
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 31/2022**

Precautionary Measure No. 886-21
Sebastián Quiñónez Echavarría regarding Colombia¹
July 8, 2022
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Mr. Sebastián Quiñónez Echavarría in Colombia. At the time of making the decision, the Commission notes that the fate and whereabouts of the beneficiary have been identified. In this regard, since his whereabouts had been determined, the IACHR regretted the death of Sebastián Quiñónez Echavarría and, by virtue of the change in circumstances, it considered that the measures had been rendered moot, given that the requirements of Article 25 of the Rules of Procedure were not fulfilled.

II. BACKGROUND INFORMATION

2. On October 6, 2021, the IACHR granted precautionary measures in favor of Sebastián Quiñónez Echavarría whose whereabouts were unknown.² Upon identifying compliance with the requirements of Article 25 of the Rules of Procedure, the Commission requested that the State of Colombia: a) adopt the necessary measures to determine the whereabouts and fate of Sebastián Quiñónez Echavarría, in order to protect his rights to life and personal integrity; and b) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent them from reoccurring.³

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

3. While the precautionary measures were in force, the Commission has followed-up on the situation that is the subject matter of these precautionary measures by requesting information from the parties. On October 21 and 26, 2021, the State sent its response. On December 13, 2021, the beneficiary's representation sent their response. On January 27, 2022, the Commission requested updated information from the parties on the current situation of the beneficiary. On January 31, 2022, the representation presented their response. On April 13, 2022, the State submitted its response and indicated that it deployed the necessary measures to determine the whereabouts and fate of Sebastián Quiñónez Echavarría.

4. On May 9, 2022, the Commission forwarded the information sent by the State to the representation. The IACHR requested the representation to present "relevant information to analyze the matter under the terms of Article 25 of the Rules of Procedure of the IACHR." The representation did not provide any response.

A. Information provided by the State

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

² According to the information provided by the representation, Sebastián Quiñónez Echavarría, a soldier of the Armed Forces, disappeared on August 23, 2021, after leaving the Lower Anchicayá Military Base, where he was on duty. Since that day, his whereabouts or location were unknown.

³ IACHR, [Resolution No. 81/21, MC-886-21, Sebastián Quiñónez Echavarría regarding Colombia](#), October 6, 2021.

5. On October 21 and 26, 2021, the State sent information indicating the different actions carried out to find the whereabouts of the beneficiary.⁴ On April 13, 2022, the State reported that, in coordination with the Office of the Attorney General of the Nation and the Technical Investigation Corps, on February 28, 2022, it was possible to establish the location of the beneficiary's corpse.⁵ Subsequently, the specialized staff of the Southwest Regional Branch of the Forensic Services Sub-Directorate of the National Institute of Legal Medicine and Forensic Sciences identified this corpse as that of Sebastián Quiñónez Echavarría, by means of a comprehensive forensic analysis. On March 15, 2022, the beneficiary's body was handed over to his relatives.

6. The State stressed its commitment to continue taking action to investigate the facts that gave rise to the precautionary measures, and to prosecute and punish the possible perpetrators. In particular, it was indicated that the National Army opened a disciplinary inquiry⁶ and that the Ministry of Defense has complied with the judicial orders of the Criminal Chamber of the Buga High Court and has forwarded the information required by the Fourth Specialized Prosecutor's Office of Buenaventura.⁷

B. Information provided by the representation

7. On December 13, 2021, the representation questioned the omission of the Ministry of Defense to deliver the information required to clarify the facts, as well as the lack of timely response from the Attorney General's Office. This led to the representation filing an Amparo Action against the Army and the Attorney General's Office in order to access the evidentiary material. According to the representation, despite the fact that the Amparo Action was denied, the Criminal Chamber of the Superior Court of Buga, by decision of November 12, 2021, ordered the Ministry of Defense to deliver video surveillance cameras to the Fourth Specialized Prosecutor's Office of Buenaventura. However, as of the date of the communication, the court order had not been complied with by the above-mentioned public institutions. The representation requested that the State be urged to comply with its treaty obligations regarding the duties to investigate crimes and administer justice, and consequently comply with the aforementioned court order of November 12.

8. On January 31, 2022, the representation confirmed that the activities allegedly carried out by the Municipality of Dagua had not occurred: there was no assistance whatsoever from the said sectional government and they had not been received by the Municipal Ombudsman, who had called them to an appointment. They also indicated that the Ministry of National Defense had not delivered the videos of the

⁴ The State indicated that on September 7, 2021, and September 15, 2021, an Extraordinary Departmental Security Council and an Ordinary Municipal Security Council were held, respectively, in order to articulate actions between the different authorities of the Department of the Valle del Cauca and the Municipality of Dagua to find the beneficiary's whereabouts. The Municipal Administration of Dagua also carried out a dissemination through social networks on the disappearance of the beneficiary in order to obtain information on his whereabouts. For its part, the Attorney General's Office and other agencies, such as the Judicial Police and the Institute of Legal Medicine, have contacted the complainant of the disappearance, disseminated the fact through the local media, created a criminal register, sent requests for information to the Armed Forces, inspected the scene of the events, and carried out other investigative measures. Finally, it was reported on the actions carried out by the Military Forces to find the beneficiary, who was serving in the Colombian National Army. These actions included contact and accompaniment of the beneficiary's family, inquiries with the public transport company that offers service in the sector of the Lower Anchicaya Military Base, inquiries with the personnel of the base, the activation of information search protocols, requesting inter-institutional support from the Attorney General's Office, the Attorney General's Office, the Comptroller General's Office, and the Commander of the Queremal Fire Station, requests for information from clinical centers and banking entities, verification patrols and search for information in the sector of the urban and rural area of the Queremal district.

⁵ The location of the beneficiary's body would have been facilitated by the intelligence work and interviews carried out by the National Army with members of the Residual Organized Armed Group "Jaime Martínez", who were allegedly apprehended after a military offensive on January 11, 2022.

⁶ Disciplinary Inquiry No. 071-2021 opened by the Third Brigade of the National Army.

⁷ Decision of the Superior Court of Buga Criminal Chamber of November 12, 2021.

security cameras despite the existing judicial order and a new request made by the Fourth Specialized Prosecutor's Office of Buenaventura on December 21, 2021. The Prosecutor's Office also requested the same videos from the Company Celsia Colombia S.A. ESP, because this is institution that reportedly handles the security cameras of the hydroelectric complex where the *Bajo Anchicaya* Military Base is located, from which the beneficiary purportedly left alive. The representation also reported on the filing of a criminal complaint with the Attorney General's Office against public officers and other persons for the crimes of concealment and fraud to judicial resolution, due to the failure to deliver the videos and other evidentiary material requested by the judicial authorities. The representation indicated that the beneficiary's relatives had to move from their place of residence because they were being monitored by the National Army.

9. Lastly, the representation reiterated their request to urge the State to move forward with investigations to find the beneficiary and to prosecute and punish the persons involved in his disappearance in accordance with international standards.

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

10. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

11. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional measures have a dual nature, protective and precautionary.⁸ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁹ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.¹⁰ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. The precautionary nature aims at safeguarding the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely

⁸ See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures, Order of July 6, 2009, considerandum 16.

⁹ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

¹⁰ See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

affect the useful effect of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, 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.

12. 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) sets forth 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 assess if the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider whether new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

13. As a preliminary point, the Commission recalls that in the instant proceeding it is not appropriate to determine violations of the rights recognized in the American Convention on Human Rights, such as violations of due process or personal liberty. By the Commission’s own mandate, it is also not for the Commission to determine either individual criminal liabilities as regards the events reported in this proceeding. The analysis performed hereinbelow by the Commission is exclusively related to the requirements of seriousness, urgency, and risk of irreparable harm set forth in Article 25 of its Rules of Procedure, which can be resolved without making any determinations on the merits that pertain to a petition or case.

14. The Commission has followed up the matter at hand through requests for information from the parties. In this context, following the information provided by the State on the identification of the beneficiary’s corpse, the IACHR requested information from the representation and informed it that an analysis of the validity of this case had been carried out in accordance with Article 25 of its Rules of Procedure. Following the request for information, the Commission received no reply from the representation.

15. In this regard, the Commission notes that these precautionary measures were granted with the purpose of “adopting the necessary measures to determine the whereabouts and fate of Sebastián Quiñónez Echavarría, in order to protect his rights to life and personal integrity”. In this regard, the Commission has taken note of the various steps taken by the State in the search for the whereabouts of the beneficiary. Thus, once the comprehensive forensic identification by the State has been carried out, the Commission notes that there is no doubt that the human remains found on February 28, 2022, correspond to the body of Sebastián Quiñónez Echavarría. The representation has not questioned the allegations made by the State, despite having been asked for their observations in this regard.

16. The Commission regrets the death of young Sebastián Quiñónez Echavarría and, in view of the change in circumstances, considers that the measures have been rendered moot, given that the

requirements of seriousness, urgency and need to prevent a risk of irreparable harm are no longer met. Consequently, it is appropriate to lift these precautionary measures.

17. As indicated in the matter *Santiago Maldonado regarding Argentina*,¹¹ the Commission recalls that, due to the very nature of the precautionary measures' mechanism, it is not in a position to assess the events or arguments that should be analyzed when assessing a petition or case filed before it. Thus, through the precautionary measures mechanism, the Commission will not rule on whether or not the State has acted in accordance with its international obligations, in particular with regard to the investigation that resulted from the lack of knowledge of the whereabouts of Sebastián Quiñónez Echavarría. Those aspects may only be considered by the Commission in the context of an eventual petition.

18. Notwithstanding the foregoing, the Commission considers it pertinent to recall that, in accordance with Articles 8 and 25 of the American Convention, the State of Colombia is obliged to diligently investigate the circumstances that gave rise to the death of the beneficiary. In this sense, it is for the State to exhaustively investigate all the hypotheses that have arisen throughout the course of the investigation, guaranteeing his family relatives and representation adequate participation. Likewise, the Inter-American Commission urges the State to continue the investigation and clarify the circumstances related to the death of Sebastián Quiñónez Echavarría, if applicable, establishing the responsibilities of any kind that may arise, within the framework of its own international standards in the field of human rights.

19. Finally, with regard to the alleged monitoring of relatives of Sebastián Quiñónez Echavarría, the Commission does not have sufficient information to consider that they are at risk within the terms of Article 25 of its Rules of Procedure.

V. DECISION

20. The Commission considers that the precautionary measures granted in favor of Sebastián Quiñónez Echavarría have become null and void. Therefore, the Commission decides to lift the precautionary measures ordered.

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

22. Approved on July 8, 2022, by Julissa Mantilla Falcón, President; Margarett May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Joel Hernández García; and Roberta Clarke; members of the IACHR.

Mario López-Garelli
By authorization of the Executive Secretary

¹¹ IACHR, Resolution 2/18, MC 546-16. Santiago Maldonado, Argentina, Lift, January 13, 2018. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2018/2-18MC564-17-AR-levantamiento.pdf>