INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 72/2023

Precautionary Measure No. 917-17
Douglas Arquímides Meléndez Ruiz and his family unit
regarding El Salvador
November 30, 2023
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of Douglas Arquímides Meléndez Ruiz and his family unit. At the time of making the decision, the Commission assessed the actions taken by the State, as well as the lack of response from the representation since June 2020, despite the requests for information. Following the request to lift presented by the State in 2021, and given that compliance with the procedural requirements was not identified, the IACHR has decided to lift these measures.

II. BACKGROUND INFORMATION

2. On February 24, 2018, the IACHR granted precautionary measures in favor of Douglas Arquímides Meléndez Ruiz and his family unit. It was alleged that Mr. Meléndez, then Attorney General of the Republic of El Salvador, and his family received threats due to investigations and prosecutions he was pursuing against high-ranking politicians, former public officials, businesspeople, public forces, and various criminal groups. Upon analyzing the submissions of fact and law, in light of the specific context, the Commission considered that the beneficiary was *prima facie* in a serious and urgent situation, given that his rights to life and personal integrity were at risk. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requested that the State of El Salvador: a) adopt the necessary measures to safeguard the life and personal integrity of Douglas Arquímides Meléndez Ruiz and his family unit; b) adopt the necessary measures in order for Mr. Douglas Arquímides Meléndez Ruiz to carry out his work as Attorney General of the Republic of El Salvador without being subjected to acts of intimidation, threats, and harassment; 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 alleged facts that gave rise to the adoption of this precautionary measure, so as to prevent them from reoccurring.

III. INFORMATION PROVIDED DURING THE TIME THESE PRECAUTIONARY MEASURES HAVE BEEN IN FORCE

3. During the time the precautionary measures were in force, the Commission followed-up on the situation that is the subject matter of these precautionary measures by requesting information from the parties.

4. The State submitted information on the following dates:

<table>
<thead>
<tr>
<th>Year</th>
<th>Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>2018</td>
<td>March 14</td>
</tr>
<tr>
<td>2019</td>
<td>February 8 and October 4</td>
</tr>
<tr>
<td>2020</td>
<td>February 23 and 24</td>
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</tbody>
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5. The representation submitted information on the following dates:

<table>
<thead>
<tr>
<th>Year</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2019</td>
<td>January 11, May 23, and June 12</td>
</tr>
<tr>
<td>2020</td>
<td>June 25</td>
</tr>
</tbody>
</table>

6. On February 23, 2021, the State requested that these precautionary measures be lifted. On February 24, 2021, the Commission forwarded this request to the representation and requested updated information. Upon receiving additional information from the State on February 24, 2021, the Commission reiterated the request for information to the representation on February 25, 2021. However, no response has been received from the representation to date. On December 21, 2021, the State reiterated its request. On August 14, 2023, the Commission forwarded the request to the representation, and reiterated the request for information regarding the beneficiary’s situation. To date, the representation has not submitted its response to the Commission, and the granted timelines have since expired.

A. Information provided by the State

7. On March 14, 2018, the State stated that the beneficiary and his family have a protection service on a permanent basis due to the nature of the position held by the beneficiary. On March 7, 2018, a consultation meeting was held in which the State expressed its willingness to review the security plan in favor of the beneficiary and his family unit. On March 12, a second consultation meeting was held in which the necessary aspects for the implementation of the precautionary measures were defined. On February 8, 2019, the State stated that, considering that the beneficiary no longer holds his position as Attorney General, it was instructed that security be provided by the Presidential General Staff. Additionally, it was reported that there was an ongoing investigation. On October 4, 2019, the State reported that in August 2019, meetings were held with officials from the Foreign Ministry and the Ministry of Justice and Public Security to finalize an agreement on the security implementation modality with the beneficiaries. It was reported that this agreement was formalized on August 29, 2019.

8. On February 23, 2021, the State stated that concertation meetings were held in August 2019 to implement a security measure in favor of the beneficiaries. A modality of implementation was reportedly established to be activated during the times the beneficiary is in El Salvador, taking into account the number of members of the family unit that are in national territory. It also allegedly included the provision of a vehicle for internal displacement. Moreover, two direct contacts were established as responsible for the coordination and implementation of these protection measures. The beneficiary also reportedly proposed four people to be in charge of security. However, these candidates allegedly had certain impediments. The beneficiary was therefore reportedly requested to propose other persons, which has not been done to date. The State requested to lift the precautionary measures. On February 24, 2021, the State reported that two administrative files were opened to investigate alleged acts of threats and harassment against the beneficiary. It was reported that these files have been archived due to the impossibility of determining the existence of the crime and of identifying a suspect.

9. On December 21, 2021, the State reiterated its request to lift the precautionary measure at hand, given that the beneficiary had established his residence in another country, and that the employment relationship with the entity that reportedly gave rise to the granting of precautionary measures in his favor had ceased.
B. Information provided by the representation

10. On January 11, 2019, the beneficiary stated that on January 5, 2019, he reportedly completed his term as Attorney General of the Republic. On May 23, 2019, the beneficiary reported that he had security measures in place. However, he indicated that he was followed, harassed, and intimidated by individuals and groups that he investigated when he was a prosecutor. In this regard, he indicated that confidential information related to his safety was published by a “pseudo digital media” linked to a subject who is a fugitive. On June 12, 2019, the beneficiary stated that on June 11 of the same year, state authorities had informed his wife, orally and with no formality, that the security plan in his favor would be withdrawn.

11. On June 25, 2020, the representation indicated that the beneficiaries had not received any attempted assaults against them. It was also reported that in March 2020, the beneficiaries were reportedly followed on two occasions, by a vehicle and a motorcycle. It was also alleged that the beneficiary resides in the United States and his family continues to reside in El Salvador. It was reported that the beneficiary was being persecuted by defendants and that false accusations had been made against him.

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.2 Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.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.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

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2 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 the Inter-American Court of Human Rights of July 6, 2009, considerandum 16.


are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (effet utile) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

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

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 prima facie standard, keeping these 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.

16. In the matter at hand, the Commission recalls that the precautionary measures were granted in 2018 in light of the information available, which indicated that Mr. Douglas Arquimides Meléndez Ruiz and his family unit were subject to threats due to the investigations and proceedings that Mr. Meléndez was conducting in his role as Attorney General of the Republic. Upon granting the precautionary measures and during the Commission’s follow-up of the matter, the State submitted reports in which it referred in detail to the actions taken to implement the measures. In this regard, the Commission observes that the State carried out the following actions:

- a security plan adequate to the position he held at the time, or according to the agreements reached upon no longer holding the position of Attorney General of El Salvador, which included his family unit (see supra paras. 7 and 8);
- concertation or work meetings in 2018 and 2019 (see supra paras. 7 and 8); and
- investigations into the alleged facts (see supra para. 8).

17. Despite forwarding the information provided by the State to the representation, the Commission does not currently identify any challenges to the measures implemented by the State, given that the allegations issued by the representatives refer to alleged acts of being followed that occurred up to March

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6 Ibid.
7 Ibid.
2020 (see supra para. 11). Although the Commission requested the representation to provide its comments on three different opportunities in 2021 and 2023, to date no response has been received. Furthermore, it is noted that, according to the representation, Mr. Douglas Arquímides Meléndez currently resides in the United States (see supra para. 11). In the case of his family, who still reside in El Salvador, the Commission observes that the State promoted a modality for the implementation of security measures for when they are in the country, pending that the representation provide certain information, which has not occurred to date (see supra para. 8).

18. Following the requests to have the measures lifted dated February 23 and 24, and December 21, 2021, which were forwarded to the representation, they have not provided information on the current situation of the beneficiaries with details of time, manner, and/or place in the terms required by Article 25 of the Rules of Procedure. On August 14, 2023, the Commission reiterated the request for updated information to the representation. However, to date, no response has been received from the representation, its last communication being in June 2020 (see supra paras. 6 and 11).

19. In this regard, the Commission understands that three years have elapsed without information from the representation on the beneficiaries’ situation. The Commission emphasizes that the precautionary measures were granted in favor of Mr. Meléndez when he held the position of Attorney General in 2018. To date, Mr. Meléndez no longer holds that position and, according to available information, he has not resided in the country since 2020. This reflects a significant change in the circumstances that motivated the granting of the precautionary measures.

20. When analyzing the situation of persons who have left the territory of a State that was requested to implement international protection measures, the Commission recalls that the Inter-American Court has indicated, within the framework of provisional measures, that

"Regarding the foregoing, it should be noted that the *effet utile* of provisional measures depends on the real possibility that they can be implemented. With respect to the indicated beneficiaries, there is a material impossibility for the State to comply with the provisional measures over territories where it lacks sovereignty, while, on the other hand, the representatives have not expressed the beneficiaries’ intention to return to the country. Additionally, there is no record of any new serious events that put their life and personal integrity at risk. For these reasons, the Court considers that it is appropriate to lift the provisional measures regarding these persons." 8

21. Considering the analysis carried out, and in view of the State’s request to lift the measures, the Commission understands that the factual circumstances that led to the granting of these precautionary measures have changed significantly due to the actions taken by the State and given the fact that Mr. Meléndez’s term as Attorney General of El Salvador has concluded. In addition, the Commission considers that, according to the information available, no situation has been identified at the present time that would show an ongoing situation that places the beneficiaries at risk, in compliance with the requirements of Article 25 of the Rules of Procedure, given that more than three years have elapsed without any new information from the representation.

22. In view of the above, and taking into account that exceptional and temporal nature of precautionary measures, 9 the Commission considers that it currently has no elements to support compliance with the requirements of Article 25 of the Rules of Procedure, and that it is appropriate to lift these precautionary measures.

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23. Notwithstanding the foregoing, 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 El Salvador to respect and guarantee the rights recognized therein, including the life and personal integrity of the beneficiaries.

V. DECISION

24. The Commission decides to lift the precautionary measures granted in favor of Douglas Arquímides Meléndez Ruiz and his family unit, in El Salvador.

25. 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.

26. The Commission instructs the Executive Secretariat to notify this Resolution to the State of El Salvador and to the representation.

27. Approved on November 30, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Edgar Stuardo Ralón Orellana; Carlos Bernal Pulido; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary