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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 13/2023**

Precautionary Measure No. 1127-19

Nadia Alejandra Cruz Tarifa and Nelson Cox Mayorga regarding Bolivia

March 22, 2023

Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Nadia Alejandra Cruz Tarifa and Nelson Cox Mayorga, in Bolivia. At the time of making the decision, the Commission assessed that, according to the information provided, the State has implemented measures for the protection of the beneficiaries and no real and imminent risk event has been presented against them. In addition, the Commission assessed that the context in which the precautionary measures were granted has changed, as well as that the beneficiaries no longer hold the positions they held in the Ombudsperson's Office. In that regard, the Commission considered that, at present, it is not possible to identify an imminent risk situation within the meaning of Article 25 of the Rules of Procedure. Upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these precautionary measures.

**II. BACKGROUND INFORMATION**

2. On December 25, 2019, the IACHR granted precautionary measures in favor of Nadia Alejandra Cruz Tarifa, Ombudsperson, and Nelson Cox Mayorga, Departmental Defense Delegate of Cochabamba (*Delegado Departamental Defensorial de Cochabamba*) and assessed the allegations of threats, harassment, and intimidation against them. These included, among others, third-party attempts to take over the offices, instances when third parties succeeding in taking over the offices, incidents during which the offices were surrounded, 'closures', or 'symbolic closures' of the offices in which they exercise their work, at the hands of third parties and during various periods. These incidents have been an obstacle and impediment in the exercise of their work. The intention was to force the beneficiaries to resign from the position, and also generate a context of stigmatization against them by accusing them of promoting the freedom of people who had been captured for vandalism, as well as accusing them of affinity with a certain political party. Consequently, the Commission requested Bolivia to adopt the necessary measures to protect the rights to life and personal integrity of Nadia Alejandra Cruz Tarifa and Nelson Marcelo Cox Mayorga; adopt the necessary measures to guarantee that the proposed beneficiaries can continue to carry out their work without being subjected to threats, harassment, or acts of violence during the exercise of their duties; consult and agree upon the measures to be adopted with the beneficiaries and/or their representatives; and, report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.<sup>1</sup>

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

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<sup>1</sup> IACHR. [Resolution 67/2019. Precautionary Measure No. 1127-19. Nadia Alejandra Cruz Tarifa and Nelson Cox Mayorga regarding Bolivia](#), December 25, 2019.

3. During the time the precautionary measures were in force, the Commission has followed-up on this situation by requesting information from both parties. The State has submitted reports and observations on the following dates:

2020	January 10 and <sup>2</sup> 21; April 15 (request to lift), October 5 (reiterates request to lift)
2021	August 20 (reiterates request to lift)
2022	September 12 (requests recording of working meeting) and October 21 (reiterates request to lift)

4. For its part, the representation has submitted reports on the following dates:

2020	January 3 and 22; May 29; June 13; July 14; August 17; and November 10 (request working meeting)
2021	January 19 (requests documentation annexed to State reports), February 10; June 3 (request for working meeting)
2022	June 27

5. Furthermore, the Commission has forwarded information and requested information from the parties on the following dates:

2020	April 8 and 29; September 14
2021	January 5 and 26
2022	August 24 and November 15 (only to the State, in response to a request for recording)

6. Lastly, the Commission held a working meeting on June 23, 2021. On August 24, 2022, the Commission requested information from the representation for them to provide their observation. The representation did not provide a response.

7. Representation is exercised by Yamil F. Gonzales Exeni and the beneficiaries themselves.

**A. Information provided by the State**

8. On January 21, 2020, the State indicated that it requested the General Command of the Police (*Comando General de la Policía*) to guarantee the life, personal integrity, and performance of the beneficiaries' daily activities, as well as their protection. They were therefore ordered to provide the beneficiaries with personal and home security (preventive patrol 24 hours a day), and occupational safety (preventive and continuous patrols, motorized and foot patrol services). For its part, the Vice-Ministry of Internal Regime and Police (*Viceministerio de Régimen Interior y de Policía*) indicated that the protection activities carried out to date have not shown significant developments, and that they had not observed any protest, conflict, or protestors that could prevent the performance of their activities.

9. The State indicated that, on January 13, 2020, the Secretary General of the Ombudsperson's Office of La Paz (*Secretario General de la Defensoría del Pueblo de la Paz*) expressed his gratitude to the police for the strengthening the security of the facilities. He further indicated that there

<sup>2</sup> Received on February 11 due to the oversize of the attachments to the mail forwarded in the mail initially sent. When sending the communication from February 11, 2020, the annexes were separated so that it could be received.

was no longer a need to have the presence of their personnel, and therefore requested their withdrawal.<sup>3</sup> He also noted that the beneficiaries could request, as complainants in criminal proceedings, the activation of the Whistleblower and Witness Protection System (*Sistema de Protección de Denunciantes y Testigos*), in order to apply the corresponding protection measures. It was reported that a meeting was held with the beneficiaries on December 31, 2019, but as no concrete measures were reached, a new meeting was therefore pending. Regarding the complaints filed by the beneficiaries, the State indicated that they are being processed. They further stated that, in one of the cases, criminal possession of a weapon or illegal carrying of weapons was charged against a woman. She was being arrested on December 12, 2019, outside the Ombudsperson's Office facilities, with a firearm, a gas grenade, and other elements. Regarding the proceedings for the complaints filed by Mr. Cox, it was indicated that investigative actions continue to be carried out.

10. On April 13, 2020, the State indicated that the new facts presented by the representation in its January 2020 report, in which they also requested that the measures in favor of the public servants of the Ombudsperson's Office and the family units of Cruz and Cox be extended, allegedly does not include any type of public or private documentary support. According to the State, this shows that the beneficiaries intend to discredit the government. As a result, it was requested that the precautionary measure be lifted.

11. The State indicated that a group of protesters peacefully appeared outside the facilities of the Ombudsperson's Office in Cochabamba. They requested the resignation of the Ombudsperson's Office representative, the beneficiary Nelson Cox. It was indicated that there is no record of risk events, nor any records that show the beneficiaries or servers of the Ombudsperson's Office presented themselves to be assessed for alleged physical attacks neither on October 20, 2019, nor on April 7, 2020.

12. In addition, the State reported that the current Ombudsperson is assuming the position without legal support<sup>4</sup> and that the system for judging the Ombudsperson is not applicable to the Departmental representatives of the Ombudsperson's Office, since they are not subject to a process of 'Selection, Election and Designation' \*(*Selección, Elección y Designación*) and are appointed directly by the Ombudsperson, thereby assuming the character of a freely appointed public servant.<sup>5</sup>

13. The State indicated that there was no requirement of seriousness or urgency, and that it carried out the pertinent steps for the protection of the facilities of the Ombudsperson's Office. It allegedly reinforced security measures with constant patrols in the area, from 8:00 a.m. to 1:00 p.m. and 2:00 p.m. to 6:00 p.m., and had no reports regarding protests, conflicts, or groups of protesters attacking personal security and private property.

14. On October 5, 2020, the State indicated that there is no risk against the beneficiaries and that there are no attacks against public servants of the Ombudsperson's Office, in addition to the fact that protection measures have been granted in their favor. In addition, it was reported that despite an initial approach with the beneficiaries, there is currently a lack of willingness from beneficiaries, as they have reportedly expressed repeated refusal and rejection of suggestions and approaches of the national police. In this regard, it was reported that a police officer in charge the beneficiaries' security measures suffered

<sup>3</sup> Annex 5 of the State Report from January 21, 2020, Note DP-SG-UA No. 15/2020 dated January 13, 2020.

<sup>4</sup> The State indicated that the beneficiary Cruz Tarifa is carrying out an interim work in merit to Resolution R.A.L.P. 001/2019-2020 of the Plurinational Legislative Assembly, due to the resignation of the previous Ombudsperson, since this resolution established a maximum period of ninety (90) days to exercise the office.

<sup>5</sup> In accordance with Article 16 of Law 870 'Law of the Ombudsperson' from December 13, 2016, which establishes the applicable trial regime.

ill-treatment by Ombudsperson's Office officials, and his withdrawal was arranged in order to protect his dignity and due to this shunning. The State reiterated its request to lift the measures.

15. In relation to two criminal proceedings against Nelson Cox for breach of duty, following complaints filed by individuals, it was reported that both have a rejection resolution issued on July 9 and September 7, 2020. Regarding the procedures against J.P.R., she was arrested for criminal possession of a weapon or unlawful carrying of a weapon while she was outside the Ombudsperson's Office on December 12, 2019. She has been under indictment since August 24, 2020.

16. Regarding the beneficiary Nadia Cruz, the State reported that, in the process against her for the crime of anticipation or extension of functions [*delito de anticipación o prolongación de funciones*, as per Article 163 of the Bolivian Criminal Code], by complaint filed by A.B.C., a rejection resolution was issued on August 31, 2020. Another process, followed by the Public Ministry at the request of the Vice-Ministry of Institutional Transparency and Fight against Corruption (*Transparencia Institucional y Lucha contra la Corrupción*) is currently in a preliminary stage. It is against the beneficiary Cruz Tarifa and David Alonzo Tezanos Pinto Ledezma for the alleged commission of the crime of breach of duties. In addition, the beneficiary filed a complaint against the Minister of the Presidency and the Deputy Minister of Citizen Security for the alleged commission of the crime Breach of Duties and others, which is currently with a ratified rejection resolution. The State considered that these procedural actions distort biased statements made by the representation.

17. The State pointed out that the alleged facts that gave rise to the precautionary measures are not related to the re-election or, rather, not the election regarding the current president. Nor is it related to the alleged political persecution to which the beneficiaries refer in the letter dated May 29, 2020, which are facts that must be processed in the corresponding instances. Furthermore, it was indicated that in the current context of the pandemic and taking into account the measures adopted by the government, the Commission states that the beneficiaries' alleged risk was not maintained. Any type of harassment or aggression has no grounds, given that the entire population is carrying out a mandatory isolation.

18. The State indicated that, exceptionally, there were protests that were controlled by the police, which were due to the dissatisfaction of some citizens with the biased manner in which the Ombudsperson's Office carries out its work. It was specified that, on August 26, 2020, a group of approximately 30 people, mostly women belonging to the group 'Valkyrie', showed up at the facilities of the Ombudsperson's Office. They demanded the resignation of Ombudsperson Nadia Cruz,<sup>6</sup> but police intervention managed to get the crowd to leave the premises. An Ombudsperson's office official reportedly complained to the police about not having the women arrested. However, they stated that there were only two police officers due to the pandemic and that female police officers were necessary for procedures involving women.

19. Following these events, according to the inter-institutional agreement signed between the State Physical Security Battalion (*Batallón de Seguridad Física Estatal*) and the Ombudsperson's Office, it was indicated that, as of August 27, 2020, only two security officials were expected. This was considered insufficient. It was suggested that the agreement be modified to increase the number of assigned police public servants, as well as other measures to strengthen security. This was reportedly not accepted by the

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<sup>6</sup> The State reported that on the first floor of the facilities, some members of the same group had defaced the doors and walls, and also kicked some doors in an attempt to enter. This allegedly led to insults and verbal aggression between the protestors and some officials.

Ombudsperson's Office.<sup>7</sup> That same day, police reinforcements were requested at the office doors. However, there was only one group of people who deemed themselves 'self-summoned'. They peacefully showed up in support of Ombudsperson Nadia Cruz and left more than an hour later. According to the State, the officials of the Ombudsperson's Office had indicated that they knew who had attacked the premises the previous day, and were therefore suggested to lodge a complaint.

20. The State considered that the representation's statements present contradictions. The State indicates that they request security from the Bolivian police, but then state that the police violates their rights yet do not provide any support for these statements. The request to lift the precautionary measures was filed. This request states that: i) the political context that gave rise to the situation that put the proposed beneficiaries at risk was overcome on November 25, 2020, after a peace agreement between civil and social organizations was signed; ii) the recent protests were duly controlled by the police and security suggestions were made, but denied; iii) the mechanism is not suitable to claim the result of judicial decisions; and, iv) the beneficiaries carry out their work without interruption and use the precautionary measures for political purposes.

21. On October 26, 2020, the State indicated that, despite the fact that the Secretary General of the Ombudsperson's Office requested the police security be increased by adding one female and one male agent; one for the national office and another for the departmental delegation of La Paz, the security force is still reportedly insufficient. There was an alleged increase of one police officer per shift, and in one of the shifts there were reportedly no female personnel, concluding that the beneficiary Cruz Tarifa did not take into consideration the suggestions, observations, and recommendations made by the supervisors of the State Physical Security Battalion Service (*Servicio de del Batallón de Seguridad Física Estatal*). This is especially true regarding the increase of police security personnel and the assignment of a liaison officer for her personal security, among others. The State submitted a copy of the orders of the preventive home patrols at the residence of the beneficiary Cox Mayorga during August and September 2020, as well as the reports regarding patrols in the vicinity of the office facilities of the Ombudsperson's Office, in September. These orders indicate that no new developments have occurred. The request to lift the precautionary measures was reiterated.

22. On August 20, 2021, the State indicated that after the inauguration of Luis Arce Catacora as Constitutional President on November 8, 2020, upon winning the elections of October 18, 2020, the period of 'breach of constitutional order' came to an end, and the institutionality of the Ombudsperson's Office was respected. The request to lift the precautionary measures was reiterated, considering the particular context that took place after the 2019 general elections and which had already ceased. These facts were even reportedly acknowledged by the representation in its letter dated February 10, 2021. It was reported that the Ombudsperson's Office currently has no obstacle in the performance of its tasks, but rather a recognition of its historical work, and that there is no threat, harassment, or act of violence against beneficiaries.

23. By communication dated September 12, 2022, the State requested the IACHR to submit the recording of the work meeting that took place on June 23, 2021.

24. In its latest report dated October 21, 2022, the State indicated that there is no 'systematic state violation against the free exercise of the work of defense' of human rights indicated by the representation. In this regard, the State reiterated that the context in which the precautionary measures

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<sup>7</sup> Such as enabling a small entrance door and not the main one, designating officials from the Ombudsperson's Office to take the temperature of visitors and not leaving this task to those assigned to security, since this distracts from their main work.

were granted is no longer ongoing. It further indicated that there was a ‘return to the democratic state’ after the elections on October 18, 2020. Regarding the alleged lack of response from the Prosecutor’s Office to the Ombudsperson’s Office, it was indicated that a total of 140 requests have been answered between 2019 and September 13, 2022. The Prosecutor’s Office also submitted a report that indicates that, according to the ‘Free Justice System (*Sistema de Justicia Libre*, JL1) (...) it does not process information regarding a complaint or complaint’ in relation to the beneficiaries for acts of sieges or threats of May 25, 2022 or June 7, 2022. It also reported that according to JL1, Nadia Cruz Tarifa does not have records as a direct victim of a crime.<sup>8</sup>

25. In relation to the protests that took place on May 25 and June 7, 2022, the State reported that, in compliance with the applicable legal provisions, prevention and protection actions were carried out. Seven regular police officers are deployed in the facilities of the Ombudsperson’s Office. It was reportedly indicated that, by May 25, 2022, before the facts, 17 police officers were assigned to provide security. By June 7, 2022, the police service which is available 24 hours a day, 7 days a week, was also reinforced. In this regard, it was reported that the protests that took place did not impact the infrastructure or the integrity of the Ombudsperson’s public servants. In addition to the above, it was indicated that there is no complaint indicating otherwise.

26. The State provided specific information on the selection process for the position of Ombudsperson, within the framework in which the Fourth Constitutional Chamber of the Departmental Court of Justice of La Paz (*Sala Constitucional Cuarta del Tribunal Departamental de Justicia de La Paz*) issued a resolution that urged the legislature to session and carry out the stages of the process. It also ‘established that while the election and appointment last, Nadia Cruz Tarifa would continue as Ombudsperson on an interim basis’. In this regard, it was reported that on September 23, 2022, Pedro Francisco Callisaya Aro was elected as Ombudsperson. He took office on September 27, 2022.

27. The State reported that Ms. Nadia Cruz Tarifa is not currently an interim Ombudsperson, nor is Mr. Nelson Cox Mayorga the Departmental Ombudsperson Delegate of Cochabamba. The State indicated that there is no risk against the beneficiaries and reiterated its request to lift the precautionary measures.

## **B. Information provided by the representation**

28. In its communication dated January 3, 2020, the representation reported that a conciliation meeting was held on December 31, 2019. The Attorney General of the State was present, but it was not possible to determine specific security measures. In its observations from January 22, 2020, the representation indicated that harassment and systematic attacks of discredit and persecution against the beneficiaries continue. They alluded to a thematic hearing before the IACHR on March 6, 2020, within the framework of the 175th ordinary session in Haiti. They consider that a hostile and offensive position took place against them by the Permanent Mission of Bolivia to the OAS, the Minister of Justice and Institutional Transparency, and the Attorney General of the State.

29. The representation noted its concern regarding restrictions on human rights. It was indicated that civilians could again surround the Ombudsperson’s Office facilities and generate violence against its employees and users, and therefore the beneficiaries maintain a well-founded fear of intimidation at the hands of the government or its agents. They stressed that the government has the

<sup>8</sup> Communication OF. Cite: FGE/JLP No. 957/2022 of the Attorney General of the State of October 6, 2022, addressed to the Attorney General of the State. Attached to the State report dated October 21, 2022.

instruction to imprison any judge, prosecutor, or lawyer who defends criminals. It also allegedly threatened to ‘imprison’ the members of the Plurinational Legislative Assembly for observing the list of military promotions proposed by the Executive Branch.

30. The representation further indicated that the measures reported by the State regarding compliance have been carried out without the beneficiaries’ consent. Residential, labor, and other patrol measures allegedly represent harassment by police officers and only seek to create apparent evidence of compliance, while the government allegedly continues with its hate speech. They added that the meeting proposed by the State for January 9, 2020, was impossible to comply with, as the beneficiaries responded that ‘the Ombudsperson has a tight work agenda’, and therefore requested that ‘through the formal state channel, a meeting be indicated in which the protection measures provided by the Bolivian State are officially communicated’. In response to the State’s statements to the effect that the representation had not provided any type of support regarding the alleged facts of risk, the representation pointed out that the burden of proof in human rights matters falls exclusively on the State and that the report presented by the Institute of Forensic Investigations could not prove whether or not there was harassment or intimidation against officials of the Ombudsperson’s Office, but that this must be carried out through psychological expert evidence in a criminal proceeding.

31. Lastly, the representation pointed out the government authorities’ disregard of the position and privilege of the Ombudsperson by questioning the legal interpretation of several norms. Regarding the free exercise of their duties, it was indicated that the Executive Branch did not comply with the order in the framework of a process initiated by the Ombudsperson’s Office.

32. The representation questioned the fact that the State has indicated that the beneficiaries can activate the Whistleblower and Witness Protection system, being as the police are part of it and are the ‘recognized aggressors’ against the beneficiaries. As for patrolling and monitoring for the security of the beneficiaries and the facilities, these were not suitable or effective measures. These were reportedly only a method to intimidate and harass the beneficiaries and their families. It allegedly created more insecurity, as a police officer in custody of the facilities reportedly did not even have an official document of designation for this activity.

33. In their report from May 29, 2020, it was added that the State did not provide photographs demonstrating that the patrols were carried out. Specifically, regarding the patrols to Ms. Cruz’s residence, it was indicated that the information provided by the State does not indicate an address in which these patrols were carried out. The beneficiary also was unable to observe these patrols. However, it was reported that during the rigid quarantine due to COVID-19, a doctor and six police officers reportedly went to her residence in order to test her in order to determine if she had COVID. This allegedly sought to expose her on the public road and to her neighbors as a COVID-19 suspect. This reportedly took place on the same day that the Ombudsperson filed a freedom action against former public officials. In addition, they indicated that they had observed police patrols and motorcycles approach the door of the Ombudsperson’s Office every day and at different times. The police officers who were in these vehicles got out, took photographs of themselves next to the building door, and left. The representation considered these irregular acts and denounced them before the Commander General of the Bolivian police on March 17. However, they have not received a response to date.

34. In relation to the assignment of seven police officers in charge of safeguarding the Ombudsperson’s Office facilities, they indicated that they did not guarantee the entrance to the workplace, nor did they protect the physical security of the public servants of the Ombudsperson’s Office. These police officers reportedly only guarded the building. In addition, it was indicated that they represented an

economic expense that was neither foreseen nor possible to sustain over time by the institution that paid for their food expenses. For these reasons, they were thanked for their services and requested their withdrawal.

35. They also pointed out that public protests, which were staged in front of the facilities of the Ombudsperson's Office in La Paz and Cochabamba, had police coordination. Given the violent actions deployed by the protests, the normal operation of the activities of the Ombudsperson's Office was impeded. This, in turn, affected the provision of the service. The representation added that, although the harassment towards the Ombudsperson and the beneficiaries ceased, it was due to the granting of the measures. In addition, the civil groups are still controlled by the government and the proposed beneficiaries fear that, once the strict quarantine is lifted, actions that intend to impede the work of the Ombudsperson will resume. It also indicated that there is reported non-compliance with the procedural deadlines of the complaints filed by the beneficiaries. This allegedly shows the States' unwillingness to clarify and punish those responsible, and it also denies the Public Ministry new criteria of protection in favor of the beneficiaries. In addition, if the measures are lifted, the beneficiaries could not appeal to the internal authorities to assert their rights since, upon being considered enemies of the transitional government, any decision that a judge takes in their favor would be criminalized.

36. On April 23, 2020, the delegate of the Ombudsperson's Office, Nelson Cox, reportedly visited and went with the mayor of Vinto to a hearing. Members of the police force reportedly signalled him and stated that the beneficiary 'must be taken care of'. In subsequent days, he was harassed on social networks for having participated in the hearing. On April 30, 2020, the beneficiary reportedly stated alleged torture committed by police officers against nine citizens. This caused additional 'strange' accusations on social networks, as well as via calls and personal messages (no details were provided). It was mentioned that the beneficiary considers that the police interfered with his cell phones, as police officers informally communicated this to him.

37. In its report dated June 13, 2020, the representation informed that a deputy filed an appeal before the Plurinational Constitutional Tribunal (*Tribunal Constitucional Plurinacional*, TCP) requesting the annulment of all acts of the beneficiary as Ombudsperson for holding the position illegally. It also requested the freezing of the accounts of the Ombudsperson's Office before the Ministry of Economy and Public Finance, as well as the filing of a criminal complaint against the beneficiary for the crime of Anticipation or Prolongation of functions. It was considered that these measures were intended to intimidate the beneficiary and that the mere admission of the complaint would constitute a form of generating pressure on the Ombudsperson at the time of exercising her functions. This would affect the provision of services to the public, which would put society in general at risk and negatively affect the enforcement of human rights.

38. On July 14, 2020, the representation reported that on July 13, 2020, the Vice Minister of Citizen Security held a press conference in which he attacked and discredited both the beneficiary and all the officials of the Ombudsperson's Office. The Minister attempted to not recognize beneficiary Cruz Tarifa as Ombudsperson and alleged the usurpation of functions to criminally prosecute her, despite having immunity and enjoying the prerogatives of a special trial. In this regard, the interpretation of the representation on the regulations applicable to the position and why they consider that the exercise of the position by the beneficiary is legal was argued.

39. In a report dated August 27, 2020, the representation pointed out the non-compliance with the precautionary measures due to the lack of knowledge regarding the 'attacks' against the Ombudsperson. It was also indicated that on July 24, 2020, the Minister of the Presidency made public the

criminal complaint against her for the crimes of prolongation of office and usurpation of functions. The Minister thereby ignored the interim appointment in the position since, to that date, the Plurinational Legislative Assembly has not met to elect a new Ombudsperson. Furthermore, it was mentioned that various entities have returned the normative projects and requests for information made by the beneficiary, which, according to the representation, goes against the defense of human rights. For this reason, the beneficiary Cruz Tarifa filed a criminal complaint against the Minister of the Presidency and the Vice-Minister of Citizen Security for the crimes of Public Instigation to commit a crime, criminal association, breach of duty, Sedition and Impeding or Hindering the Exercise of Functions. This complaint was dismissed as unfounded on August 10, 2020.

40. The representation added that on August 26, 2020, there was an attempt to take over the Ombudsperson's Office facilities. This reportedly shows a serious threat to the rights to life, integrity, and health of both the victims and the employees. The representation requested a follow-up resolution from the IACHR or to evaluate the possibility of processing a request for provisional measures before the Inter-American Court.

41. In its communication dated February 10, 2021, the representation indicated that at no time did the authorities of the previous government agree on the measures to guarantee the life, integrity, health and work of the current beneficiaries. In addition, it was indicated that the documentation related to the police activities had the intention of appearing as State diligence to provide protection measures to the beneficiaries. However, in reality, they were part of a plan to follow up and monitor the activities of the beneficiaries and their families in order to continue their intimidation.

42. Regarding the criminal proceedings brought against Nelson Marcelo Cox, it was reported that all were rejected. This allegedly proves that the reported facts never took place. Regarding the criminal investigations against Nadia Cruz, these reportedly demonstrate that the authorities of the previous government promoted the ignorance of the Ombudsperson and her dependents as one was dismissed, one was rejected, and another is in the preparatory stage.

43. The representation also indicated that after the holding of the national elections on October 18, 2020, 'the institutionality of the Ombudsperson's Office is respected' and 'the Bolivian Police is no longer instrumentalized in a mission of persecution and harassment against the beneficiaries,' as well as that 'there are no longer parastatal groups that represent a threat against the Ombudsperson's Office and its public servants.' It was indicated that, on January 27, 2021, the beneficiary, as Ombudsperson, held a meeting with the Attorney General of the State and 'held a broad participatory and collaborative dialogue, which set common interests and goals for the strengthening of the protection of human rights throughout the national territory'. The applicants requested the Commission to adopt the determination it deems appropriate in order to continue with the precautionary measure in force, taking into account the political transformation that the Bolivian State is undergoing.

44. In its communication of June 3, 2021, the representation requested a working meeting, which took place on June 23, 2021. On June 27, 2022, it sent a new communication. In it, they indicated that there has been no approach of the State after the working meeting on June 23, 2021. Furthermore, the representation again provided their legal considerations on the validity of the mandate of the head of the Ombudsperson's Office. It noted that the interim period must be maintained until the process of designation of a new head person is completed. It was also stated that protests occurred in front of the Ombudsperson's Office which called for the resignation of the current Ombudsperson, both on May 25 and June 7, 2022 (the representation did not provide information on violence or aggression). They stated that members of the Plurinational Legislative Assembly participated in the second protest.

45. The representation indicated that the Prosecutor's Office hinders the work of defending the human rights of the Ombudsperson's Office, by not collaborating in the investigations carried out by the Ombudsperson's Office related to possible human rights violations committed by the Prosecutor's Office itself. It was indicated that the Attorney General's Office and other institutions have denied the mandate of the Ombudsperson. They reportedly indicated that the term for which she is acting on an interim basis has expired given that the six-year term for which the previous incumbent was elected, and on whom she is acting on an interim basis, ended on May 14, 2022.

46. Moreover, it was indicated that threats and hate messages continue against the integrity of the beneficiary Nadia Cruz. To this end, four screenshots were provided: 1) Via direct Facebook message dated August 7, 2020 and February 25 (no visible year), a person named 'Rodrigo' criticized her with embellished words and pointed out that he was going to 'BEAT her to death'; 2) Via direct Facebook message dated February 11, 2021, a person named 'Catherine' criticized her work and insulted her. She reportedly indicating that she should 'stop politicizing' and warned her to 'not be stupid'; 3) in a Tweet via the account 'Bolivia without *Masismo*' dated April 19 (no visible year), it was indicated that the beneficiary should receive 'political death' as well as 'civil death and the contempt of all Bolivians'; 4) various tweets posted from the account 'Tuffi Aré' of April 1 (no visible year) a news article was shared from a person who questioned the nomination of Nadia Cruz for the election for the Ombudsperson's Office. Lastly, the representation provided allegations of human rights violations and non-compliance with the State's international obligations towards human rights defenders. The representation requested a working meeting and the issuance of a follow-up resolution.

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

47. 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 this Article, the IACHR grants precautionary measures in urgent and serious 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.

48. The Inter-American Commission and the Inter-American Court of Human Rights ('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.<sup>9</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>10</sup> To do this, the IACHR

<sup>9</sup> 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. (Available only in Spanish)

<sup>10</sup> 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. (Available only in Spanish)

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.<sup>11</sup> 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. They aim to safeguard 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 affect the useful effect (*effet utile*) 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 its Rules of Procedure, the Commission considers that:

- a. 'serious situation' refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. 'urgent situation' refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. 'irreparable harm' refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

49. With respect to the foregoing, Article 25(7) of the Commission's Rules of Procedure establishes that '[t]he decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.' Article 25(9) establishes that '[t]he 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 shall assess whether the serious and urgent situation and the risk of irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider if new situations have arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

50. 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.<sup>12</sup> In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.<sup>13</sup> The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.<sup>14</sup>

51. Moreover, the Commission recalls that, in accordance with the Rules of Procedure, the granting and validity of precautionary measures, whether of a precautionary or protective nature, are subject to compliance with the requirements established in Article 25 of the IACHR Rules of Procedure. In this sense, if the Commission identifies that the requirements are no longer present, the Commission can

<sup>11</sup> 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 (Available only in Spanish); 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. (Available only in Spanish)

<sup>12</sup> I/A Court H.R. [Matter of Fernández Ortega et al. Provisional measures regarding Mexico](#). Order of February 7, 2017, paras. 16 and 17 (Available only in Spanish).

<sup>13</sup> *Ibidem*

<sup>14</sup> *Ibidem*

assess lifting the precautionary measures. The foregoing, considering the temporary and exceptional nature of the precautionary measures.

52. In this logic, the Commission notes that the State has repeatedly requested the lifting of these precautionary measures in its letters dated April 15 and October 5, 2020; August 20, 2021; and October 21, 2022. Pursuant to Article 25.9 of the Rules of Procedure, the requests to lift have been forwarded to the representation, which submitted its respective observations in its various letters which expressed their request to keep the measures in force. On two occasions, the representation requested the issuance of a follow-up resolution. After the last time information was forwarded in 2022, the representation did not provide an answer. Under these conditions, the Commission is called upon to evaluate if the precautionary measures should remain in force.

53. As preliminary issues, the Commission considers it important to rule on three aspects: the nature of the precautionary measures mechanism; the allegations referring to the office holder as Ombudsperson; and the request for the recording of a working meeting between the parties.

54. Firstly, the Commission recalls that it is not relevant to determine, in this proceeding, violations to the rights acknowledged in the American Convention, as well as violations to the due process of law, personal liberty, or political rights. The Commission recalls that, by its own mandate, it is not called upon to make any determination on any individual criminal liabilities for the facts alleged. The analysis performed hereinbelow by the Commission is exclusively related with 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 addressing determinations on the merits relevant to a petition or case.

55. Secondly, the Commission takes note of the arguments presented by the representation in relation to the questioning that has existed about the permanence of Ms. Nadia Cruz Tarifa as Ombudsperson. In this regard, the IACHR emphasizes that it is not called upon to determine the ownership or composition of the national bodies of the Member States, which is a matter for the competent authorities at the domestic level, in accordance with their legislation in force. Should there be allegations of possible human rights violations in these determination processes attributable to the State, such issues, as indicated in the previous paragraph, require determinations on the merits of a petition or case. As part of its monitoring work, the Commission has accompanied the selection process of the new head of the Ombudsperson's Office, recalling the corresponding international standards.<sup>15</sup> In this regard, the Commission observes that, although there were different interpretations regarding the continuity of the beneficiary Nadia Cruz as Ombudsperson, a domestic judicial decision established her permanence until a new incumbent is elected (see *supra* para. 26). Consequently, she ceased to be Ombudsperson on September 27, 2022 when the new head of the body took office (see *supra* para. 26). In addition, the Commission has learned that the beneficiary Nadia Cruz Tarifa was appointed as Vice Minister of Equal Opportunities of the Ministry of Justice and Institutional Transparency (*Viceministra de Igualdad de Oportunidades del Ministerio de Justicia y Transparencia Institucional*) as of November 3, 2022.<sup>16</sup>

56. Thirdly, in relation to the State's request to submit the recording of the working meeting from June 23, 2021, the Commission recalls that - as indicated in the communication dated November 15, 2022 - due to the confidential nature and as a space for dialogue between the parties, the Commission does not record the working meetings. It even requests the parties to refrain from any photographic or

<sup>15</sup> IACHR. [IACHR Monitors Appointment of New Ombudsperson in Bolivia](#). Press Release No. 93/22. May 5, 2022

<sup>16</sup> Ministry of Justice and Institutional Transparency. [Minister Lima appoints Nadia Cruz as Vice Minister of Equal Opportunities](#). Press release dated November 3, 2022.

videographic recordings of them. In this regard, although there is no recording, the Commission takes note of the relevant information, as well as the agreements or issues addressed, which are followed up accordingly.

57. Regarding the analysis of the procedural requirements being in force, the Commission recalls that the precautionary measures granted were in order to adopt measures aimed at protecting their rights to life and personal integrity of the beneficiaries, Nadia Alejandra Cruz Tarifa and Nelson Cox Mayorga. In the light of the information available, the Commission will proceed to analyze whether the procedural requirements continue to be met, in the light of the request to lift submitted by the State of Bolivia pursuant to the terms of Article 25 of the Rules of Procedure.

58. In addition, 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.<sup>17</sup> In the same manner, the representatives that want to keep the measures in force must present evidence of any reasons to do so.<sup>18</sup> While the assessment of procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping these measures in force requires a more rigorous<sup>19</sup> evaluation. On the other hand, the burden of proof and argument increases as time passes and there is no imminent situation that places the proposed beneficiaries at risk.<sup>20</sup>

59. In this regard, the Commission notes that the agreement on implementation between the representation and the State presented certain initial challenges. In principle, although the beneficiaries and their representation were summoned to consultation meetings in December 2019 and January 2020, it is noted that the representation stated that it was unable to attend the consultation meeting. Instead, they requested to be informed of the protection measures ordered by the State, yet claimed that the implemented measures were not agreed upon. Similarly, the Commission warns that the Ombudsperson's Office has informed the State that it does not require the police custody, which was being provided, initially considering that it was no longer necessary. Subsequently, it was indicated that it was onerous, recognizing also that the beneficiaries have noticed constant police patrols both at their residences and at the facilities where they worked. On other occasions, they have requested the reinforcement of police protection at the Ombudsperson's Office facilities. In addition, the Commission notes that it has not been challenged that the representation has questioned and rejects the State's offer to activate the Whistleblower and Witness Protection System, and criticized it since the police is part of it.

60. In its letter dated February 10, 2021, the representation alleged that the police activities sought to 'appear' as if they were protecting them, but claimed that they actually sought to monitor the beneficiaries' activities and their families (see *supra* para. 41). The beneficiary Nelson Cox also alleged that police officers informally communicated that his phone had been tapped (see *supra* para. 36).

61. Regarding the implementation challenges and the representation's allegations in regard to police activities, the Commission warns that these refer to a specific context which both parties have recognized was overcome after President Arce's inauguration (see *supra* paras. 22 and 43). After the foregoing, it is noted that communication between the parties was more fruitful, and the conclusion of an agreement was reported on November 25, 2020 (see *supra* para. 20) and a subsequent meeting between

<sup>17</sup> 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](http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf)

<sup>18</sup> *Ibidem*

<sup>19</sup> *Ibidem*

<sup>20</sup> *Ibidem*

the head of the Ombudsperson's Office and the State Attorney General on January 27, 2021 (see *supra* para. 43). The IACHR therefore observes that the reported challenges were overcome.

62. On the other hand, the Commission warns that, after the implementation of security measures in the Ombudsperson's Office facilities, although there have been protests, there is no information that any of them have escalated to levels that put the beneficiaries or the staff of the Ombudsperson's Office life or integrity at risk. Although on one occasion, on December 12, 2019, an individual was identified outside the Ombudsperson's Office carrying firearms and other weapons that could generate a risk, that person was duly identified and detained, and the corresponding criminal proceedings were followed (see *above* paras. 9 and 15). Although the representation alleged that new protest took place on May 25 and June 7, 2022, there is no allegation to suggest that any risk to the beneficiary has arisen in the exercise of freedom of expression. In addition, according to the information provided by the State, it is noted that, during these events, the security of the Ombudsperson's Office facilities was reinforced.

63. The Commission notes that, although the representation provided social media messages screenshots, most of them are critical towards the actions of the Ombudsperson's office. In this regard, only one death threat was identified in February 2021. These captures reportedly address the specific context of polarization that took place, *inter alia*, against the beneficiary's work as Ombudsperson. In this sense, taking into account the passage of time, the change of context, and the beneficiary's role, and considering that no new threats have been detected, it is not possible to conclude that this risk is ongoing. In addition, the beneficiary did not indicate if she had filed any complaints in this regard, and the State reported that it did not have any complaints in which she was the direct victim.

64. In this regard, the Commission notes that the State has implemented protection measures in favor of the protection of beneficiaries and there is no information on recent risk events, in light of the requirements of seriousness, urgency, and irreparable harm. In this regard, the Commission recalls that, according to the Inter-American Court, the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.<sup>21</sup>

65. On the other hand, considering the resolution to grant and the information provided by the parties, the Commission is aware that the alleged situation of risk was linked to the work performed by the beneficiaries within the Ombudsperson's Office. In this regard, the information provided by the State that the new Ombudsperson took office on September 27, 2022 after a selection process that was closely followed by the Commission, is particularly relevant.<sup>22</sup> According to the information available, neither of the two beneficiaries is currently working in the institution and Ms. Nadia Cruz currently serves as Vice Minister of Equal Opportunities (see *supra* para. 55). The Commission considers that this information has an impact on the considerations regarding the beneficiary's situation, upon leaving their positions. In addition to the above, the Commission warns that no information has been provided on any situation of real and imminent risk of risk against them which can be analyzed in the terms of Article 25 of the Rules of Procedure. Furthermore, the Commission finds that the context that gave rise to the granting of the present measures has indeed changed substantially, since the general elections of October 18, 2020 have taken place and the beneficiaries continued to carry out their activities, without any risk event having materialized against them.

<sup>21</sup> 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](http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf)

<sup>22</sup> IACHR. [IACHR Monitors Appointment of New Ombudsperson in Bolivia. Press Release No. 93/22](#). May 5, 2022

66. Considering the analysis previously carried out, and taking into account the State's requests to lift, the Commission understands that, in light of the current situation, there are no elements to support compliance with the requirements of Article 25 of the Rules of Procedure at the present time. In view of the above, and taking into account the exceptional and temporary nature of precautionary measures,<sup>23</sup> the Commission deems it appropriate to lift these measures.

67. In line with what was indicated by the Inter-American Court in various matters,<sup>24</sup> a decision to lift cannot imply that the State is relieved from its general obligations of protection, 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. Furthermore, also based on the assessment of the Inter-American Court, the lifting of the precautionary measures does not imply a possible decision on the merits of the dispute.<sup>25</sup>

68. Lastly, 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 Bolivia to respect and guarantee the rights recognized therein, including the life and personal integrity of the persons identified in the matter at hand.

## **V. DECISION**

69. The Commission decides to lift the precautionary measures granted to Nadia Alejandra Cruz Tarifa and Nelson Cox Mayorga, in Bolivia.

70. The Commission recalls that the lifting of these measures does not prevent the representatives from filing 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.

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

72. Approved on March 22, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Joel Hernández García; Julissa Mantilla Falcón; and Carlos Bernal Pulido, members of the IACHR.

María Claudia Pulido  
Assistant Executive Secretary

<sup>23</sup> 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

<sup>24</sup> 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. Order of the Inter-American Court of Human Rights of January 28, 2015, Considerandum 40.

<sup>25</sup> See: I/A Court H.R. Matter of Guerrero Larez. Provisional Measures regarding Venezuela. Order 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.