
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 33/2023**

Precautionary Measure No. 903-22
David Mayorga Osorio and José Luis Moreno Álvarez regarding Colombia¹
June 12, 2023
Original: Spanish

I. INTRODUCTION

1. On November 16, 2022, the Inter-American Commission on Human Rights (hereinafter, “the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures that was presented by the Integrated Corporation for the Defense of Human, Social, Political, Cultural, Environmental and Business Rights of Colombia (CORPOINDH) (hereinafter, “the requesting party”), urging the Inter-American Commission to request the Republic of Colombia (hereinafter, “the State”) to adopt measures to protect the rights to life and personal integrity of David Mayorga Osorio, José Luis Moreno Álvarez and the other members of CORPOINDH (hereinafter, “the proposed beneficiaries”). According to the request, the proposed beneficiaries are at serious risk given the threats and harassment by illegal armed groups present in areas of the department of Santander and the Magdalena Medio region, where the proposed beneficiaries carry out their activities.

2. In accordance with Article 25.5 of its Rules of Procedure, the Commission requested information from the requesting party on December 1, 2022 and received a response on December 19, 2022. The Commission requested information from the parties on March 9, 2023 and received a response on March 24, 2023. The Commission forwarded the State’s report to the requesting party on April 6, 2023, receiving its response on April 10, 2023. The State sent additional information on April 20 and May 30, 2023, and the requesting party on May 8, 2023.

3. Upon analyzing the submissions of fact and law furnished by the parties, the Commission considers that the instant matter meets *prima facie* the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, it requests that the State of Colombia: a) immediately adopt the necessary measures to preserve the life and personal integrity of the identified beneficiaries; b) adopt protection measures that allow the beneficiaries to continue carrying out their activities in defense of human rights without being subjected to threats, intimidation and acts of violence against them; c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and d) report on the actions taken to investigate the facts that gave rise to the adoption of the precautionary measures, so as to prevent such events from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES

1. Information provided by the requesting party

4. The request identifies as proposed beneficiaries (1) David Mayorga Osorio, (2) José Luis Moreno

¹ In accordance with Article 17.2.a of the IACHR Rules of Procedure, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate and deliberation of this matter.

Álvarez and other members of CORPOINDH², who have allegedly been subject to threats and harassment due to their work and to make visible the illegal activities of different armed groups operating in the department of Santander and the Magdalena Medio region. In 2022, an early warning from the Ombudsman's Office reportedly identified CORPOINDH members as a "population at risk".

5. *David Mayorga Osorio* is reportedly a social leader and research director of CORPOINDH, whose responsibilities include directing the technical group monitoring attacks on social leaders and human rights defenders. In 2015, he worked in the "Space of Human Rights Workers", where he was allegedly threatened by illegal armed groups, such as the Gaitanist Self-Defense Forces of Colombia (AGC), the Clan del Golfo and the National Liberation Army (ELN), which caused the displacement of the family unit to Bogotá in February 2016. In 2019, they were again subjected to threats, after having submitted reports demonstrating the relationship of members of the security forces with illegal armed structures.

6. On September 9, 2021, unknown persons stood in front of the residence of Mr. Mayorga Osorio taking photographs and videos. During 2022, the following events occurred, which were also reported to the Attorney General's Office³, as well as to other state entities⁴: on August 8, 2022, Mr. Mayorga Osorio denounced the instrumentalization of adolescents and children in the neighborhoods and educational institutions of Barrancabermeja by these armed groups; on August 10, 2022, the proposed beneficiary was informed about an alleged assassination attempt against him; on September 9, 2022, he denounced the presence of unknown individuals in front of his home; and on September 22, 2022, individuals linked to organized criminal groups allegedly took photographs and videos.

7. At the time of filing the request, David Mayorga Osorio had protection measures granted by the National Protection Unit (UNP) consisting of a man of protection without a vehicle, a communication equipment (cell phone), a panic button and a bulletproof vest. The requesting party considered that this was an insufficient security detail given the work that would be carrying out.

8. José Luis Moreno Álvarez would be a lawyer, social leader and director of the Legal Department of CORPOINDH. From December 2020, he has been providing legal advice and judicial representation to social leaders and victims of the armed conflict, among others. The legal service provided would have generated continuous rejection by criminal structures, which consider that he would be encouraging the community to denounce and that there would be a possible leak of information to the authorities or other criminal structures with whom they dispute territorial control. In several communes of the municipality of Barrancabermeja, during the last months of the year 2022, the criminal groups allegedly made "direct threats" verbally, even sending members of the organizations to listen to the consultations made by the community and the advice received. The proposed beneficiary after providing such advice would have been subject to continuous monitoring by members of these groups both in Barrancabermeja and at his home in the municipality of Piedecuesta, Santander. Likewise, for several days, in front of the balcony of his residence, and carrying out relays, there were men who took photographs. Such persons were waiting for him to go out again to continue with the following. These facts were reported to the Prosecutor's Office

² It was mentioned that José Andrés Peña, Carlos Ramírez, Austria Alberto Pérez and Leonardo Sarabia Marín, members of CORPOINDH, were targets of attacks. It was indicated that these people had protection schemes provided by the National Protection Unit (Unidad Nacional de Protección). On April 10, 2023, it was reported that Luz Dary Delgado Garces resigned from her work in CORPOINDH.

³ Requesting party refers to the following complaint dates of November 14, 2019, June 18, 2021, August 10, 2021, September 22, 2022, and August 10, 2022.

⁴ Magdalena Medio Regional Ombudsman's Office, Santander Department Ombudsman's Office, Presidency of the Republic, Presidential Council for Human Rights, Barrancabermeja District Prosecutor's Office, Piedecuesta Santander Prosecutor's Office, Magdalena Medio Provincial Prosecutor's Office, Santander Regional Attorney, Peace and Human Rights Group of the Santander Government, Santander Governor's Office, Barrancabermeja Mayor's Office, UN Colombia, Magdalena Medio Police, Bucaramanga Metropolitan Area Police, Santander Regional Prosecutor's Office, Magdalena Medio Regional Prosecutor's Office.

and the Ombudsman's Office on December 1, 2020 and October 21, 2022.

9. On December 19, 2022, the requesting party reported that both David Mayorga Osorio and José Luis Moreno Álvarez conducted fieldwork in Barrancabermeja and in the Magdalena Medio region until December 11, 2022. They continued to be harassed, threatened and followed with vehicles and motorcycles from risk areas to their residences. Specifically, it was indicated that, to José Luis Moreno Álvarez, members of these groups would have pointed guns at his head and would have required him to deliver the information provided by the victims to take action against them, as well as to determine whether this information could be used by the authorities to make arrests within these areas.

10. It was indicated that none of the proposed beneficiaries have been able to continue with their field work after December 12, 2022, when the report "Sin Tregua" of the organization⁵ was published. The requesting party claimed that this report could cause "hired assassination attempts" against the proposed beneficiaries and their families. José Luis Moreno Álvarez reportedly reported these events to the UNP, requesting on December 9 and 14, 2022 that the risk level study be expedited. He and his family group⁶ would have locked themselves in their residence for fear that the threats would be carried out. The proposed beneficiaries reportedly received information from human sources indicating that the AGC and members of different authorities had threatened to kidnap, torture and kill them if they moved to Barrancabermeja or the Magdalena Medio region. The threat also allegedly included their families. This situation was not reported, since the human sources feared they would be killed and therefore refused to serve as witnesses before the authorities.

11. It was indicated that on December 2, 2022, the proposed beneficiaries had a meeting with the Deputy Director of Risk Assessment of the UNP. On that occasion, the implementation of emergency measures was approved for David Mayorga Osorio, consisting of an armored vehicle and a protection man in addition to the one already assigned to him, and for José Luis Moreno Álvarez, an armored vehicle and two protection men. These measures were not implemented by the UNP, even though two additional requests were made on December 9 and 14, 2022. On December 5, 2022, David Mayorga Osorio filed an appeal for reconsideration against the decision of the UNP of October 31, 2022 that determined that his situation was of "ordinary risk" and lifted the protection measures. The appeal for reconsideration was rejected.

12. On January 27, 2023, Mr. Moreno Alvarez reportedly received a manila envelope that was left in the doorway of the building where he resides. Inside, he found a pamphlet alluding to the AGC of Colombia in which threats were made against him, and David Osorio, among others, declaring them a "military objective." The proposed beneficiary denounced the fact to the Prosecutor's Office.

13. On January 28, 2023, David Mayorga Osorio was informed that in a pamphlet of the AGC - Luis Alfonso Echavarría Structure - sent on January 27, 2023 declared social organizations, among them CORPOINDH, a "military objective". For this reason, the requesting party indicated that they feared for the lives of the members of the board of directors of the Corporation⁷ and their families. The incident was reported to the National Police in Bucaramanga and other entities. That same day, CORPOINDH was invited by the Ministry of the Interior to a meeting at the Unified Command Post for Life to be held on

⁵ According to the requesting party, the aforementioned report revealed the lack of coordination between the entities regarding the protection routes, as well as inconsistencies regarding the recognition and existence of illegal groups in their municipalities and departments.

⁶ His wife L.J.C.S., his mother N.A.T. and his children M.M.C., 8 years old, N.M.C., 6 years old.

⁷As of the date of the facts, it was reported that the board of directors of the CORPOINDH Corporation is composed of Mr. Mayorga Osorio, Mr. Moreno Alvarez, Mr. Javier Ramirez Mendoza (coordinator of the technical group), Mr. Carlos Ramirez Villabona, Mr. Cesar Moreno Pinzón (social worker), Mr. Carlos Ramirez Villabona, and Mr. Cesar Moreno Pinzón (social worker).

February 1, 2023.⁸

14. On January 31, 2023, CORPOINDH presented its report “Radiography of Total Peace”, which would demonstrate the incidence of the different illegal armed groups in the Departments of Santander, Norte de Santander, Arauca and Magdalena Medio. On the same day, José Luis Moreno Álvarez reportedly informed the UNP of the non-compliance with the emergency measures agreed in his favor and the absence of security guarantees in his trip to Barrancabermeja to comply with the invitation to the Unified Command Post⁹. Both the Secretary of Security and Citizen Coexistence of Piedecuesta and the Secretary of the Interior of the District of Barrancabermeja requested several authorities, including the Technical Investigation Corps - CTI of Piedecuesta, the UNP and the Police: activate the protection route, advance the risk level study and that the necessary urgent protection measures be adopted for the proposed beneficiaries taking into account the threats received on January 27 and 28, 2023. After filing an *amparo* action with provisional measure against the UNP and other authorities, on February 1, 2023, the First Criminal Court of the Bucaramanga Circuit ordered the UNP and the Santander Police Commander to immediately proceed with the security assessment of Mr. Moreno Álvarez and his family group, so that in a term not exceeding 24 hours they could grant the appropriate emergency measures.

15. On February 2, 2023, in the context of the *amparo* action initiated by José Luis Moreno Álvarez, the UNP classified the proposed beneficiary’s situation as an “extraordinary risk”¹⁰. Consequently, it assigned him a bulletproof vest, a cell phone and a panic button, until the investigations conducted by the Attorney General’s Office yielded no results. This decision was challenged by the proposed beneficiary.

16. On February 5, 2023, a new threat was received via WhatsApp from unknown individuals, who indicated that they would end the lives of each of the members of CORPOINDH and their families. This fact was denounced on February 7, 2023, before the Attorney General’s Office. In this regard, screenshots were attached where an unknown number indicated the names of different members of CORPOINDH, among them David Mayorga Osorio and José Luis Moreno Álvarez, threatening them with death¹¹. Also, from the same number, an attempt was made to make a video call with the proposed beneficiary. When the video call was rejected, a death threat was received¹².

17. On February 7, 8 and 9, 2023, several state entities¹³ reiterated to the corresponding authorities, including the UNP, the Ministry of the Interior and the police, the need to activate the protection route and

⁸ The purpose was to coordinate inter-institutional efforts, together with the territorial authorities, to take concrete measures to protect the personal integrity of social leaders.

⁹ In this regard, the proposed beneficiary states that he received a response from the Police Commander of Magdalena Medio, who stated that the institutional actions were being carried out in accordance with the provisions of the regulations in force. No details were provided.

¹⁰ The UNP assessed that the risk was extraordinary “since there are factors that indicate that there is the possibility of being affected in his security and personal integrity due to his position as Legal Director of the Human Rights Technical Group of the Corporation ...where he handles all the cases of threats known to the Organization regarding aggressions against social leaders, human rights defenders and communities in Magdalena Medio, a region heavily hit by the violent actions of Illegal Armed Groups - GAI and with recent events recorded in the media against human rights leaders and defenders of human rights”.

¹¹ The messages read: “This message goes out to all of you bunch of toads. You are going to die triplehijueputas for going where you haven’t been called”; “We are already locating you bunch of bad asses, let’s see if when we visit you you are going to continue being brave playing at being social leaders, keep on with that potato, you bunch of motherfuckers, lead is what is going to rain on you”; “We’ve had enough of you motherfuckers”; “We’re going to kill you for toads, you bunch of motherfuckers, you’re going to see, one by one, we’re going to kill you for meddling where you don’t care”; “Peace in your graves, you bunch of motherfuckers, thirty motherfuckers, you’re going to die.”

¹² The message stated the following: “Malparido answer. We are calling you by video call and we want to show you the arsenal of weapons we have so that you are convinced that we are not playing. Answer, motherfucker, and if you want to denounce us to the police. We don’t care remalparido, we don’t care, we’re going to kill them anyway.”

¹³ Among them, the Secretary of Security and Citizen Coexistence of Piedecuesta, the Secretary of the Interior of the District of Barrancabermeja, the Coordinator of the Peace and Human Rights Group of the Government of Santander and the Human Rights and Hearings Commission of the House of Representatives of the Congress of the Republic.

prioritize the risk level study in order to provide security measures to the proposed beneficiaries. On February 8, 2023, a UNP official contacted José Luis Moreno Álvarez requesting information about what happened on January 27, 2023. Subsequently, she would have requested to advance the risk level re-evaluation before the Technical Body of Risk Analysis. On February 9, 2023, the UNP delivered the protection measures that were granted in the UNP decision of February 2, 2023.

18. On February 14, 2023, the First Criminal Court of the Circuit of Barrancabermeja determined that the *amparo* action filed by Mr. Moreno Alvarez was inadmissible. The judicial authority indicated that the UNP had responded to the emergency measures with the decision of February 2, 2023 and that the proposed beneficiary had not exhausted the means provided in the legal system to pursue his claims, since he had not filed an appeal against that decision. On February 15, 2023, José Luis Moreno Álvarez filed an appeal for reconsideration against the resolution of the UNP arguing that these protection measures were not adequate to guarantee his life or that of his family members. Additionally, on February 16, 2023, Mr. Moreno Alvarez filed an appeal against the *amparo* decision of February 14, 2023. The appeal corresponded to the Criminal Chamber of the Superior Court of Santander.

19. On February 19, 2023, due to having received three threats in less than eight days and in view of the constant surveillance carried out by unknown individuals in front of his residence, José Luis Moreno Álvarez escaped with his family from the municipality of Piedecuesta to the municipality of Bucaramanga, since they considered that these individuals could attack the family unit at any time. Additionally, in addition, the proposed beneficiary indicated that in addition to the fear of losing his life, he felt tired and exhausted by the exhausting process of going to authorities at all levels who ended up sending his requests to the UNP.

20. On February 20, 2023, José Luis Moreno Álvarez went to the Prosecutor's Office to inquire about the status of the investigations, since the complaints filed on January 27 and 28, 2023 appeared with a note indicating: "Inactive - Reason: Inactivated for accumulation of procedural connection". In this regard, he was informed that they had been linked to two investigations carried out by the specialized Prosecutor's Office 7 of Bucaramanga. Regarding the complaint filed on February 7, 2023, no information was provided. On February 21, 2023, the proposed beneficiary sent an email to the 7th Specialized Prosecutor's Office, accrediting his status as a member of CORPOINDH and requesting information on this last complaint. This request was reiterated on March 1, 2023.

21. On March 9, 2023, the Mayor's Office of Bucaramanga recognized in favor of Mr. Moreno Álvarez some economic assistance as immediate humanitarian aid to victims of the armed conflict. On March 2, 2023, the proposed beneficiary was interviewed by the UNP risk level analyst. That same day, the Colombian National Police informed him that they were not competent to provide him with protection, according to Decree 1066 of 2015 so they had given transfer to the UNP. It was noted that the Police proceeded to: i) provide advice to the plaintiff regarding security and self-care actions; ii) provide the subscriber of the quadrant where the plaintiff lives, so that he could report any abnormal situation; iii) order continuous patrols and at different times, by the place of residence of the interested party; iv) carry out visits by the group of protection to persons and facilities of the national police, to the place of residence and work of the plaintiff for four months.

22. On March 7, 2023, Mr. Moreno Álvarez also received a communiqué from the Presidency of the Republic of Colombia, informing him that the threats had been sent to the Attorney General's Office, the

Ministry of Defense, the UNP and the Ombudsman's Office for their knowledge¹⁴. Likewise, other entities reportedly informed about the processing of the protection requests¹⁵. On March 13, 2023, due to the lack of response from the Attorney General's Office with respect to the new files of the proceedings corresponding to the complaints of January 27 and 28 and February 7, 2023, José Luis Moreno Álvarez filed a right of petition, expressing his fear that this lack of information would affect his risk level study.

23. When submitting additional information on March 22, 2023, the requesting party indicated that the appeal for reconsideration filed against the UNP's decision of February 2, 2023 was still pending resolution. The UNP had not issued a resolution regarding the reevaluation of the risk level of José Luis Moreno Álvarez. Likewise, it was explained that the challenge filed against the decision of February 14, 2023 was still pending.

24. On April 10, 2023, the requesting party noted that, as of that date, they had not received any communication from the Peace and Human Rights Group of the Magdalena Medio Police. Nor have they been the beneficiaries of any follow-up by the aforementioned group. In relation to the preventive measures adopted by the Metropolitan Police of Bucaramanga, the petitioner explained that the proposed beneficiaries have received daily magazines. In this understanding, since January 2023, a police patrol goes to their residences once a day to ask them if they are well. In addition, it was indicated that these daily magazines were granted for 4 months, which ended in April 2023. The petitioner stated that the work of the Metropolitan Police of Bucaramanga did not consist of daily, weekly or monthly accompaniments to the areas where they carry out their work, but rather a simple call or visit to their homes to verify that they were still alive.

25. Regarding the measures implemented through the municipal governments of Piedecuesta and San Alberto, they reported that, with respect to the former, the proposed beneficiaries have not received any type of accompaniment or management aimed at guaranteeing their rights. Regarding the second, they indicated that they were unaware of the actions taken by this entity, since communication with the municipality ceased after the resignation of Luz Dary Delgado Garcés from the organization. The petitioner indicated that David Mayorga Osorio and José Luis Moreno Álvarez and their families do not have suitable and effective protection measures and reiterated the need to guarantee their rights in their daily commute to the areas where they work.

26. On May 8, 2023, the petitioner informed that the UNP issued Resolution No. 2238 of April 12, 2023 confirming what was decided on February 2, 2023 regarding the protection measures of José Luis Moreno Álvarez. In the aforementioned decision, the UNP informed that according to the technical tool that classifies the risk in percentage levels, it was determined that, as of that date, the risk evidenced is "extraordinary" with a matrix weighting of 50.55%. The CERREM risk assessment and measures recommendation committee recommended implementing the aforementioned protective measures. Finally, the UNP indicated that it was not possible to favorably address Mr. Moreno Alvarez's request, taking into account that the modification of the protection measures can only be ordered by CERREM or by the Special Committee, as the case may be, when there is a variation of the situations that generated

¹⁴ This communiqué was sent to David Mayorga Osorio in response to a previous letter, in which he denounced and requested the investigation of new threats against members of CORPOINDH and requested protection measures for himself, as well as José Luis Moreno Álvarez, Javier Ramírez, Carlo Eduardo Ramírez, Cesar Moreno, Ruth Moreno and Adriana Lizarazo.

¹⁵ On March 14, 2023, the Ministry of Defense sent an official letter to José Luis Moreno Álvarez, informing him that his threats had been sent to the UNP. On March 15, 2023, the Congress of the Republic of Colombia stated that it lacked the authority to process his requests for protection or to issue a binding and dispositive pronouncement to manage them. On March 17, 2023, the UNP sent an email to the Santander Ombudsman's Office, informing the updated status of the cases of Mr. Mayorga Osorio and Mr. Moreno Álvarez. Regarding the former, the UNP indicated that it was aware of his case and that an individual risk assessment was being carried out. Regarding the latter, it highlighted that he had protection measures assigned in the resolution of February 2, 2023, and that a reevaluation was also being carried out due to supervening events.

the risk level. However, the UNP indicated that the risk level evaluation sub-directorate would be transferred to open a work order for the risk study according to the supervening facts reported by the proposed beneficiary.

2. Response from the State

27. On March 24, 2023, the State requested the dismissal of the request for precautionary measures and reported on the protective measures adopted in favor of David Mayorga Osorio and José Luis Moreno Álvarez, as well as Luz Dary Delgado Garces, at the time a member of CORPOINDH. The State considered that the measures adopted have been suitable to mitigate the risk of the proposed beneficiaries and that, in application of the principle of subsidiarity, the Commission should abstain from intervening in the present request.

28. It was indicated that “the institutions have deployed actions to guarantee his life, integrity and security”. The Presidential Advisor’s Office requested the UNP to review the request submitted by David Mayorga Osorio on December 20, 2022 and to adopt the measures it deems appropriate. It was noted that this entity received a letter dated December 20, 2022, in which David Mayorga Osorio accompanied a copy of the appeal for reconsideration that was filed against the resolution of October 31, 2022, which determined that his risk level was ordinary. Regarding José Luis Moreno Álvarez and Luz Dary Delgado Garces, it was indicated that the Presidential Counsel received, on November 16, 2022, an email from David Mayorga Osorio, in which he requested protection measures in his favor, as well as in favor of José Luis Moreno Álvarez and Luz Dary Delgado Garces. In this regard, the Presidential Advisor’s Office requested the UNP to review the communication and adopt the pertinent measures. Both actions were duly notified to the proposed beneficiaries.

29. With respect to the preventive measures adopted by the Police Department of Magdalena Medio, the State stated that, by official communication of February 7, 2023, the Command of the Police Department of Magdalena Medio mentioned that it was “deploying the institutional actions” in accordance with the regulations in force. On February 10, 2023, this entity, through the Human Rights Office, would have notified CORPOINDH of the activation of the institutional route in accordance with the applicable regulations. In this regard, the Barrancabermeja Police Station was ordered to implement preventive measures in accordance with the applicable regulations. Finally, the latter would have informed the municipality of Barrancabermeja about the role of governors and mayors regarding the individual and collective protection of leaders of organizations, social and community movements, as well as human rights defenders who are at risk.

30. It was mentioned that the Human Rights Group of the Command maintained constant communication with these leaders in order to be aware of any risk situation against them. In conclusion, it was explained that new mechanisms and tools for follow-up and control of preventive measures were generated. On the other hand, it was stated that different inter-institutional coordination and coordination with the military forces were carried out to attend to different requirements in favor of the protection of the rights of the proposed beneficiaries.

31. With respect to the preventive measures adopted by the Metropolitan Police of Bucaramanga, the State maintained that, on February 8, 2023, the Coordination of the Peace and Human Rights Group of the Office of the Governor of Santander sent an official letter informing several authorities of the complaint filed with the entity by the Ombudsman’s Office regarding alleged threats against David Mayorga Osorio and José Luis Moreno Álvarez. In view of this situation, it was indicated that institutional actions were taken by the Metropolitan Police of Bucaramanga, through the Human Rights Office for Prevention and

Attention, in order to guarantee the security and personal integrity of the proposed beneficiaries. In this understanding, the prevention route was activated and the following measures were taken¹⁶: i) Members of the Elite Corps - SIJIN MEBUC verified the complaint before the Attorney General's Office for the crime of threats, assigned to the Second Prosecutor's Office - Early Intervention Unit of Tickets in Barrancabermeja; ii) A request was sent to the Commander of the Piedecuesta Police Station and to the Sectional Chief of Protection and Special Services, in order to implement preventive measures; iii) An interview was held with the proposed beneficiaries in order to know their security situation, where they were advised on the self-protection measures to be adopted to reduce possible risks and strengthen the protection mechanisms implemented by the State; iv) Staff of the Group of Protection of Persons MEBUC - Risk Level Studies gave advice regarding the protection program, indicating the documents to be attached to carry out the procedure for the completion of the risk level study. In this regard, the UNP was informed about the case in question, in order to activate the procedures established in the protection programs or for the deployment of activities aimed at preserving the security of persons by the security forces; v) On February 9, 2023, a session of the Tactical Advisory Council on Human Rights was held; and vi) The Mayor of the Municipality of Piedecuesta, the Public Prosecutor's Office, the Municipal Ombudsman of Piedecuesta and the Ombudsman - Santander Regional were informed of the actions taken.

32. Regarding the measures implemented through the municipal mayor's office of Piedecuesta¹⁷, it was indicated that after receiving the petition from CORPOINDH on February 7, 2023, this entity proceeded to activate the protection route, for which an official letter was sent to the Commander of the Metropolitan Police of Bucaramanga, the UNP and the Attorney General's Office. Regarding the measures implemented through the municipal mayor's office of San Alberto (Cesar), in order to guarantee the life and personal integrity of Luz Dary Delgado Garcés, the State indicated that the Municipal Personería submitted a request for the activation of the individual protection route so that, from the governor's office, measures would be implemented for her comprehensive protection and that the issue of her security would be addressed in the Security Councils and in the Subcommittee on Prevention, Protection and Guarantees of Non-Repetition.

33. On April 20, 2023, the State sent additional information confirming that by Resolution No. 0256 of February 2, 2023, the UNP validated the risk of Mr. José Luis Moreno Álvarez as extraordinary and adopted protection measures that will have an initial duration of 12 months. It also stated that there is currently an active work order for the beneficiary to be reevaluated due to supervening events¹⁸. The State also indicated that it has continued with the investigation of the facts reported by the proposed beneficiaries. In this regard, it specified that the Office of the Attorney General of the Nation indicated that in its system there is a record of 25 investigations in which José Luis Moreno Álvarez, David Mayorga Osorio, Luz Dary Delgado Garcés appear as complainants, for the crimes of threats against human rights defenders¹⁹. The investigations are active, and evidence is being gathered to clarify the facts and identify the perpetrators.

¹⁶ The State included a table with the following actions and their codes: i) Order preventive measures; ii) Response actions (police magazines, self-protection recommendations and patrols); iii) UNP processing; iv) Criminal Notification; v) Human Rights Tactical Advisory Council; vi) Coordination with Mayor; viii) Ombudsman's Office.

¹⁷ The State pointed out that, according to domestic law, the territorial entities, whether mayors' offices or governors' offices, "are the first responders to guarantee and safeguard the fundamental rights of all their citizens".

¹⁸ This is after the proposed beneficiary will file an appeal for reconsideration against the aforementioned resolution because he does not agree with it.

¹⁹ The complaints correspond to the following date: two (2) of 2017, two (2) of 2019, three (3) of 2020, one (1) of 2021, eleven (11) of 2022 and six (6) of 2023. On May 25, 2023, the State indicated that the Attorney General's Office currently has a record of 13 active investigations for these allegations.

34. The State sent additional information on May 30, 2023, indicating that it has continued to follow up on the situation of the proposed beneficiaries by the different entities. In this regard, they listed various communications sent both by the proposed beneficiaries and by different authorities to the Governor's Office of Santander, the Mayor's Office, the UNP, among others, in which the situation of the proposed beneficiaries is made known and the activation of the care and protection routes in their favor is requested. Likewise, with respect to Mr. David Mayorga, it was indicated that: on September 28, 2021, he requested the UNP coordinator to change the scheme by mutual agreement, due to logistical difficulties; on October 8, 2021, Mr. Mayorga requested a report on the non-compliance with the measures approved by CERREM in resolutions of January 27/2021 and April 21, 2021, given that the person of his security scheme had not been assigned to him; and on October 9, 2021, the Committee for Solidarity with Political Prisoners Foundation filed a public complaint about threats made by the Gulf Clan through WhatsApp messages against Mr. Mayorga and other social leaders.

35. In addition, it was reported that on August 10, 2022, Mr. David Mayorga denounced to the Governor of Santander that an illegal strategy of recruitment of children and adolescents by the Clan del Golfo was taking place in the municipality of Barrancabermeja. On September 28, 2022, the Bucaramanga police reported to have maintained dialogue with Mr. Mayorga Osorio implementing preventive security measures consisting of self-protection recommendations by the Piedecuesta police commander.

36. Regarding Mrs. Luz Dary Delgado Garces, the State indicated that on November 2, 2022, CORPOINDH reported the facts denounced by Mrs. Delgado Garces against the Autodefensas Gaitanistas de Colombia - AGC. That same day, the Santander Governor's Office requested the activation of the protection route in her favor. On November 11, 2022, the UNP informed that an order had been given to carry out the corresponding risk study. For its part, the police reported that on November 8, 2022 they met with Mrs. Delgado Garces and ordered the commander of the CAI of the jurisdiction in which she resided to include preventive measures such as continuous patrols at different times by the surveillance patrol for four months, in addition to advising her on basic recommendations for self-protection, providing her with the telephone number of the police quadrant. CORPOINDH informed that Ms. Delgado Garces would be dismissed as of December 12, 2022. The State also indicated that the Ombudsman's Office alerted about the appearance of a pamphlet on January 27, 2023 in which the AGC Clan del Golfo declared the directors and representatives of several organizations, including CORPOINDH, as military targets for their meddling in the organization's affairs.

III. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY AND IRREPARABLE HARM

37. 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 set forth in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. Moreover, the precautionary measures mechanism is enshrined in Article 25 of the Rules of Procedure. In accordance with the latter, the Inter-American Commission grants precautionary measures in serious and urgent situations, where these measures are necessary to prevent irreparable harm to persons or to the object of a petition or case before the organs of the inter-American system.

38. 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.²⁰ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.²¹ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.²² 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 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.²³ For the purpose of taking a decision, in accordance with Article 25.2 of its Rules of Procedure, the Inter-American 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.

39. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven. The information provided, in order to identify a situation of gravity and urgency, must be assessed on a *prima facie* standard. The Commission also recalls that, by its own mandate, it is not its responsibility to determine criminal liability for the facts denounced. Likewise, in the present proceeding, it is not for the Commission to rule on violations of rights enshrined in the American Convention or other applicable instruments²⁴. The analysis that follows refers exclusively

²⁰ See in this regard: I/A Court H.R., Inter-American Court of Human Rights. Case of the Yare I and Yare II Capital Region Penitentiary Center (Yare Prison). Request for Provisional Measures presented by the IACHR with respect to the Bolivarian Republic of Venezuela. Resolution of the Inter-American Court of Human Rights of March 30, 2006, Whereas 5; I/A Court H.R., Case of Carpio Nicolle and others. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Judgment of July 6, 2009, Whereas 16.

²¹ See in this regard: I/A Court H.R., Case of El Rodeo I and El Rodeo II Capital Judicial Prison. Case of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Whereas 8; I/A Court H.R., Case of Bámaca Velásquez. Bámaca Velásquez Case. Provisional Measures with respect to Guatemala. Judgment of the Court of January 27, 2009, Whereas 45; I/A Court H.R., Case of Fernández Ortega et al. Case of Fernández Ortega et al. Provisional Measures regarding Mexico. Resolution of the Court of April 30, 2009, Whereas 5; I/A Court H.R., Matter of Milagro Sala. Milagro Sala Case. Request for Provisional Measures with respect to Argentina. Resolution of the Inter-American Court of Human Rights of November 23, 2017, recital 5.

²² See in this regard: I/A Court H.R., Case of Milagro Sala. Milagro Sala Case. Request for Provisional Measures with respect to Argentina. Resolution of the Inter-American Court of Human Rights of November 23, 2017, Whereas 5; IACHR Court. Matter of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Whereas 9; I/A Court H.R., Judgment of the Court of February 8, 2008, Whereas 9; I/A Court H.R., Matter of the Plácido de Sá Carvalho Penal Institute. Provisional Measures with respect to Brazil. Resolution of the Inter-American Court of Human Rights of February 13, 2017, recital 6.

²³ See in this regard: I/A Court H.R., Case of El Rodeo I and El Rodeo II Capital Judicial Prison. Case of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Whereas 7; I/A Court H.R., Case of “El Nacional” and “Así es Noticia” Newspapers. Case of “El Nacional” and “Así es la Noticia” Newspapers. Provisional Measures with respect to Venezuela. Order of the Court of November 25, 2008, Whereas 23; I/A Court H.R., Case of Luis Uzcátegui. Case of Luis Uzcátegui. Provisional Measures regarding Venezuela. Judgment of the Court of January 27, 2009, Whereas 19.

²⁴ IACHR. Resolution 2/2015. Precautionary Measures No. 455-13. Matter of Nestora Salgado with respect to Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measures No. 96/21. Gustavo Adolfo Mendoza Beteta and family with respect to Nicaragua. April 30, 2021, para. 33.

to the requirements of Article 25 of the Rules of Procedure, which can be carried out without the need to enter into substantive assessments²⁵.

40. Before entering into the analysis of the regulatory requirements, the Commission decides to focus on the situation of David Mayorga Osorio and José Luis Moreno Álvarez, directors of CORPOINDH in Colombia, with respect to whom specific, chronologically detailed and updated information has been presented. Likewise, the available information indicates that, within CORPOINDH, these two persons are the ones who would have the highest visibility in the rest of Colombian society, which could be related to their positions as directors, and the presence they would have in the departments of Santander and the region of Magdalena Medio, where there would be the presence of armed groups. With regard to the other members of CORPOINDH, the Commission considers that it does not have sufficient factual elements to analyze their situation in light of Article 25 of the Rules of Procedure. Likewise, the Commission notes that Luz Dary Delgado Garces stopped working for CORPOINDH, which was confirmed by the parties.

41. Consequently, for the purposes of this analysis, the Commission considers David Mayorga Osorio and José Luis Moreno Álvarez as proposed beneficiaries. The above decision does not affect Colombia's international obligations, by which it must provide protection to all persons who are at risk under its jurisdiction, considering the applicable international standards. In this sense, with respect to the rest of the members of CORPOINDH, Colombia maintains all of its international obligations. In this regard, and taking into account the context in which the proposed beneficiaries carry out their work in defense of human rights, the Commission would like to recall that the State, in its position as guarantor of the rights of persons under its jurisdiction, has a particular duty to protect those persons who work in non-governmental organizations, as well as other groups or individuals who work in favor of the defense of human rights²⁶.

42. With regard to the applicable context, the Commission recalls that, in its 2019 Report on Human Rights Defenders and Social Leaders in Colombia, it noted that the greatest number of threats were recorded in certain departments of Colombia, including Santander²⁷. In this regard, the petitioners added that, in the department of Santander and the Magdalena Medio region, armed groups reportedly operate with illegal activities, which has been documented by CORPOINDH through field work. As a result of this work, the organization would publish reports. For example, in 2022, its report "in Tregua", and in 2023, its report "Radiografía de la Paz Total". The above context is relevant to understand the situation of the proposed beneficiaries to the extent that CORPOINDH would carry out human rights defense work, investigations, complaints and legal advice to the population victims of the armed conflict in areas with the presence of illegal armed groups. In this sense, it has been alleged that the situation that the proposed beneficiaries would currently face would be in retaliation for the work they would carry out in said organization. The above understandings are also in line with the assessment of the Colombian Ombudsman's Office, as reported by the parties.

²⁵ In this regard, the Court has indicated that it "cannot, in a provisional measure, consider the merits of any relevant argument other than those strictly related to extreme gravity, urgency and the need to avoid irreparable harm to persons. See in this regard: I/A Court H.R. [James et al. v. Trinidad and Tobago](#). Provisional Measures, Resolution of the Inter-American Court of Human Rights of August 29, 1998, Whereas 6; I/A Court H.R., Case of the Barrios Family v. Venezuela. [Case of the Barrios Family v. Venezuela](#). Provisional Measures, Resolution of the Inter-American Court of Human Rights of April 22, 2021, Whereas 2.

²⁶ See in this regard: I/A Court H.R., Case of Alvarado Reyes et al. [Case of Alvarado Reyes et al. v. Mexico](#). Provisional Measures. Resolution of the Inter-American Court of Human Rights of November 26, 2010, para. 68; Inter-American Court of Human Rights. Case of [the Forensic Anthropology Foundation regarding Guatemala](#). Provisional Measures. Resolution of the President of the Inter-American Court of Human Rights of April 21, 2006, para. 9.

²⁷ IACHR, [Report on the Situation of Human Rights Defenders and Social Leaders in Colombia](#), December 6, 2019, para. 127.

43. In analyzing the seriousness requirement, the Commission considers that it has been met. In this regard, the Commission notes that the two proposed beneficiaries are exposed to the following events over time and even in recent times:

- Death threats and use of violence, which was attributed to illegal armed groups (see supra paras. 5, 8, 10, 12, 16);
- Illegal armed groups have allegedly labeled them as “military targets” (see supra para. 13);
- Armed groups allegedly targeted his head to obtain information about his work (see supra para. 9, ...);
- Existence of an alleged assassination attempt against him (see supra para. 6, 10);
- Followed by criminal groups while they were carrying out their work of accompanying and advising communities (see supra paras. 8,9);
- Presence of unidentified persons visually searching in front of homes (see supra paras. 6, 8, 19);
- They have been forced to move to other areas for security reasons, as well as to stop working in the fields or to close themselves in their homes as self-protection measures (see supra paras. 5, 10, 19).

44. The Commission notes that the situation of the proposed beneficiaries was brought to the attention of various State entities at the domestic level. For example, it notes that complaints have been filed with the Prosecutor’s Office and the Police, as well as requests to the National Protection Unit. Likewise, local entities, such as the Secretary of Security and Citizen Coexistence of Piedecuesta and the Secretary of the Interior of the District of Barrancabermeja, and judicial authorities, following the filing of a tutela, have recently requested the protection of the proposed beneficiaries.

45. In response to the request for information under the terms of Article 25 of the Rules of Procedure, the Commission notes that the State adopted the following measures: i. protection measures by the National Protection Unit (see supra para. 32); ii. preventive measures by the Magdalena Medio Police Department, Barrancabermeja Police Station, with the Human Rights Group of the Command maintaining constant communication with the proposed beneficiaries.); ii. preventive measures by the Police Department of Magdalena Medio, Barrancabermeja Police Station, with the Human Rights Group of the Command maintaining constant communication with the proposed beneficiaries, as well as inter-institutional coordination and coordination with the military forces (see supra paras. 29, 30); iii. preventive measures adopted by the Metropolitan Police of Bucaramanga and dialogue with the proposed beneficiaries; and iv. actions by the municipal mayor’s office of Piedecuesta (see supra paras. 31, 32). Likewise, the State reported on the existing inquiries, between 2017 and 2023, and in which the proposed beneficiaries appear as complainants under the crime of threats. There are reportedly 25 inquiries that are “active”.

46. Upon analyzing all available information, the Commission notes that, despite the existence of material protection measures, risk situations have continued to occur over time, even in recent months of 2023. This reflects that the risk situation has continued and has not been mitigated or disappeared to date. With regard to security measures, the Commission notes that the State has decided to implement certain measures following the classification of Mr. Moreno’s situation as an “extraordinary” risk, and the

occurrence of recent events against him, according to the information available. Likewise, preventive measures have been implemented, which have focused on patrols or communications with the proposed beneficiaries, which, although important for monitoring their situations, does not address the need for the proposed beneficiaries to be able to continue carrying out their daily work in the areas involved.

47. This Commission is concerned that the events that the proposed beneficiaries have faced have led them, at certain temporary moments, to have to completely stop their human rights work in order to protect themselves. In this regard, it has been alleged that they have had to lock themselves in their homes or decide to stop doing field work in the area. Another element to consider is that, according to the information available, criminal organizations have already pointed a gun at the head of one of the directors in order to get him to give up information about the actions he has carried out in the area. The Commission therefore understands the seriousness and intensity of the events that have been occurring over time and that require the activation of the greatest protection efforts on the part of the institutions of the State of Colombia.

48. The Commission notes that, despite the various complaints filed by the proposed beneficiaries and the existence of 25 inquiries, there is no information regarding the progress or results of these, particularly with regard to the identification of possible perpetrators. The above, is particularly relevant in the present matter in attention to the fact that there are complaints dating back to 2017 and the actions of the armed actors have continued over time. This situation reveals that despite the formal existence of the aforementioned investigations, there are no tangible results that allow considering that the risk faced by the proposed beneficiaries is being mitigated. This situation becomes more relevant to the extent that the death threats, surveillance and monitoring have increased and have been sustained over time, with the armed groups having already pointed a gun at one of the proposed beneficiaries.

49. In accordance with the foregoing, the Commission considers, from a *prima facie* standard, that the rights to life and personal integrity of the defenders Diego Mayorga Osorio and José Alberto Moreno Alvarez are at serious risk of being affected.

50. As for the urgency requirement, the Commission considers that it has been met, since the continuity of the risk events, the recently reported threats, as well as their possible origin, point to criminal structures whose organization and presence in the areas where they carry out their work allow inferring that the risk situation remains unmitigated and is likely to continue and exacerbate over time. Therefore, given the imminent materialization of the risk and the need to adapt and reinforce the protection schemes, it is necessary to immediately adopt measures to safeguard their rights to life and personal integrity.

51. Regarding the requirement of irreparability, the Commission considers that it has been met, insofar as the possible impact on the right to life and personal integrity constitutes the maximum situation of irreparability.

52. With regard to the State's arguments in relation to the principle of subsidiarity, the Commission considers it pertinent to recall that this principle informs the Inter-American system as a whole, in that international jurisdiction is "adjuvant" to national jurisdictions, without replacing them²⁸. The Commission considers, however, that the invocation of the principle of subsidiarity as a basis for considering that the adoption of precautionary measures is not appropriate, presupposes that the State

²⁸ See *inter alia*: IACHR, Francisco Javier Barraza Gómez regarding Mexico (MC-209-14), Resolution of 15 August 2017, para. 22. IACHR, Paulina Mateo Chic regarding Guatemala (MC 782-17), Resolution of 1 December 2017, para. 34; and IACHR, Santiago Maldonado regarding Argentina (MC 564-2017), Resolution of 22 August 2017, para. 16.

concerned satisfies the burden of demonstrating that the proposed beneficiaries do not fall within the circumstances established in Article 25 of the Rules of Procedure, in view of the fact that the measures adopted by the State itself have had a substantive impact on the reduction or mitigation of the situation of risk, in such a way that it is not possible to assess a situation that meets the requirement of gravity and urgency that precisely require international intervention to prevent irreparable damage²⁹.

53. In the present case, although the Commission takes into account the actions taken by the State, after analyzing the situation presented, it observes that the requirements established in Article 25 of the Rules of Procedure have been met, so that the adoption of precautionary measures is appropriate.

54. Finally, the Commission wishes to recall that the State's obligation to guarantee the rights to life and personal integrity of persons is reinforced when a human rights defender is involved. Thus, this not only implies creating the legal and formal conditions, but also requires guaranteeing the factual conditions in which human rights defenders can freely carry out their function. To this end, it must adopt decisive measures to prevent acts of violence against human rights defenders, facilitate the necessary means for them to freely carry out their activities; protect them when they are subject to threats to avoid attempts on their lives and integrity; create the conditions for the eradication of violations by state agents or private individuals, and seriously and effectively investigate violations committed against them, combating impunity.³⁰

IV. BENEFICIARIES

55. The Inter-American Commission declares as beneficiaries (1) David Mayorga Osorio, and (2) José Luis Moreno Álvarez, who are fully identified in these proceedings.

V. DECISION

56. The Inter-American Commission considers that the present case meets *prima facie* the requirements of seriousness, urgency and irreparability contained in Article 25 of its Rules of Procedure. Consequently, it requests the Republic of Colombia to:

- a) immediately adopt the necessary measures to preserve the life and personal integrity of the identified beneficiaries;
- b) adopt protection measures that allow the beneficiaries to continue carrying out their activities in defense of human rights without being subjected to threats, intimidation and acts of violence against them;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- d) report on the actions taken to investigate the facts that gave rise to the adoption of the precautionary measures, so as to prevent such events from reoccurring.

57. The Inter-American Commission requests the Government of Colombia to report, within 15 days

²⁹ Ibidem

³⁰ IACHR Court. Case of Escaleras Mejía et al. v. Honduras, Judgment of September 26, 2018. Series C No. 361, para. 64; Case of Defensor de Derechos Humanos et al. v. Guatemala. Preliminary Objections, Merits, Reparations, and Costs. Judgment of August 28, 2014. Series C No. 283, para. 142

from the date of this Resolution, on the adoption of the requested precautionary measures and to update this information on a regular basis.

58. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment of any violation of the rights protected in the American Convention and other applicable instruments.

59. The Commission instructs its Executive Secretariat to notify the State of Colombia and the requesting party of this Resolution.

60. Approved on June 12, 2023, by Margarete May Macaulay, President; Roberta Clarke, Second Vice-President; Joel Hernández García; Julissa Mantilla Falcón; and Edgar Stuardo Ralón Orellana, members of the IACHR.

María Claudia Pulido
Assistant Executive Secretary