
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 75/2021**

Precautionary Measure No. 259-16
N.G.R. and nuclear family regarding Honduras
September 7, 2021
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures at hand in favor of N.G.R. and his nuclear family. At the time of making the decision, the Commission observes that, according to the information available, Mr. N.G.R. has “permanently” left the national territory since 2018. The Commission assessed the actions taken by the State, as well as the observations provided by the beneficiary’s representation up to 2019. However, it considered that the requirements of Article 25 of the Rules of Procedure are no longer met, given that the beneficiary is not in the country.

II. BACKGROUND INFORMATION

2. On November 3, 2016, the IACHR decided to request the adoption of precautionary measures in favor of N.G.R., mayor of the municipality of Jutiapa, department of Atlántida, and his family, in Honduras. The request alleged that Mr. N.G.R. was being subjected to threats, acts of violence, and intimidation. In particular, it was indicated that, between 2011 and 2013, unidentified individuals belonging to criminal structures, as well as members of the State security forces, had allegedly perpetrated five attacks using large-caliber firearms. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requested that Honduras: a) adopt the necessary measures to preserve the life and personal integrity of Mr. N.G.R. and the identified members of his family; b) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.¹

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

3. Upon granting the precautionary measures, the Commission requested information from the parties². The State submitted information on November 28, 2016, and June 18 and 19, 2019. The representation responded on July 29, 2018; February 20, 2019; and August 15, 2019.

A. Information provided by the representation

4. In December 2016, the beneficiary met with the State and agreed on the following points: request the company, as a security escort, of a member of the national police or preferably the military police; the State promised to continue investigating and prosecuting some of the cases against the

¹ IACHR, Resolution No. 55/16, PM 259-16, N.G.R. and family, Honduras. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2016/mc259-16-es.pdf>

² The IACHR requested information from the parties on July 25, 2018; May 16, 2019; and July 22, 2019.

beneficiary's family; and the assignment of a departmental liaison for a police officer to follow up on his case. The representation indicated, without providing any details or specific facts, that the beneficiaries continued to receive threats, some of them from the police. The representation furnished questions to the State regarding the implementation of the precautionary measures. In particular, the representation indicated that "a motorcyclist" was the only person he had as part of his security. According to the representation, the beneficiary was not authorized to carry weapons, because the police chiefs indicated him that it could entail legal problems for him.

5. In 2019, the representation reiterated previous agreements, which were purportedly not fulfilled. In general, the representation also indicated that "persecution and threats have increased." It was further indicated that several family members were raised "a series of false associations by police authorities." The representation questioned that their complaints have not been processed. It also stressed the State's failure to comply with the precautionary measures.

6. Lastly, in December 2018, the beneficiary and his family left the country "permanently," because they were informed of a plan to murder him inside the Atlántida Hospital in La Ceiba, where weapons had been purportedly confiscated³.

B. Information provided by the State

7. In 2016, the State reported that a communication was held with the beneficiary on November 24, 2016 to implement these precautionary measures. A meeting was scheduled in Tegucigalpa for November 28, 2016. This meeting was postponed due to bad weather. At the same time, the State emphasized that a meeting with the beneficiary had already taken place on May 20, 2016. It was stressed that, from February 7, 2012 to February 7, 2016, the beneficiary was assigned a permanent police officer. The security measure was suspended for resting purposes, given that the police officer had allegedly resulted seriously injured in an attack.

8. In 2019, the State answered questions from the representation and indicated that it had agreed with the beneficiary the following measures: police liaison in the area to a sufficient extent to make decisions for emergency cases regarding the beneficiary; patrols at his home where the medical clinic where he works also operates, with the signing of a control book after 4:00 p.m., and at any time on weekends; and specific accompaniments with enough notice time: 24 hours for local trips and 48 hours when leaving the Department of Atlántida. Regarding the issue of carrying weapons, the State indicated that the beneficiary should comply with the provisions of the Act to control the handling of guns, explosives, and the like.

9. The State also specified various agreements reached in the meeting with the beneficiary. In particular, the State indicated that it undertook to make representations before the General Directorate of the National Police, as well as before the Secretariat of National Defense to see the possibility of assigning a security escort, which was purportedly carried out. Regarding the investigations, the State indicated that it is the Prosecutor's Office that has jurisdiction. With regard to the police liaison, the State specified that this is intended for situations presenting a risk, not to follow up on his case. At the same time, and regarding the representation's allegations (see *supra* para. 6), the State indicated that in

³ It was also indicated that the beneficiary's wife and daughter are receiving psychological treatment after being diagnosed with post-traumatic stress disorder.

2018 there was no seizure of weapons at the Atlántida Hospital, according to reports from the Online Police Statistical System (SEPOL).

10. Lastly, the State indicated that, according to the immigration records of the beneficiary, on December 12, 2018 he left the country bound for Costa Rica, and since then he has not registered entry into the country, “therefore, the implementation of protection measures provided by the National Police is rendered moot given that the beneficiary is outside the jurisdiction of the Honduran authorities.”

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

11. 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.

12. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. 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.

13. 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 periodically evaluate, 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. Furthermore, it shall consider whether there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.

14. As a preliminary matter, the Commission recalls that the representatives of the beneficiaries that want the measure to continue must present evidence of the reasons why⁴. While the assessment of

⁴ 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

the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation⁵. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time⁶. Similarly, according to Article 25, subparagraph 11, the Commission may lift or review a precautionary measure when the beneficiaries or their representatives unjustifiably fail to provide the Commission with a satisfactory response to the requests made by the State for its implementation.

15. In analyzing this matter, the Commission recalls that these precautionary measures were granted in 2016 to adopt the necessary measures to preserve the life and personal integrity of Mr. N.G.R. and the identified members of his family, in Honduras.

16. Upon having granted the precautionary measures, and throughout the follow-up by the Commission, the State sent reports referring to the consultation actions undertaken in favor of the beneficiary and his family, as well as the agreements reached in the framework of the implementation of these measures (see *supra* para. 7-10). For its part, the representation confirmed the agreements reached and produced its understanding on how they should have been implemented (see *supra* para. 4). Although the representation indicated that the “threats” continued, the Commission notes that the said reference was made in a general way, without indicating details of the time, manner, or place, which would be necessary in order to analyze a specific situation currently presenting a risk for him. Despite the requests for information made, the representation did not furnish further details in this regard, since 2019.

17. After no longer being the mayor of the municipality of Jutiapa, department of Atlántida, the only most recent reference to threats dates to 2018 and indicates the existence of a plan to assassinate the beneficiary, which is why he allegedly decided to leave the country “permanently.” Upon reviewing the latest communications from the parties, the Commission observes that both of them indicate that the beneficiary has indeed been outside the country since 2018, and there is no record of his entry into the territory of the State of Honduras. In this sense, the Commission understands that the State cannot adopt protection measures outside its jurisdiction after he has left the country, given that it is materially impossible.

18. When analyzing the situation of persons who have left the territory of a State that was requested to implement international protection measures, the Commission recalls that the Inter-American Court has indicated, within the framework of provisional measures, that

“Regarding the foregoing, it should be noted that the *effet utile* of the provisional measures depends on the real possibility that they could be implemented. Regarding the indicated beneficiaries, there is a material impossibility for the State to comply with the provisional measures over territories where it lacks sovereignty, without, on the other hand, the representatives having expressed the intention of the beneficiaries to return to the country. Additionally, there is no record of any new serious events that put their life and personal integrity at risk. For these reasons, the Court considers that it is appropriate to lift the provisional measures regarding these persons”⁷.

⁵ Ibid.

⁶ Ibid.

⁷ I/A Court H.R. Matter of Luisiana Ríos *et al.* regarding Venezuela. Provisional Measures. Order of the Inter-American Court of Human Rights of August 22, 2018. Considerandum 4 Available [in Spanish] at https://www.corteidh.or.cr/docs/medidas/rios_se_10.pdf

19. In view of the analysis carried out and considering that the beneficiary allegedly no longer holds the office of mayor and has “definitively” left the territory of Honduras, along with his family, the Commission understands that the factual circumstances that motivated the granting of these precautionary measures in favor of the beneficiary and his family have changed significantly. Thus, the Commission considers that, according to the information available, it is not possible to identify any current situation that would support compliance with the requirements of Article 25 of the Rules of Procedure, while approximately more than 3 years have elapsed since his “definitive” departure from the national territory. 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.

20. Lastly, and in line with what was indicated by the Inter-American Court in various matters,⁹ a lifting decision does not imply considering, in any way, that the State has effectively complied with the precautionary measures ordered, nor can it imply 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 may be established. In the same way, also based on the assessment of the Inter-American Court, the lifting of or the declaration of non-compliance with the precautionary measures does not imply an eventual decision on the merits of the controversy if the case were to be brought before the Inter-American System through a petition, nor does it prejudice state responsibility for the events denounced.¹⁰

V. DECISION

21. The Commission decides to lift the precautionary measures granted in favor of N.G.R. and his nuclear family in Honduras.

22. The Commission emphasizes that regardless of the lifting of these measures, in accordance with Article 1(1) of the American Convention, it is the obligation of the State of Honduras to respect and guarantee the rights recognized therein, including the life and personal integrity of N.G.R. and his nuclear family.

23. 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.

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

⁹ See: I/A Court H.R. Matter of Velásquez Rodríguez. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, Considerandum 3, and Matter of Giraldo Cardona *et al.* Provisional measures regarding Colombia. Resolution of the Inter-American Court of Human Rights of January 28, 2015, Considerandum 40.

¹⁰ See: I/A Court H.R. Matter of Guerrero Larez. Provisional Measures regarding Venezuela. Resolution of the Inter-American Court of Human Rights of August 19, 2013, Considerandum 16, and Matter of Natera Balboa. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, considerandum 16.

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

25. Approved on September 7, 2021, by Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay; Esmeralda Arosemena de Troitiño; Edgar Stuardo Ralón Orellana; and Joel Hernández García; members of the IACHR.

Tania Reneaum Panszi
Executive Secretary