
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 73/2021**

Precautionary Measure No. 269-10
Manuel Junior Cortéz Gómez and Yolanda Gómez Torres
regarding Colombia
September 1, 2021
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Manuel Junior Cortéz Gómez and Yolanda Gómez Torres in Colombia. At the time of making the decision, the Commission assessed the actions taken by the State to implement these measures and that the factual circumstances analyzed in 2012 have significantly changed. In this matter, the State has requested the lifting of these precautionary measures since 2014, and has reiterated such a request over time, having adopted the corresponding measures in favor of the beneficiaries. In this sense, upon assessing the procedural requirements, the Commission understands that these are no longer met.

II. BACKGROUND INFORMATION

2. On June 22, 2012, the Commission requested the adoption of precautionary measures for Manuel Junior Cortéz Gómez and Yolanda Gómez Torres, in Colombia. According to the request for precautionary measures, Manuel Junior Cortéz Gómez is the only survivor of an alleged massacre of a soccer team (Chururú Massacre), which was allegedly executed in October 2009 in Venezuela, near the border with Colombia, by a group that calls itself Bolivarian Forces of Liberation (*Fuerza de Liberación Bolivariana*). The request alleged that, after the reported massacre, Manuel Junior Cortéz Gómez and Yolanda Gómez Torres had collaborated with the justice system, and after this, the harassment and threats against them began. Additionally, it was indicated that on June 6, 2012, Manuel Junior Cortéz Gómez was attacked and stabbed, and admitted to a hospital with serious injuries.¹

3. Upon analyzing the information presented, the Commission considered that the beneficiaries were *prima facie* in a serious and urgent situation, given that their rights to life and personal integrity were at risk. Consequently, the Commission requested that the State of Colombia adopt the necessary measures to guarantee the life and physical integrity of the beneficiaries, consult and agree upon the measures to be adopted with the beneficiaries and their representatives, and report on the actions taken to investigate the facts that gave rise to the adoption of precautionary measures.²

III. SUMMARY OF THE INFORMATION PROVIDED DURING THE TIME THE PRECAUTIONARY MEASURES WERE IN FORCE

¹ IACHR. Available [in Spanish] at <http://www.oas.org/es/CIDH/decisiones/MC/cautelares.asp?Year=2012&Country=COL>.

² Ibidem.

4. Throughout the time the precautionary measures have been in force, the Commission has followed-up on the situation that is the subject matter of these measures, through the request of information from the parties. On July 5, 2012, the beneficiaries' representation submitted information, which was forwarded to the State on July 11, 2012. On July 5 and 17, 2012, the State submitted its response, which was forwarded to the representation on July 23 and August 1, 2012. On August 22, 2012, the representation sent a communication, which was forwarded to the State on September 10, 2012. On September 21, 2012, the State provided information and it was forwarded to the representation on October 9, 2012.

5. On January 4, 2013, the representation provided information on the male beneficiary's situation. On January 10, 2013, the Commission forwarded the information provided by the representation to the State. On February 11, 2013, the State provided information, which was forwarded to the representation on February 27, 2013. On April 27, 2013, the representation provided additional information. On August 15, 2013, the Commission informed the parties of its decision to keep these precautionary measures in force.

6. On May 2 and October 21, 2014, the State provided additional information and requested that the precautionary measures be lifted. On November 3, 2014, the Commission forwarded it to the representation and requested its observations. On September 8, 2015, the State reiterated the request to lift the measures, which was forwarded to the representation on September 22, 2015. On June 14, 2016, the representation provided additional information, which was forwarded to the State on June 23, 2016. On August 18, 2016, the representation provided additional information. On September 27, 2016, the State provided additional information upon requesting a timeline extension on July 28, 2016 and reiterated its request to lift the precautionary measures. On October 5, 2016, the representation provided information.

7. On January 8, 2017, the Commission requested information from the State. On March 14, 2017, the Commission requested updated information from the parties. On March 16, 2017, the State reiterated its request to lift the measures. On May 17, 2017, the State requested a time extension and responded on June 8, 2017, reiterating its request to lift the measures. The State's communication was forwarded to the representation on August 24, 2017.

8. On May 31, 2019, the representation provided additional information. On March 6, 2020, the State provided additional information and reiterated its request to lift the measures. On June 18, 2020, the representation provided additional information. On September 11 and December 3, 2020, the State reiterated its request to lift the measures. The Commission sent it to the representation on January 12, 2021 for its observations. On March 3 and June 17, 2021, the State reiterated its request to lift the measures. On July 31, 2021, the representation provided additional information.

A. Information provided by the State

9. On July 17, 2012, the State indicated that the Human Rights Coordinator of the Bucaramanga Metropolitan Police contacted beneficiary Yolanda Gómez Torres so that she could tell her version of the events that occurred on June 6, 2012. Consequently, the National Police carried out various actions: the Police moved to the scene of a fight in which they found a group of people beating the beneficiary man, the police officers protected his life by removing the aggressors from the place, he was transferred to a care center, and it was reported that the beneficiary man had caused a knife wound to a man some minutes earlier. Therefore, on June 7, 2012, the First Municipal Criminal Judge of Bucaramanga made an accusation and imposition of measures of assurance against the beneficiary for the crime of attempted homicide and he is under investigation by the Office of the Attorney General.

10. On July 1, 2012, the National Police contacted the beneficiary woman to agree on the adoption of security measures. However, she stated that she did not require inspections at her place of residence since she was staying with a relative who lives in a closed complex. On June 27, 2012, safety and self-protection recommendations were transmitted to the beneficiary woman. In addition, she was given the number of the Human Rights Coordinator in case of any incident. A consultation meeting was agreed with the beneficiaries for July 19, 2012. It was reported that the Human Rights Group of the National Penitentiary and Prison Institute (INPEC) asked the Penitentiary and Prison Establishment (EPC) to take the following measures: carry out the corresponding actions to guarantee the life and physical integrity of the beneficiary man and carry out a fortnightly follow-up on him. They reported that on July 9, 2012, he was transferred to the El Girón EPC to provide him with better security and confinement conditions. On July 17, 2012, the State provided additional information informing that it ordered to carry out a Technical Study of Risk Level for Persons Deprived of Liberty at the disposal of INPEC and the Director of the El Girón Prison Establishment was ordered to apply preventive measures to guarantee the life and integrity of the beneficiary man.

11. On September 21, 2012, the State stated that the INPEC reported that the pertinent steps had been taken to have the beneficiary attend an orthopedic assessment appointment. In this regard, on September 14, 2012, he was transferred to IPS MEDICLINICOS to receive the required assistance and it was ordered that the beneficiary attend a new check-up within three months.

12. On February 11, 2013, the State stated that the beneficiary was close to undergo his medical check-up and, therefore, the Health Insurance Entity (EPS) was asked to authorize the said procedure. It was reported that the beneficiary is receiving the care that his state of health demands, for which the Director of the Detention Facility processed medical appointments whenever required. Regarding the alleged attacks that the beneficiary had suffered and were attributed to INPEC officers, these were in response to acts of indiscipline on his part. They reported that regarding the material protection measures adopted in favor of the beneficiary woman, the National Police adopted the following measures: rounds, patrols, and periodic police inspections, safety and self-protection recommendations were transmitted, as well as the telephone numbers of the Commander of the Police station and the CAI closest to the beneficiary's residence.

13. On May 2, 2014, the State reported that as of September 3, 2013, the beneficiary had been at liberty. Through an official statement dated February 21, 2014, the Bucaramanga Metropolitan Police reported that the beneficiary resided in the municipality of Bucaramanga. They reported that the National Police implemented preventive protection measures in favor of the beneficiary consisting of the development of police inspections by the Group for the Protection and Security of People (GUPRO) as well as police rounds to their place of residence, in addition to constant communication by the Human Rights Coordination of the Metropolitan Police. The State reported that there are two judicial investigations in which the beneficiary man would be a victim or complainant: one for the crime of personal injury is inactive, and the other for the crime of threats is active under investigation.

14. On October 21, 2014, the State reported that on February 3, 2014, the National Protection Unit presented an institutional offer of the protection program to the beneficiary. However, no response was obtained. It was specified that on June 23, 2014, a patrol caught the beneficiary in flagrante delicto for the crime of aggravated theft and illegal possession of firearms. It stated that the beneficiary was assigned measures of assurance at the Floridablanca Police station, waiting for the competent authorities to designate a penitentiary and prison facility for his confinement. The State highlighted that, since 2012, there have been no new threatening events, and that, consequently, the situation that led to

the adoption of the precautionary measures disappeared and requested the lifting of the measures. The request to lift the measures was reiterated on September 8, 2015.

15. On September 27, 2016, the State stated that the Police made constant rounds of the beneficiaries' home and that permanent routines were carried out to request identification documents for people and vehicles circulating in the area, and that a liaison patrol had been appointed to meet the requirements of the beneficiaries. The State indicated that the investigating entities were aware of the situation of Mr. José Luis Arenas Sánchez (according to the representation, also the alleged victim of the so-called Chururú Massacre) but considered that the information provided by the representation does not constitute a serious situation presenting a risk. Finally, the State reiterated its request to lift the measures.

16. On March 16, 2017, the State reiterated its request to lift the precautionary measures. On June 8, 2017, the Police maintained direct dialogue with the beneficiary woman, which made it possible to respond to any request in a timely manner. It was indicated that the Police have not received information from the beneficiary woman about events that could put her life and integrity at risk. It reported that the beneficiary man, according to information provided by his mother -the beneficiary woman-, is being held at the Bucaramanga Prison Institute. Moreover, the State reiterated the request to lift the measures.

17. On March 6, 2020, the State indicated that since 2012 there have been no new acts of harassment, threats, or attacks that put the life and personal integrity of the beneficiaries at risk. It reported that the beneficiary man has been deprived of liberty since August 2, 2019 in the Bucaramanga Security Measure Penitentiary Center as a result of the conviction handed down by the 6th Municipal Criminal Court of Cúcuta for the crime of aggravated theft; and that the beneficiary was asked about his situation inside the Penitentiary Center to know if he had been subjected to threatening situations, the beneficiary reported that he was well and had no problems. The State asserted that the beneficiary indicated that in case it is determined in the Risk Assessment carried out by INPEC that his situation of risk is extraordinary, he would not authorize the implementation of protection measures, since he considers that his life is not at risk. Finally, the State requested that the measures be lifted. The State reiterated this request to lift the measures by means of a letter dated September 11 and December 3, 2020, and March 3 and June 17, 2021.

B. Information provided by the representation

18. On July 5, 2012, the representation reported that on June 6, 2012, the beneficiary suffered an attack where he received stab wounds, having to be transferred and urgently operated on, which was the subject of an investigation by the Office of the Attorney General. During the said altercation, the representation affirmed that the beneficiary had attacked another person, in an act of self-defense, which led to the imposition of an assurance measure. The representation informed that beneficiary Manuel Junior Cortéz was deprived of his liberty, in pretrial detention, in the Penitentiary and Prison Facility (EPC) *La Modelo* in Bucaramanga. On June 30, 2012, the beneficiary was transferred to the EPC *La Modelo* after his surgeries. The representation reported that he was in the nursing section. It affirmed that the beneficiary's risk is greater in the prison because many inmates are said to be members of the FARC, the group that allegedly perpetrated the massacre of which the beneficiary was the only survivor. The representation further indicated that beneficiary Yolanda Cortéz had initiated a rapprochement with her son's perpetrators, who did not want to reconcile and chose to threaten her by saying that since her son is confined in the EPC, "everything would be arranged." According to the representation, this is

alarming given that one of the brothers of the beneficiary's alleged aggressors is deprived of his liberty in the same prison.

19. On August 22, 2012, the representation reported that the beneficiary woman was concerned about her son's health status as she stated that she was not aware that he was being provided timely medical assistance within the prison. On January 4, 2013, the representation reported that that same day, she had a telephone communication with her son, who told her that he had been attacked by one of the INPEC guards. The representation reported that it would be the second incident of aggression by the INPEC guards, since on a previous occasion, in a transfer to a judicial center, he had also been attacked, presumably by the same guard. The representation indicated that he had received medical attention regarding the infection caused in his injured arm, but that he had reported that he was having constant fainting spells, and that to help him, the infirmary was giving him sedatives that made him sleep but later made it difficult for him to wake up and being alert. The beneficiary woman expressed her concern regarding the beneficiary man's psychological situation. She stated that the National Police have been aware of her security situation, but that they are doing the check less frequently. She reported that in December 2012 there were two very strange incidents that made her nervous: a man approached her home and asked if she was Yolanda Gómez. When she answered yes and asked what he needed, the man boarded a motorcycle and left. The second event occurred 8 days after the first one. She indicated that someone violently knocked on the door asking for Yolanda Gómez. She pretended to be someone else and informed him that Yolanda was absent. The man insisted, saying that they open the door, that he came to charge her a bill. She was silent and waited for the man to leave. Then, she informed the police, who showed up the following day.

20. On April 27, 2013, the representation reported that the beneficiary woman stated that her son called her informing her of the arrival of a new inmate at the prison. According to the representation, the said inmate is a member of the guerrilla and was recognized by the beneficiary man as one of the people involved in the Chururú Massacre. The inmate reportedly approached him, threatening him by saying, "Now I am going for you."

21. On June 14, 2016, the representation provided information stating that allegedly one of the victims of the Chururú Massacre (José Luis Arenas Sánchez) was alive and had been recruited by the guerrilla. The representation expressed the need to keep the measures in force and even extend them to other persons such as Ms. Marisol Vega Sisa, a relative of one of the victims of the massacre, because the perpetrators of the massacre know the location of the relatives of the victims of the massacre. On August 18, 2016, the representation reported that Ms. Marisol Vega Sisa had stated that she saw strange men near her home, who were following and observing her. They reported that, according to the beneficiary woman, the Police made inquiries as to whether Mr. José Luis Arenas Sánchez was alive.

22. On October 5, 2016, the representation reported that on August 18, 2016, Ms. Marisol Vega Sisa had to leave her home because two suspicious men who were hanging around entered her business and forcibly began to demand that she accompany them. It also reported that beneficiary Yolanda Gómez Torres began to receive threats from armed groups or criminal gangs, in which they extorted her and warned her that it is better for her son -the beneficiary man- not to return to the neighborhood where they live.

23. On May 31, 2019, the representation reported that the beneficiary was concerned about her son's mental health, because it has worsened, and he does not have the possibility of receiving due specialized medical care from the State. On June 18, 2020, the representation indicated that the beneficiary man was seriously injured at the EPC la Modelo in Bucaramanga, and his life would be in

danger. Finally, the representation provided additional information, in which they request urgent intervention for the beneficiary man. The representation reported that since June 25, 2020, he has been at liberty and that on July 31, 2021, he received several stab wounds while stealing the motorcycle on which he was traveling. As a result, the beneficiary is in the intensive care pending surgery, waiting for a shift or logistical availability.

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

24. 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 irreparable harm to persons.

25. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that the precautionary and provisional measures have a double nature, both precautionary and protective. Regarding their 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. 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.

26. 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 keep, modify or lift the precautionary measures in force." In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. 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.

27. 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.³ In this sense, when no imminent risk is identified, the burden of proof and

³ I/A Court H.R., Provisional Measures regarding Mexico, Order of February 7, 2017, para. 16 and 17. Available [in Spanish] at http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf

argument increases over time.⁴ The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures.⁵

28. In this matter, the Commission recalls that the precautionary measures were granted to Manuel Junior Cortéz Gómez and Yolanda Gómez Torres. Regarding such persons, the IACHR asked the State of Colombia to protect their rights to life and personal integrity and to report on the actions taken to investigate the events that led to the adoption of the precautionary measures (*vid. supra* para. 3). The Commission considered in its assessment alleged threats against him, given his collaboration with the courts, seeking to clarify the facts of the so-called Chururú Massacre (*vid. supra* para. 2). Subsequently, the Commission received information from both the State and the representation.

29. Next, it is analyzed, first, the implementation of the precautionary measures, and secondly, whether the risk persists pursuant to Article 25 of the IACHR Rules of Procedure. Given that both the representation and the State referred to other persons who are not beneficiaries of these precautionary measures (such as Marisol Vega Sisa or José Luis Arenas Sánchez), the Commission specifies that it will focus its analysis on the two beneficiaries of these precautionary measures: Manuel Junior Cortéz Gómez and his mother Yolanda Gómez Torres.

- *Implementation of these precautionary measures*

30. These precautionary measures have been in force for approximately nine years, and the State of Colombia adopted various measures of protection and attention to beneficiary Manuel Junior Cortéz Gómez, whether he was deprived of his liberty or at liberty; and measures in favor of his mother. The Commission also highlights that the State held consultation meetings in July 2012 (*vid. supra* para. 10).

31. In the case of *Manuel Junior Cortéz Gómez*, the Commission highlights the following actions taken by the State in his favor:

- After being deprived of his liberty in 2012 for the crime of attempted murder (*vid. supra* para. 9), the State took the corresponding actions to guarantee the rights of the beneficiary, after an analysis of the risk; he was transferred to another penitentiary where he would have better security and confinement conditions; received medical attention; and a fortnightly follow-up was carried out on the beneficiary (*vid. supra* para. 10-12).
- After having been released in 2013, the State reported on the adoption of preventive protection measures in favor of the beneficiary, consisting of the development of police inspections by the Group for the Protection and Security of Persons, as well as police rounds to his place of residence, and constant communication by the Human Rights Coordination of the Metropolitan Police (*vid. supra* para. 13). In 2014, the State offered the beneficiary access to the protection program, but no response was obtained (*vid. supra* para. 14).
- Subsequently, the beneficiary was arrested in 2014 for having committed flagrante delicto the crime of aggravated theft and illegal possession of firearms and placed at the disposal of the competent authorities (*vid. supra* para. 14). Subsequently, the State reported that on August 2, 2019, the beneficiary was sentenced to prison for the crime of aggravated theft (*vid. supra* para. 17). The State specified that, after asking the beneficiary, “the beneficiary reported that he was well and that he had not had any problems.” The State reported that the beneficiary indicated

⁴ *Ibid.*

⁵ *Ibid.*

that he would not authorize the implementation of protection measures because he considers that his life is not at risk in the penitentiary (*vid. supra* para. 17).

32. In the case of the beneficiary's mother, *Yolanda Gómez Torres*, the State offered to agree upon security measures (inspections at her place of residence) in 2012, but that she did not consent to have them carried out since she was at another address (*vid. supra* para. 10). At the same time, the State offered her the number of the internal authority to report any incident (*vid. supra* para. 10). Subsequently, by 2013, the following measures were purportedly implemented: rounds, patrols, and periodic police inspections; safety and self-protection recommendations were transmitted; and the telephone numbers of the Commander of the Police Station and the CAI closest to the beneficiary's residence were shared (*vid. supra* para. 12). In 2016, the State stated that the Police made constant rounds of the beneficiaries' home and carried out permanent routines of requesting identification documents of people and vehicles that circulated in the area; and that a liaison patrol has been appointed to meet the requirements of the beneficiaries (*vid. supra* para. 15). On June 8, 2017, the Police maintained direct dialogue with the beneficiary woman, which made it possible to respond to any request in a timely manner (see *supra* para. 16). Regarding the investigations launched, the State reported on their status and the corresponding progress (*vid. supra* para. 13).

33. For its part, the Commission observes that, between 2012 and 2013, the representation continued to raise questions regarding possible threats or questioning of certain medical care to beneficiary Manuel Junior Cortéz Gómez. In 2016, the beneficiary woman indicated that she had received a threat. Whether in those alleged events of 2012-2013 or in that of 2016, the Commission notes that the representation did not provide specific details in this regard. Therefore, the Commission observes that the information provided by the representation has been, over time, of a general nature and does not allow such allegations to be adequately analyzed. Neither is it sufficient to disprove the measures adopted by the State over time in favor of the beneficiaries. In any event, the Commission observes that the representation itself acknowledged that beneficiary Manuel Junior Cortéz Gómez received medical attention or that the national police were attentive to the safety of beneficiary Yolanda Gómez Torres (*vid. supra* para. 19). Finally, the representation indicated that the beneficiary has been at liberty since June 25, 2020 (*vid. supra* para. 23).

34. Having forwarded information between the parties and requested information several times, the Commission observes that the only most recent alleged events reported by the representation have been two:

(i) on June 18, 2020, the beneficiary was seriously injured in prison and the representation indicated that his life was at risk. However, later, the representation reported that the beneficiary had been released and they did not provide further allegations about the alleged risk to his life after he was reportedly injured in prison.

(ii) on July 31, 2021, the beneficiary, already at liberty, was reportedly injured while the motorcycle on which he was traveling was stolen. As a result, according to the representation itself, the beneficiary was treated in the intensive care unit awaiting surgery, which would be scheduled depending on the shift or logistical availability.

35. When analyzing these two alleged facts, the Commission observes that the representation did not furnish sufficient information to analyze how the beneficiary is at risk after the alleged serious injury on June 18, 2020, and while he was deprived of his liberty. In any event, the Commission observes that the beneficiary was released on June 25, 2020, and the representation stopped providing details regarding his health situation or the alleged risk that he previously claimed. Regarding this alleged event

of June 2020, the Commission does not find elements to indicate that the beneficiary was in fact at risk under the terms of Article 25 of the Rules of Procedure. Regarding the alleged event of July 31, 2021, the Commission observes that the representation indicated that the beneficiary was injured while his motorcycle was stolen, after which he was referred to receive medical attention in intensive care, while waiting for a surgery. In this regard, the Commission notes that, after having been released, the beneficiary was wounded in a robbery after which, according to the representation itself, he received medical attention in the specialty of intensive care and a surgery had been scheduled, which reportedly shows, in principle, that he is receiving the corresponding attention from the State. The Commission observes that it has not been alleged that the State has refused to provide him with medical care or that the beneficiary is not receiving the corresponding medical care, as prescribed by the internal medical authorities. In any case, the Commission notes that, according to the information available, the beneficiary receives medical attention, and a surgery has been scheduled, that he is awaiting his turn to be operated on. In this sense, with respect to the alleged event of July 2021, the Commission also does not identify a situation presenting a risk under the terms of Article 25 of the Rules of Procedure.

36. In summary, the Commission observes that, after the implementation of the precautionary measures by the State, the beneficiaries are no longer be in the same situation that was assessed at the time by the Commission to grant these measures. In the same way, the Commission calls on the State to continue implementing measures in favor of the persons identified in the terms established by the American Convention and international standards.

- *Compliance with the requirements of Article 25 of the Rules of Procedure*

37. The Commission observes that the State has requested the lifting of the precautionary measures since May 2, 2014 and has reiterated the said request on at least 10 occasions: on October 21, 2014; September 8, 2015; September 27, 2016; March 16 and June 8, 2017; March 6, September 11, and December 3, 2020; and March 3, and June 17, 2021. The request to lift the measures was forwarded to the representation in the terms of Article 25(9), subsequently receiving its responses over time. Additionally, the Commission recalls that when a State requests the lifting of a precautionary measure, it must present sufficient evidence and arguments to support its request.⁶ By the same token, the representatives of the beneficiaries that want the measures to continue must present evidence of any reasons why.⁷

38. Considering the analysis carried out on the implementation of these measures in the previous paragraphs, the information available in the file, and in response to the 11 requests to lift the State, the Commission understands that the factual circumstances that motivated the granting of these precautionary measures in favor of the beneficiaries have changed significantly.

39. In this sense, the Commission understands that the State of Colombia has implemented these precautionary measures considering the specific situation of the beneficiary, whether he was at liberty or deprived of it throughout the term of this matter. The Commission understands that the protection options offered to the beneficiaries have responded to the alternatives inherent to the State's internal law, and in that sense, it understands that they have been implemented based on the coordination carried out with the representation or beneficiaries. Thus, the Commission observes that the State has sought to respect the opinion and consensus of the beneficiaries at the time of implementing these precautionary measures. The Commission positively values that the State has sought to implement these precautionary measures in good faith over time in light of the circumstances of the beneficiaries. Thus,

⁶ Ibid.

⁷ Ibid.

the Commission considers that there are no elements to indicate that the State is not going to adopt the corresponding measures in favor of the beneficiaries in the future, as it has been doing over time.

40. In the same way, the Commission observes that no concrete and current incidents have taken place in the terms of Article 25 of the Rules of Procedure to indicate that the beneficiaries are at imminent and serious risk to their rights. The alleged events reportedly occurred mainly between 2012 and 2016, but they were described by the representation in a general manner and without specific details. Thus, the Commission considers that, according to the information available, it is not possible to identify any situation that indicates compliance with the requirements of Article 25 of the Rules of Procedure at present. In view of the above and taking into account the exceptional and temporary nature of precautionary measures,⁸ the Commission deems it appropriate to lift these precautionary measures.

41. Finally, the Commission highlights 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 continue respecting and guaranteeing the rights recognized therein, including the life and integrity of Manuel Junior Cortéz Gómez and Yolanda Gómez Torres.

V. DECISION

42. The Commission decides to lift the precautionary measures granted in favor of Manuel Junior Cortéz Gómez and Yolanda Gómez Torres in Colombia.

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

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

45. Approved on September 1, 2021 by: Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice President; Flávia Piovesan, Second Vice President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; Joel Hernández García; and, Edgar Stuardo Ralón Orellana, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary

⁸ 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