INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 53/2023

Precautionary Measure No. 374-17
V.S.S.F. et al. regarding Honduras
September 21, 2023
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of V.S.S.F. et al. in Honduras. At the time of making the decision, the Commission verified that it does not have updated information that would allow it to identify an ongoing risk in terms of Article 25 of the Rules of Procedure. In this regard, the Commission observed that the representation has not provided information during the time these precautionary measures have been in force. This situation was maintained over time despite several requests for information, which did not receive a response. Upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these measures.

II. BACKGROUND INFORMATION

2. On March 9, 2018, the Commission decided to grant precautionary measures in favor of the underage girl V.S.S.F., the underage boys G.A.S.F., R.A.S.F., and their biological mother in Honduras. According to the request, the beneficiaries were at risk due to threats and harassment by maras and gangs, as a result of their relation to Mr. Gerardo Vladimir Segura Maldonado, father of the children. Due to the ongoing risk they faced, Mr. Segura Maldonado, along with his partner, decided to leave the country and was seeking asylum in Canada. However, his children, along with their biological mother, had remained in Honduras. They claimed that they were under surveillance at their residence and had experienced acts of intimidation in an attempt to determine whereabouts of Mr. Segura Maldonado.

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

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 both parties.

4. The State submitted observations on the following dates:

<table>
<thead>
<tr>
<th>Year</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>March 26</td>
</tr>
<tr>
<td>2022</td>
<td>October 19</td>
</tr>
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5. The representation has not submitted further comments since these precautionary measures were granted.

6. The Commission issued requests for information to the parties on July 26, 2018; September 20, 2019; September 8, 2022; and March 1, 2023. In particular, on September 8, 2022, the Commission requested information from the representation in order to assess keeping the precautionary measures in force, in accordance with Article 25.9 of the Rules of Procedure. Moreover, on March 1, 2023, the Commission reiterated the request for prior information. However, no response has been received to date.

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7. The representation requested that their identities remain confidential.

A. Information provided by the State

8. On March 26, 2018, the State reported that a telephone call was made with the beneficiaries’ representation. It requested that a meeting be held with the mother of the children V.S.S.F., G.A.S.F. and R.A.S.F. to comply with these precautionary measures, at their earliest convenience. On March 16, 2018, the representation indicated that it had communicated with the beneficiary and confirmed attendance at the meeting. On March 19, 2018, the representation was present at the meeting to arrange security measures with the Human Rights Department of the Secretariat of State in the Security Office. On this occasion, the beneficiary was not present. Several phone calls were made to her cell phone number, but there was no response. By virtue of the foregoing, the beneficiary’s act of non-appearance was made. The State informed that it would be working with the representation to reach a consensus on the security measures in favor of the beneficiary. Furthermore, the State indicated that an official letter was sent to the Directorate of Police Intelligence (DIPOL), in which risk assessment was requested in the matter of the children V.S.S.F., G.A.S.F. and R.A.S.F. and their biological mother.

9. The State reported that three complaints were registered in relation to the beneficiaries: on June 13, 2014, for the crime of theft of a weapon against the SEPRIMET Private Security Company; on May 24, 2016, for the crime of threats and damages; and on May 26, 2016, for the crime of threats. However, Mr. Segura Maldonado was not present before the Immediate Response Unit or the Department of Common Crimes to sign the authorization to the Public Prosecutor’s Office to proceed with the investigations regarding the complaints. Therefore, the Police Directorate of Investigations was not able to continue with the investigations given that it lacked the victim’s authorization.

10. On October 19, 2022, the State indicated that the General Secretariat of the National Institute of Migration reported that Mr. Segura Maldonado left on July 10, 2017 for Canada. On the other hand, the Human Rights Department of the Ministry of Security reported that on August 2, 2022, it called the representation of the precautionary measures for a meeting scheduled for August 4, 2022. However, the representation did not appear at the meeting, and the minutes of non-appearance were therefore recorded.

B. Information provided by the representation

11. Despite the requests for information from the IACHR, the representation has not submitted a response after the granting of these precautionary measures.

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

12. 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.

13. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter “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.\textsuperscript{2} Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.\textsuperscript{3} 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.\textsuperscript{4} 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 (\textit{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:

\begin{enumerate}
  \item “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;
  \item “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
  \item “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.
\end{enumerate}

14. 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) sets forth that “the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.

15. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a \textit{prima facie} standard, keeping such measures in force requires a more rigorous evaluation.\textsuperscript{5} In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.\textsuperscript{6} The Inter-American Court has indicated that the passage of a reasonable period of time without any

\textsuperscript{2} See in this regard: I/A Court H.R. \textit{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. \textit{Case of Carpio Nicolle et al. v. Guatemala}, interim measures, Order of the Inter-American Court of Human Rights of July 6, 2009, considerandum 16.
\textsuperscript{5} I/A Court H.R. \textit{Matter of Fernández Ortega et al.}, Provisional measures regarding Mexico; Order of the Inter-American Court of Human Rights of February 7, 2017. 16 and 17.
\textsuperscript{6} \textit{ibid}.
threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.\textsuperscript{7}

16. 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.\textsuperscript{8} By the same token, the representation of the beneficiaries that want the measures to continue must present evidence of any reasons why.\textsuperscript{9} In this sense, the granting and keeping precautionary measures in force are of a precautionary or protective nature, and are therefore subject to compliance with the requirements established in Article 25 of the Rules of Procedure.

17. In this matter, the Commission observes that the precautionary measures were granted in 2017 in light of the information available. In this sense, the beneficiaries were at risk due to surveillance, threats, and intimidation experienced as a result of their relation to Mr. Segura Maldonado, who is the father of the underaged girl V.S.S.F. and the underaged boys G.A.S.F. and R.A.S.F. The precautionary measures also included the biological mother of these children.

18. The Commission observes that, following the granting of the precautionary measures at hand on March 9, 2018, no information has been received regarding the situation of the beneficiaries, despite requests for information to the representation over the years. This situation has been maintained over time, even after informing them that the Commission will proceed to evaluate keeping these precautionary measures in force.

19. The Commission takes note of the information received from the State regarding attempts to contact the representation to hold a conciliation meeting, in which they were unable to obtain a response (see paras. 8 and 9). Upon analyzing the matter at hand, it is verified that five years have elapsed without access to information regarding the precautionary measures from the representation. Due to the foregoing, the Commission notes that it does not have sufficient and current information to be able to determine the continuity of the risk situation that the beneficiaries face to date, in compliance with the requirements of Article 25 of the Rules of Procedure.

20. The Commission also notes that, at the time these precautionary measures were granted, the risk situation of the beneficiaries was related to Mr. Segura Maldonado, who was abroad. It was taken into account that, prior to the granting of the precautionary measures, the children, V.S.S.F., G.A.S.F. and R.A.S.F. reportedly received threats from gangs to reveal the whereabouts of their father. In this regard, the Commission notes that Mr. Segura Maldonado has been in Canada, outside Honduran territory since 2017 (see supra paras. 2 and 10). In addition, the Commission does not have information on specific events that have occurred against the beneficiaries since his departure from the country.

21. Notwithstanding the foregoing, in line with the Inter-American Court, the Commission emphasizes that,\textsuperscript{10} regardless of the lifting of the present measures, in accordance with Article 1(1) of the American Convention, it is the obligation of the State of Honduras to respect and guarantee the rights recognized therein, including the life and personal integrity of the beneficiaries, particularly considering the special vulnerability of children. In relation to the investigations of incidents related to precautionary measures, the Commission recalls the inevitable duty of the State of Honduras to comply with the corresponding investigations and to act with due diligence under the terms of the American Convention and international standards.

\textsuperscript{7} Ibid.
\textsuperscript{8} Ibid.
\textsuperscript{9} Ibid.
22. Considering the analysis carried out, the Commission considers that it does not have sufficient elements of assessment to support a situation of risk of the beneficiaries and compliance with the requirements of Article 25 of the Rules of Procedure at present. 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 measures.

V. DECISION

23. The Commission decides to lift the precautionary measures granted in favor of V.S.S.F. et al. in Honduras.

24. The Commission recalls that lifting 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.

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

26. Approved on September 21, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Carlos Bernal Pulido; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary

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**Note:**