I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Martha Lucía Giraldo Villano et al. in Colombia. At the time of making the decision, the Commission assessed the State's actions during implementation, as well as the observations of the beneficiaries' representation. Following requests to lift the precautionary measure submitted by the State, the IACHR requested observations from the representation. The Commission notes that, despite the parties showing an interest in promoting continuous and diligent monitoring of these measures, there is no updated information. In this sense, the Commission has neither sufficient nor current information that would be sufficient to determine whether a situation continues to place the beneficiaries at risk pursuant to Article 25 of the Rules of Procedure.

II. BACKGROUND INFORMATION

2. On May 19, 2009, the IACHR granted precautionary measures in favor of the relatives of Mr. José Orlando Giraldo Barrera: his daughters, Martha Lucía Giraldo Villano and Ximena Giraldo Villano; his wife, Luz Marina Villano Morales; his brothers, Marcial Orlando Giraldo Barrera, José Wilson Orlando Giraldo Barrera, and Jairo Giraldo Barrera, as well as their respective family units, in Colombia. Representation is provided by the Committee for Solidarity with Political Prisoners (CSPP). The request for precautionary measures claimed that the beneficiaries were followed and intimidated, allegedly for participating as witnesses in the criminal trial on the death of Mr. José Orlando Giraldo Barrera, which occurred on March 11, 2006. On April 28, 2009, uniformed persons reportedly stood in front of Mr. José Wilson Orlando Giraldo Barrera's residence for several hours and inquired about his whereabouts. On May 10, 2009, he was purportedly the target of a firearm attack in the city of Cali. The request alleged that the Office of the Attorney General has offered to include some of the beneficiaries in its victim and witness protection program, but that such a measure would make it difficult for the beneficiaries to participate in the criminal trial on the death of Mr. José Orlando Giraldo Barrera. Following the related analysis, the Commission found that the identified persons were prima facie in a situation of risk which met the requirements of Article 25 of the Rules of Procedure. In this regard, the IACHR requested that the State of Colombia: a) adopt the necessary measures to guarantee the life and physical integrity of the beneficiaries and their respective family units; and b) inform the IACHR about the actions taken to investigate the facts that gave rise to the precautionary measures.²

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

¹ In accordance with Article 17(2) of the Rules of Procedure of the IACHR, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate and deliberation of this matter.
² IACHR, Annual Report 2009, Chapter III, Section C: Petitions and Cases before the Inter-American Commission on Human Rights, para. 16
3. 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. The representation sent communications 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 14</td>
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<tr>
<td>2011</td>
<td>December 2</td>
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<tr>
<td>2012</td>
<td>January 4, June 29, September 24</td>
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<tr>
<td>2013</td>
<td>April 15</td>
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<tr>
<td>2014</td>
<td>January 31, April 12 and 25, September 2, October 7 and 31</td>
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<tr>
<td>2015</td>
<td>February 13, March 2</td>
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<tr>
<td>2016</td>
<td>April 12</td>
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<td>2017</td>
<td>December 22</td>
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<tr>
<td>2021</td>
<td>February 5</td>
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</table>

4. For its part, the State submitted reports and observations on the following dates:

<table>
<thead>
<tr>
<th>Year</th>
<th>Date(s)</th>
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<tbody>
<tr>
<td>2012</td>
<td>January 30, April 25, November 5</td>
</tr>
<tr>
<td>2013</td>
<td>June 26</td>
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<tr>
<td>2014</td>
<td>May 7, November 20, December 31</td>
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<tr>
<td>2015</td>
<td>May 5, September 11</td>
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<td>2017</td>
<td>July 24</td>
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<tr>
<td>2020</td>
<td>December 4</td>
</tr>
<tr>
<td>2021</td>
<td>March 3, June 18, September 27, December 7</td>
</tr>
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</table>

5. The Commission forwarded these reports between the parties and requested relevant information on the following dates:

<table>
<thead>
<tr>
<th>Year</th>
<th>Date(s)</th>
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<tbody>
<tr>
<td>2011</td>
<td>December 30</td>
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<tr>
<td>2012</td>
<td>March 21, June 11, October 15, November 26</td>
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<tr>
<td>2013</td>
<td>June 10</td>
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<tr>
<td>2014</td>
<td>April 21, October 23, November 10</td>
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<tr>
<td>2015</td>
<td>April 17, July 27, November 5</td>
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<td>2016</td>
<td>July 25</td>
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<td>2017</td>
<td>September 9</td>
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<td>2019</td>
<td>May 15</td>
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<td>2021</td>
<td>January 22</td>
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<tr>
<td>2023</td>
<td>February 1</td>
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</tbody>
</table>

6. On February 1, 2023, the Commission forwarded information alleged by the State to the representation requesting the submission of information to assess the relevance of keeping these precautionary measures in force. The representation did not submit information.

A. Information provided by the State

7. On January 30, April 25 and November 5, 2012, the State reported that a follow-up and consultation meeting had been held on April 28, 2011, at which, reportedly, the head of the Human Rights Office of the Cali Police was established as a liaison. Similarly, the State indicated that a security detail had allegedly been implemented in favor of Martha Lucia Giraldo Villano, consisting of an armored vehicle and
two [security] escort units. The State indicated that the beneficiary also had police patrols, inspections and communication with the beneficiary overseen by the Metropolitan Police of Santiago de Cali. On April 25, 2012, the State stated that the problems that emerged with the protection detail had been purportedly solved. On October 17, 2012, the National Police reportedly communicated by telephone with the beneficiary, who allegedly said she was well and had no problems. Regarding the protection measures in favor of Ms. Luz Marina Villano Morales, Ximena Giraldo Villano, and Mariel Giraldo Villano, they reportedly reside in the same place where Ms. Martha Giraldo Villano lives, so they were covered by the police patrols overseen by the Metropolitan Police of Santiago de Cali. In addition, the State indicated that after September 24, 2012, preventive security measures were adopted.

8. Regarding Jorge Jairo Giraldo Barrera, the State reported that in May 2010 it purportedly had recommended extending the protection measure consisting of 120 hours of collective transport support each month for 6 months. In September 2009, Mr. José Wilson Giraldo and his family were allegedly enrolled in the General Health System, under the Contributory Regime, with payments being covered by the Victim and Witness Protection Program of the Office of the Attorney General. The State indicated that Mr. José Wilson purportedly decided to withdraw from the Program due to the alleged absence of adequate care. On March 11, 2010, the Program director reported that Mr. José Wilson Giraldo and his family unit were excluded because the beneficiary reportedly did not wait for his withdrawal from the Program to be accepted and, likewise, he purportedly fled the entity’s headquarters, taking some of its assets. The State indicated that, in the absence of information on his whereabouts at the time, the beneficiary Martha Giraldo was established as a liaison.

9. Finally, regarding the investigation into the crime of aggravated homicide and concealment, alteration and destruction of evidentiary material, the State reported having managed to capture one person and secured approval to issue 10 arrest warrants. Moreover, the State reported on the conviction of a person to 38 years in prison for the crimes of concealment, alteration of a crime scene, and for his participation as a co-perpetrator in the murder of Mr. José Orlando Giraldo Barrera. With respect to other accused persons, the investigation is reportedly at the oral trial stage.

10. On June 26, 2013, the State reported that, in a report dated April 22, 2013, the National Protection Unit (UNP) stated that the beneficiary had various protection measures: a communication device, a bulletproof vest, an ordinary vehicle, and two escorts. On April 18, 2013, a consultation was held in which the head of the Human Rights Office of the Cali Police was designated as the liaison to deal with any situation that might affect the beneficiary’s security. Upon the request to reactivate communication devices in favor of Ximena Giraldo, Mariel Giraldo, Luz Marina Villano, and Jairo Giraldo, suspended in 2012, the UNP reportedly promised to study the risk level facing the beneficiaries to examine the relevance of reactivating them. Furthermore, in response to the request for protection for Mr. José Wilson Giraldo, the UNP allegedly delivered a request for protection form. Regarding José Wilson Giraldo’s health, a home visit was reportedly made in which it was determined that the patient was in good condition. Nevertheless, a priority medical appointment, admission to the hypertension and diabetes program, and a neurology appointment were arranged. Finally, two investigations were reported into the crime of threats against the beneficiary, which are at the inquiry stage. In the investigation into the death of Mr. José Orlando Giraldo Barrera, the detainee requested to be released due to the expiration of terms. However, it was indicated that all requests were denied.

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3 It was reported that it was impossible to locate the perpetrators since the threats have been made via text messages and the numbers from which the text messages are sent are purchased with false documentation.
11. In 2014, the State stated that, on March 3, 2014, an agent of the Human Rights Office of the Metropolitan Police of Santiago de Cali went to the home of the beneficiary Martha Giraldo in order to collect information regarding the text messages that she had purportedly received. The beneficiary's sister-in-law allegedly received the agent and informed him or her that the beneficiary did not live there and that she did not know where the beneficiary resided. The Police reported that they were unaware of the address change and that, previously, the beneficiary had verbally stated that she was withdrawing from the police protection measure. The human rights official tried to contact the beneficiary by cell phone without obtaining a response. Subsequently, in October 2014, it was reported that the UNP requested to reactivate communication devices for Jorge Jairo Giraldo Barrera, Maricel Giraldo Villano, Ximena Giraldo Villano, and Luz Marina Villano Morales. It was reported that Mr. José Milciades Sánchez, the beneficiary's partner, had a protection detail consisting of a vehicle, which was changed on November 10, 2014, because the previous one had mechanical failures. UNP initiated a reassessment of the risk level facing Martha Giraldo and José Milciades to establish appropriate protective measures. The National Police ordered permanent patrols and police inspections of the headquarters of the beneficiaries' organizations and places of residence, and the Human Rights Coordinator of the Cali Metropolitan Police maintained constant communication with the beneficiaries. Finally, the Office of the Attorney General stated that it had become aware of José Milciades' situation through the proceeding to extend a complaint for the crime of threats. In this regard, the State indicated that the prosecutor's office overseeing the case (fiscalía de conocimiento) ordered the corresponding methodology program and issued judicial police orders.

12. On September 11, 2015, the State stated that in February 2015 the UNP reported that the result of Martha Giraldo's risk assessment was an "ordinary" risk. Consequently, it was reportedly recommended to gradually dismantle the security detail, keeping an escort for three months. The dismantling of the safety detail was approved on January 19, 2015. UNP contacted Martha Giraldo by phone and email for her to report new threats and submit the necessary documents to initiate another risk assessment. On March 26, 2015, the UNP re-launched the ordinary protection route in order to determine the beneficiary's risk level. On July 23, 2015, by Resolution 164 of August 28, 2015, the beneficiary was purportedly assigned a type 1 security detail consisting of a conventional vehicle, two escorts, a vest, and a communication device. The security measures in favor of José Milciades were allegedly approved on January 19, 2015, since his risk assessment reportedly resulted in an "extraordinary" risk. The State reported that the alleged threats against Mr. José Milciades Sánchez were being investigated by the Office of the Attorney General. Since 2014, the State has indicated that it has no knowledge of new threats against Martha Giraldo. Regarding the investigation into the murder of Mr. José Orlando Giraldo, it was reported that one of those involved was convicted and the sentence was final. The State also indicated that the disciplinary investigation regarding the other parties involved had been awaiting judgment since February 19, 2015.

13. On July 24, 2017, the State reported that the protection detail in favor of Ms. Martha Giraldo was approved on August 30, 2016, after considering an "extraordinary" risk level. This detail purportedly consisted of a vehicle, two escorts, a phone, and a vest for a year. It was also reported that the Cali Metropolitan Police reinforced patrols and inspections of the beneficiary's workplace. In addition, the entity provided contact telephone numbers to be able to respond in a timely manner to anything the beneficiaries needed. It was indicated that the Judicial Intelligence Section carried out actions aimed at seeking evidence that would allow the identification and capture of those responsible for the threats. On February 17, 2017, a follow-up consultation meeting about the measures was reportedly held in Cali.\footnote{According to the State, at this meeting the beneficiary requested to be informed on the progress of the investigations launched by the Prosecutor's Office into the threats against her; in addition, the beneficiary purportedly stressed the adequate operation of the protection detail implemented by the UNP, on which she allegedly expressed her concern about a GPS system recently installed in the assigned vehicle.} The
Office of the Attorney General referred to three active investigations into the crimes of threats in the form of written intimidations and cell phone text messages directed toward several union leaders and human rights defenders in Cali.⁵

14. On December 4, 2020, and in subsequent communications during 2021, the State requested that the precautionary measures be lifted. Additionally, the State reported that, in the criminal proceedings carried out to investigate the murder of Mr. José Orlando Giraldo Barrera, seven former military members were convicted. UNP reported that, based on the resolution of May 20, 2020, Ms. Giraldo Villano has the following material protection measures: a conventional vehicle, two escorts, a communication device, and a bulletproof vest. In this regard, the State indicated that the implementation of the protection measures was in response to her capacity as a human rights defender and Technical Secretary of MOVICE Valle del Cauca, but not to the facts derived from the precautionary measures. Finally, the State considered that there was a factual change of facts since the criminal proceedings that led to the granting of the precautionary measures ended, and the alleged perpetrators were convicted.

B. Information provided by the representation

15. On December 14, 2010, the representation stated that threats against social and human rights organizations in the Valle del Cauca region had been systematic and repeated. It indicated that, after activities commemorating International Human Rights Day, held on December 10 and 11, 2010, in Valle del Cauca, the beneficiary Martha Lucía Giraldo, a promoter in the Valle Chapter of the Movement of Victims of State Crime (MOVICE), received a threat via text message.⁶ On December 2, 2011, the representation reported that the beneficiary Martha Lucía Giraldo was assigned a security detail as a material protection measure. The representation indicated that following the dissolution of the Administrative Security Department (DAS) on October 31, 2011, résumés were forwarded to the new protection agency to hire new escorts.

16. On January 4 and June 29, 2012, the beneficiary stated that she had two [security] escort units, confirming the information provided by the State. It was indicated that there have been drawbacks; for example, since June 12, 2012, the beneficiary did not have her assigned vehicle because it was undergoing maintenance. On January 4, 2012, the beneficiary allegedly received a threat via text message.⁷ On September 24, 2012, the representation reported that, at dawn, a member of the Committee of Solidarity with Political Prisoners Foundation received a text message threatening several people belonging to social and human rights organizations.⁸ On July 9, 2012, Mr. Walter Agredo Muñoz and the beneficiary Martha Giraldo received a threatening message⁹

17. On April 15, 2013, the representation stated that on April 10, 2013, the beneficiary Martha Giraldo, received a text message stating: "Die in uniform or in civilian clothing death to Marina Palacios, Walter Agredos, Milciades Sanchez, Martha Giraldo, CUT, sintraunicol, acimm, political prisoners." The State stated that several obstacles reportedly prevented the positive identification of the alleged perpetrators. For example, there are no security cameras installed in places where threat-filled pamphlets are left.

With the following message: "you are the ones who do not let this country progress supporting families of guerrillas and those who depress with those stupid ideas of freedom therefore you are declared our death targets: NOMADESC, Committee of Prisoners, ECATE, MOVICE, the Council's Database and Indigenous Leaders... death to you and we start from [sic] today Águilas negras nueva generación (the Black Eagles New Generation)."

With the following message: "the families of the guerrillas are also demobilized, otherwise you have two alternatives, or you abide by the law or lose who you love most, and we will start with the youngest, att: águilas negras (Black Eagles) for a country without guerrillas"

With the following message: "death to Walter Agredo, Berenice, Martha Giraldo, Milena Olave, Yon Poso, Diego Escobar, Machete, Diana, Delia, Marina Palacio, Feliciano, Aida Ucuce, Olga Naranjo, demobilize already death maxistas [sic] motherfuckers"

With the following message: "defenders of ACIM guerrillas, political prisoners, MOVICE, cutsintraunicol will die, 24 hours death"
“Comandos Urbanos Los Rastrojos.” On January 31, 2014, the representation reported that on January 30, the beneficiary received another message stating: “death disguised guerrillas Martha Jiraljm [sic], Milciadez Sanchez, Vualter [sic] Agredo, machete, cut, MOVICE, political prisoners, CPDH.”

18. On April 12, 2014, the representation stated that a conciliation meeting was held on April 18, 2013. Various agreements were allegedly reached at that meeting. According to the UNP, the representation indicated that the beneficiary Martha Giraldo’s security detail was suspended since the study on the level of risk was allegedly no longer valid. In connection with the investigations, the representation indicated that the soldiers who were detained for the process of the death of the beneficiary’s father were released. On September 2, 2014, the representation presented information on the beneficiary Martha Giraldo’s husband, Mr. José Milciades Sánchez, who was also a member of the SINTRAUNICOL union. The representation stated that on September 1, 2014, Mr. José Milciades Sánchez received a pamphlet from the group “Los Rastrojos Comandos Urbanos” in which he and other human rights defenders in the Valle del Cauca were declared a military target. On October 6, 2014, the representation reported that on October 5, 2014, José Milciades Sánchez received a text message indicating: “Colombia without guerrillas, 24 hours to leave Cali, death to Martha MOVICE, Walter Presos Políticos, Milena, CPDH, Milciades, univalle, machete, CUT, urban commands from Los Urabeños.” On October 18, 2014, José Milciades received another message from the “Comandos Urbanos de Los Rastrojos.” Additionally, it was informed that Mr. José Milciades Sánchez was assigned a security detail.

19. On February 13, 2015, the beneficiary stated that on that same day she received a phone call from a UNP official who urgently requested an interview to conduct a detailed inspection of the security detail. An act of withdrawal was processed for the security detail, because at the session on November 27, 2014, of the Committee for the Evaluation of Risk and Recommendation of Measures (CERREM), the risk was classified as “ordinary.” The official asked her to sign the act of withdrawal for the security detail, by which the beneficiary refused to do so. On March 2, 2015, the representation informed that in February, a pamphlet by the “armed group Los Rastrojos – Comandos Urbanos” was distributed, in which several human rights defenders and unionists were declared military targets, including José Milciades Sánchez and the SINTRAUNICOL organization of which he is a member.

20. On April 12, 2016, the representation stated that the same day the beneficiary Martha Giraldo received a threat against her by a paramilitary group called “Autodefensas Gaitanistas de Colombia,” the threat was received in a sealed envelope made out to Martha Giraldo, under the door of the building where the MOVICE office operates. The representation indicated that the envelope contained a pamphlet declaring several human rights defenders as military targets, including Mr. José Milciades Sánchez and Ms. Martha Giraldo. Moreover, it was indicated that the beneficiary, Martha Giraldo, has a security detail with a conventional vehicle and two escorts. On December 22, 2017, the representation reported that on December 20, 2017, Mr. José Wilson Giraldo Barrera was on his way to a relative’s house in the city of Cali when a man shot him under various conditions, striking his body. The representation indicated that his health was in a critical state.

21. On February 5, 2021, the representation claimed that certain former military personnel were convicted of the murder of Mr. José Orlando Giraldo Barrera, and others who were involved remain

10 Such as the following: processing requests for communication devices for the other beneficiaries of the precautionary measures, increase in gas for Martha Giraldo’s security detail, protection measures for José Wilson Giraldo, and information on the investigations carried out by the Office of the Attorney General and the Office of the Inspector General. Similarly, the representation would send documents to process the applications referred to above.

11 It was also reported that on August 30, 2014, the president and another member of the Board of Directors of SINTRAUNICOL were victims of an armed attack when they were traveling in a security vehicle.
pending for an investigation. Furthermore, the representation alleged that those who were convicted submitted to the Special Jurisdiction for Peace, which has suspended the execution of the sentence or the suspension of the arrest warrant, resulting in the majority being at liberty. The representation claimed that Martha Giraldo has protection measures provided by UNP, but these allegedly do not cover all the beneficiaries.

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

22. 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.

23. 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.\(^{12}\) Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.\(^{13}\) To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.\(^{14}\) 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:

\(^{12}\) 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.


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.

24. 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.

25. 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 lifting of international protection measures.

26. In this matter, the Commission recalls that precautionary measures were granted in 2009 in favor of the relatives of Mr. José Orlando Giraldo Barrera. It was assessed that the beneficiaries were at risk under the terms of Article 25 of the IACHR Rules of Procedure, within the framework of their participation in the criminal trial on the death of Mr. José Orlando Giraldo Barrera. During the Commission’s follow-up, the State responded and reported on the measures implemented. In particular, the IACHR highlights, on the basis of available information by the parties, the following measures:

(i) Internal risk evaluations and the subsequent establishment of security detail in favor of Martha Giraldo and other members of her family (see supra paras. 11, 12, 13, 19);
(ii) Holding meetings of conciliation, such as those held on April 28, 2011; April 18, 2013; and February 17, 2017 (see supra paras. 7, 10, 18);
(iii) Police patrols and inspections carried out at the workplace and home of the beneficiary Martha Giraldo, carried out by the Metropolitan Police of Cali (see supra paras. 7, 11, 13);
(iv) Investigations launched by the Office of the Attorney General against the alleged acts in the present procedure (see supra paras. 10, 11, 12, 13); and
(v) Convictions of specific individuals responsible for the death of José Orlando Giraldo Barrera, being that the case subsequently was transferred to the Special Jurisdiction for Peace (see supra paras. 9, 12, 14, 21).

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16 Ibid.
17 Ibid.
27. The Commission acknowledges the measures implemented by the State in the framework of the current procedure. The Commission also notes that the State requested the lifting of these precautionary measures in 2020 and reiterated this request later. Pursuant to Article 25(9) of the Rules of Procedure, the aforementioned request and subsequent reiterations were forwarded to the representation. Upon receiving the representation’s response, the Commission proceeds to evaluate if the precautionary measures in two groups of family members should remain in force. First, the situation of Ms. Martha Lucía Giraldo Villano and her family unit; and second, the situation of other relatives of Mr. José Orlando Giraldo Barrera. 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. By the same token, the representatives of the beneficiaries that want the measures to continue must present evidence of reasons why.

- Situation of Ms. Martha Lucía Giraldo Villano and her family unit

28. The representation confirmed that Ms. Giraldo Villano had protection measures in her communication in 2021. The Commission notes that the representation did not present any additional elements that would be sufficient to analyze questions about the suitability or effectiveness of those protection measures. The Commission also notes that no specific acts or events were reported recently that would make it possible to assess a current situation presenting a risk in the terms of Article 25 of the Rules of Procedure.

29. The information available indicates that the last act committed against her occurred in 2016. As for José Milciades Sánchez, the last reported act dates to 2015. In that sense, the Commission was not informed of recent acts committed against Ms. Giraldo Villano, or her husband, which would allow to consider an imminent risk. In view of the aforementioned analysis, the Commission considers that it does not have elements of assessment that can account for current risk within the terms of Article 25 of the Rules of Procedure. In this regard, it is also noted that the information available in the current procedure indicates that approximately seven years have elapsed without the occurrence of specific events involving risk committed against this group of beneficiaries.

30. Although the representation raised questions on the development of the process or decisions before the Special Jurisdiction for Peace, the Commission notes that in the current procedure, it is not appropriate to carry out assessments on the merits of a petition or case, in light of the Convention and applicable standards. The analysis conducted has focused exclusively on the requirements set out in Article 25 of the Rules of Procedure, considering that they are not currently identified in light of the information available in the current procedure.

- Other relatives of Mr. José Orlando Giraldo Barrera

31. The Commission notes that the representation claimed in its last communication that the protection measures implemented internally would not cover all beneficiaries. However, when evaluating whether these precautionary measures should remain in force, the Commission notes that no recent information has been provided on Mr. José Orlando Giraldo Barrera’s other relatives, which was relevant considering the request to have the measures lifted submitted by the State of Colombia, and in order to understand their current situation in view of Article 25 of the Rules of Procedure.

18 Ibid.
19 Ibid.
32. When analyzing the available information, the Commission notes that the last reported particularly serious act committed against this group of family members dates to 2017. At that time, Mr. José Wilson Giraldo Barrera’s situation was reported. However, no information was subsequently provided regarding his situation or that of Mr. José Orlando Giraldo Barrera’s other relatives. In this sense, the Commission does not have any assessment elements to identify any situation presenting a risk in the terms of Article 25 of the Rules of Procedure.

33. In summary, considering the analysis previously carried out, and taking into account the request to have the measures lifted made by the State and the representation’s response, the Commission notes that the factual circumstances that motivated the granting of these precautionary measures have changed, and that a situation that would support compliance with the requirements of Article 25 of the Rules of Procedure is not currently identified. In view of the above and considering the exceptional and temporary nature of precautionary measures, the Commission deems it appropriate to lift these measures.

34. In line with what was indicated by the Inter-American Court in various matters, a decision to lift does not 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. In the same way, also based on the assessment of the Inter-American Court, the lifting of the precautionary measures does not imply an eventual decision on the merits of the controversy in the inter-American system through a petition, nor does it prejudice state responsibility for the events denounced.

35. 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 Colombia 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

36. The Commission decides to lift the precautionary measures granted in favor of the beneficiaries in the instant matter.

37. The Commission recalls that the lifting of these measures does not prevent the representation 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.

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

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39. Approved on June 26, 2023, by Margarete 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