeming so, can be enrolled in the “System for Protection and Assistance to Victims, Witnesses and other Participants in the Criminal Process,” which is at his disposal and requires the express consent of Mr. M.S.T. for its activation and processing, while the State has also expressed its willingness to carry out the corresponding risk analysis in the event that a “personal and formal request” is filed before the Ministry of Government (see *supra* para. 12); and
- has lived since 2019 “[in] a place that provides better protection conditions for his safety and that of his family.”

¹³/A Court H.R. Matter of Alvarado Reyes et al., Provisional measures regarding the United Mexican States, Order of the President of the Inter-American Court of Human Rights of April 1, 2011. Considerandum 14. Available [in Spanish] at https://www.corteidh.or.cr/docs/medidas/alvarado_se_03.pdf

¹⁴ Ibidem

31. Bearing in mind what has been indicated by the State, and not disputed by the representation, the Commission understands that there is an internal protection program that could be activated by the beneficiary, subject to his will in the event that events of risk arise. For the Commission, this clarification is relevant, given that the Inter-American Court has indicated that if it is verified that the State concerned has developed protection mechanisms or actions for the beneficiaries of provisional measures, the Court could decide to lift such measures by discharging the obligation to protection in its primary responsible, that is, the State.¹⁵ As indicated by the Court, “should provisional measures be lifted [...], it will correspond to the State, in accordance with its duty to guarantee human rights, and its duty to adopt provisions of domestic law, in accordance with Articles 1 and 2 of the American Convention, to maintain the protection measures that it has adopted and that the Court considered relevant, and to adopt all those that may be subsequently necessary, for as long as the circumstances so warrant.”¹⁶

32. In any case, subsequently, should a new request for precautionary measures be filed, the Commission may evaluate the situation of Mr. M.S.T. in the event of new events of risk, as well as analyze the suitability and effectiveness of any protection measures that are implemented, should it be necessary.

33. In summary, taking into account the principle of complementarity and subsidiarity that governs the Inter-American System as a whole, considering the request to lift precautionary measures filed and reiterated by the State, and in light of the assessments made, the Commission does not identify elements sufficient to indicate that there is compliance with the requirements established in Article 25 of the Rules of Procedure. In view of the above and considering the exceptional and temporary nature of the precautionary measures,¹⁷ the Commission deems it appropriate to lift these precautionary measures.

34. As indicated by the Inter-American Court on other occasions, a decision to lift measures does not imply considering, in any way, that the State is relieved from its general protection obligations, contained in Article 1.1 of the Convention, within the framework of which the State is especially obliged to guarantee the rights of persons at risk and must promote the necessary investigations to clarify the facts, followed by the consequences that the relevant regulations may establish.¹⁸ Following the Inter-American Court, the adoption of a decision to lift provisional measures does not imply a decision on the merits, nor does it prejudice state responsibility for the facts denounced.¹⁹

V. DECISION

35. The Commission decides to lift the precautionary measures granted to M.S.T. and his nuclear family in Ecuador.

36. The Commission recalls that, under the terms of Article 1.1 of the American Convention, the State of Ecuador must protect the rights to life and personal integrity of M.S.T. and his nuclear family, regardless of the lifting of these precautionary measures. Furthermore, it is recalled that, if the applicants so decide,

¹⁵ I/A Court H.R., I/A Court H.R. Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia. Provisional Measures. Order of the Inter-American Court of Human Rights of May 22, 2013, para. 54.

¹⁶ Ibidem

¹⁷ 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

¹⁸ I/A Court H.R. Matter of Juan Almonte Herrera *et al.* regarding the Dominican Republic. Provisional Measures. Order of the Inter-American Court of Human Rights of November 13, 2015. Considerandum 22.

¹⁹ I/A Court H.R. Matter of Juan Almonte Herrera *et al.* regarding the Dominican Republic. Provisional Measures. Order of the Inter-American Court of Human Rights of November 13, 2015. Considerandum 26.

they can file a new request for precautionary measures should new facts arise, which would be analyzed in accordance with the terms of Article 25 of the Rules of Procedure.

37. The Commission instructs the Executive Secretariat to notify the State of Ecuador and the representation of this resolution.

38. Approved on February 25, 2021 by: Joel Hernández, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay, Esmeralda Arosemena de Troitiño, Edgar Stuardo Ralón Orellana and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary