I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of John Jairo Palacios in Colombia. At the time of its decision, the Commission notes that there is no information on the beneficiary’s current situation despite requests for information from the beneficiary’s representation. The Commission stresses that the representation has not sent updated information during approximately 13 years since these precautionary measures have been in force. It also notes that the State forwarded information regarding the ongoing search and investigative actions taken to determine the whereabouts of the beneficiary. On the basis of the information before it, the Commission notes that the current situation does not meet the requirements of Article 25 of the Rules of Procedure.

II. BACKGROUND INFORMATION

2. On November 23, 2010, the IACHR granted precautionary measures for John Jairo Palacios, in Colombia. The request for precautionary measures alleges that on July 30, 2010, John Jairo Palacios was a victim of forced disappearance, which had reportedly been carried out by paramilitary groups. The IACHR requested information from the State based on the functions laid out in Article XIV of the Inter-American Convention on the Forced Disappearance of Persons, however it did not receive information that would clarify his whereabouts. In view of the seriousness and urgency of the allegations and the lack of information on the whereabouts of the person, the IACHR granted precautionary measures so as to guarantee the life and personal integrity of John Jairo Palacios. The Commission requested the State to report on the whereabouts of John Jairo Palacios, his state of health and the security situation in which he finds himself, to take the necessary measures to guarantee the life and physical integrity of John Jairo Palacios, and to report on the actions taken to investigate the events that led to the adoption of precautionary measures.2

3. Representation before the Commission is exercised by the Inter-Ecclesial Commission on Justice and Peace.

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

4. During the time the precautionary measures were in force, the Commission followed up on the subject matter of these precautionary measures by requesting information from the parties. After granting these precautionary measures, the Commission has not received additional

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

2 IACHR, Annual Report 2010, Chapter III, Section C. Petitions and Cases before the Inter-American Commission on Human Rights
information from the representation. For its part, the State has submitted reports on the following dates:

<table>
<thead>
<tr>
<th>Year</th>
<th>Date(s)</th>
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<tbody>
<tr>
<td>2010</td>
<td>December 27</td>
</tr>
<tr>
<td>2011</td>
<td>January 28, June 2, September 1 and 2</td>
</tr>
<tr>
<td>2012</td>
<td>June 6 and 7</td>
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<tr>
<td>2017</td>
<td>May 26</td>
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</tbody>
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5. The Commission forwarded these reports to the representation and requested relevant information on the following dates:

<table>
<thead>
<tr>
<th>Year</th>
<th>Date(s)</th>
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</thead>
<tbody>
<tr>
<td>2011</td>
<td>May 17, August 1, September 15</td>
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<tr>
<td>2012</td>
<td>June 27</td>
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<tr>
<td>2017</td>
<td>May 1</td>
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<tr>
<td>2022</td>
<td>September 28</td>
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<tr>
<td>2023</td>
<td>February 28</td>
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</tbody>
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6. On September 28, 2022, the Commission requested information from the representation without receiving a response. On February 28, 2023, the Commission reiterated the request for information made to the representation in order to examine the relevance of keeping these precautionary measures in force. The representation has not provided a response or additional information.

A. Information submitted by the State

7. On December 27, 2010, the State indicated that the police station in the municipality of Riosucio (in the Chocó department) was requested to proceed with necessary arrangements to find the whereabouts of Mr. Palacios, and until then, it had not been possible to determine his location. The State indicated that the National Police, the Commission for the Search of Disappeared Persons, and the Office of the Attorney General were carrying out actions aimed at finding the beneficiary's whereabouts. In particular, the State indicated that since August 2010, the Prosecutor's Office 75 of the city of Medellín, attached to the National Human Rights Unit of the Attorney General's Office, activated the Urgent Search Mechanism. Furthermore, it was reported that Prosecutor's Office 101 of Quibdó (Chocó department) would proceed with the criminal investigation for the alleged crime of forced disappearance of Mr. Palacios.

8. In 2011, the State submitted information regarding the investigation into the alleged crime of forced disappearance carried out by the Prosecutor's Office, indicating that it would be under preliminary investigation. Thereon, the elaboration of a methodological program was purportedly ordered, investigative work aimed at the community was reportedly carried out to identify the alleged material and intellectual authors of the events, the beneficiary's family members were allegedly interviewed, and the Urgent Search Mechanism was allegedly activated. Additionally, it was indicated that the criminal investigation related to the alleged crime of the murder of Mr. John Jairo Palacios was unified to that of the forced disappearance. The State stressed that the situation of public order in the region would have been the main obstacle to the investigation’s progress.

9. On August 31, 2011, the State reported that, through judicial inspection in the National Civil Registry, the Directorate of Criminal Investigation and INTERPOL of the National Police, it was possible to fully verify the identity records of Mr. Palacios. Based on the information available, the
National Institute of Legal Medicine and Forensic Sciences carried out a technical consultation and allegedly found no body that corresponded with the morphological characteristics of Mr. John Jairo Palacios. Moreover, the inspection was carried out in different databases of both private companies and State entities to obtain more information about the beneficiary.

10. In 2012, by note dated June 5 of the same year, the State sent information indicating the proceedings carried out by the Prosecutor’s Office in the case of Mr. Palacios:

i) September 16, 2010: the order was reportedly handed over to the Judicial Police, to identify the possible perpetrators of the punishable conduct;

ii) November 26, 2010: it is alleged that an order of the Prosecutor’s Office had been issued, unifying the criminal notice number 276156001103201080019 with respect to the same events;

iii) December 20, 2010: the Division of Judicial Investigations of the Judicial Police in the Chocó department purportedly issued a report with negative results;

iv) June 6, 2011: a new Judicial Police order was seemingly issued to individualize and identify the alleged perpetrators of the disappearance and subsequent murder of Mr. Palacios Mosquera;

v) November 24, 2011: a new order was reportedly issued by the Technical Committee of Investigations of the Attorney General’s Office in the Chocó division of the Judicial Police, to identify the perpetrators of the disappearance and subsequent murder of Mr. Palacios Mosquera;

vi) December 16, 2011: the response reportedly received from the Technical Corps of Judicial Investigations of the Prosecutor’s Office from the Chocó division came back with negative results regarding the identification and individualization of the perpetrators, as well as for the location of the victim’s family members.

11. Furthermore, through this same communication, the State expressed that it mourned the death of Mr. John Jairo Palacios Mosquera and indicated its rejection and condemnation of the events. The State also indicated that it would provide all necessary means of collaboration to clarify the facts and identify and individualize those responsible.

12. In 2017, the State forwarded information indicating that, on May 28, 2012, the Attorney General’s Office reported that the body of John Jairo Palacios Mosquera was found. However, on June 8, 2012, the Commission for the Search of Disappeared Persons informed the Ministry of Foreign Affairs that its records would not report the beneficiary “dead” but rather as missing, and therefore it reportedly requested the Prosecutor’s Office to verify the information. On January 28, 2015, the Commission for the Search of Disappeared Persons informed the Ministry of Foreign Affairs that the body found belonged to another person. The State indicated that the investigation for forced disappearance, initially assumed by the Prosecutor’s Office 101 of Quibdó, was transferred to the Unidad Nacional de Desaparición y Desplazamiento Forzado (National Unit for Forced Disappearance and Displacement), at the Prosecutor’s Office 4 of Bogotá. In that office, under the same procedural system and principle of related actions, investigations were reportedly being carried out for the crimes of forced disappearance and homicide in connection with John Jairo Palacios Mosquera. Additionally, the Prosecutor’s Office indicated that drawn from the physical evidence, it could be inferred that the beneficiary was allegedly dead. However, the State indicated that investigations into the crime of forced disappearance continue and that they would not cease until his remains were found. In this regard, Judicial Police orders had allegedly been issued to carry out investigative work through databases and other available tools.
IV. ANALYSIS OF THE REQUIREMENTS OF URGENCY, SERIOUSNESS, AND IRREPARABLE HARM

13. The precautionary measures mechanism is part of the Commission’s function of overseeing compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States, based on Article 41(b) of the American Convention on Human Rights and Article 18(b) of the IACHR Statute. Furthermore, the mechanism of precautionary measures is described in Article 25 of the Rules of Procedure, according to which the Commission grants precautionary measures in situations that are serious and urgent as well as necessary to prevent irreparable harm.

14. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights. 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. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the consideration of the IACHR. 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

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c) “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

15. With regard to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that decisions “granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) establishes that “the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider if new situations have arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

16. 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. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time. 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.7

17. The Commission notes that, upon granting these precautionary measures, the State carried out actions aimed at finding the beneficiary. In this regard, the Urgent Search Mechanism was allegedly activated, and other tasks were carried out such as the elaboration of a methodological program, actions aimed at finding the alleged material and intellectual authors of the events, and the beneficiary’s family members were allegedly interviewed. Moreover, in 2017, the State indicated that the beneficiary’s whereabouts had not been found and that physical evidence would infer that he had died, however, the investigative work aimed at finding his remains would continue. The Commission notes, according to the information submitted by the State, that the actions aimed at finding the beneficiary’s whereabouts began in 2010 and are said to continue over time, according to available information.

18. The Commission also recalls that the representatives of the beneficiaries who wish the measures to continue must provide proof of the reasons for doing so.8 In this regard, Article 25(11) of the Rules of Procedure sets forth that the Commission may lift or review a precautionary measure when the beneficiaries or their representatives unjustifiably fail to provide the Commission with a satisfactory response to the requests made by the State for its implementation. In that regard, the Commission notes that, although it has requested information throughout the time the matter has been in force, the representation has not provided an answer to this Commission. The former does not allow for the Commission to take note of the representation’s observations or to obtain information on the instant matter. In particular, it is known that, in 2023, after being asked for information to analyze whether the precautionary measures should remain in force, the representation did not provide an answer.

19. Thus, the IACHR understands that, despite the actions carried out in the investigation component and the actions taken over time regarding the beneficiary’s situation, the State continues to investigate the facts referring to the beneficiary’s disappearance in 2010. In these circumstances, in understanding the nature of the precautionary measures mechanism in situations such as this one, the Commission recalls the statements issued by the Inter-American Court in the provisional

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7 I/A Court H.R., Provisional Measures regarding Mexico, Order of February 7, 2017, paras. 16 and 17.
8 Ibidem.
measures of the *Matter of Almonte Herrera in the Dominican Republic* in 2010, among others, of the disappearance of Mr. Herrera. In deciding to lift these precautionary measures in 2015, the Inter-American Court stated the following:

"14. However, the passage of time in this matter and the lack of progress in the investigations directly affect the practical effects of these provisional measures, whose basic purpose was to avoid irreparable damage to the life and integrity of Mr. Almonte Herrera by the prompt action of the national authorities to discover his whereabouts. Even though these measures have been in force for five years, the Court still has no information on specific progress or results that would allow it to determine clearly what happened to Mr. Almonte Herrera or his whereabouts, so that the protection that it was hoped they would provide has been ineffective. (...)"

20. The Commission notes that the Court indicated that, "consequently, owing to the particular circumstances of this matter, and taking into account that provisional measures are exceptional in nature and relate to a specific temporary situation so that, given their characteristics they cannot be perpetuated indefinitely, and adding that since February of 2012 there is a petition pending before the Commission which is in the stage of admissibility, the Court must order that they be lifted and that the possible violations of the American Convention derived from what happened to Mr. Almonte Herrera be examined by means of a contentious case, if the necessary presumptions exist, and not in the context of the provisional measures."  

21. In line with the statements from the Inter-American Court, which was also adopted by the IACHR in the resolution to lift the precautionary measures in the matter of *Luis Alberto Sabando Veliz regarding Ecuador (PM-1002-04)* of January 4, 2021, the Commission states that in this matter, the precautionary measures, as international protection measures, looked for the competent authorities of El Salvador to adopt “expeditious action” to discover the whereabouts of the person and avoid irreparable damage. In this same way, the Commission understands that these precautionary measures, like the provisional measures, cannot be extended indefinitely in time given their temporary nature, without prejudice to assessing the actions taken by the State in the investigation process.

22. In line with what the Inter-American Court indicated in the *Matter of Almonte Herrera in the Dominican Republic*, the Commission understands that, through a petition, there is an opportunity to analyze the possible violations of the Convention that may have occurred in this matter, provided that the corresponding normative requirements are met. Insofar as it must carry out a merits analysis of the various actions performed by the State of Colombia in the framework of the investigations in light of the corresponding standards.

23. In view of the foregoing considerations and taking into account that the elapsed time requires a merits analysis in the framework of a possible petition, and not in the precautionary measures mechanism, the IACHR decides to lift these precautionary measures. The Commission also notes that the representation did not present any other type of subsequent information during the time these precautionary measures were in force.

24. Therefore, the Commission does not have additional assessment elements in the terms of Article 25 of the Rules of Procedure. In view of the above and taking into account the exceptional...
and temporary nature of precautionary measures, the Commission deems it appropriate to lift these precautionary measures. Furthermore, it reminds the State of Colombia of its duty to comply with the corresponding investigations and to act with due diligence in accordance with the terms of the American Convention and applicable international standards.

V. DECISION

25. The Commission decides to lift these precautionary measures in favor of John Jairo Palacios in Colombia.

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

27. Approved on June 21, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Joel Hernández García; and Julissa Mantilla Falcón, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary

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