INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 75/2023

Precautionary Measure No. 221-09
María Stella Jara Gutiérrez and her son regarding Colombia
December 5, 2023
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of María Stella Jara Gutiérrez and her son regarding Colombia. At the time of making its decision, the Commission observes that there is no updated information regarding the beneficiaries despite the requests for information made over the last few years. After forwarding information between the parties on several occasions, the representation ceased to submit information on the situation of the beneficiaries in 2014. Upon not currently identifying compliance with the procedural requirements, the IACHR has decided to lift these precautionary measures under the terms of Article 25 of the Rules of Procedure.

II. BACKGROUND INFORMATION

2. On June 2, 2010, the IACHR granted precautionary measures for María Stella Jara Gutiérrez and her son, in Colombia. It was alleged that Judge Jara Gutiérrez, who was presiding over the case of the Palace of Justice, received threats from alleged illegal armed groups. It was added that the threats reportedly intensified as the date for issuing the final judgment in the case approached. It was indicated that there was a delay in the implementation of a security plan to safeguard the life and integrity of Judge Jara Gutiérrez and her youngest son. The Inter-American Commission requested that the State adopt the necessary measures to guarantee the life and personal integrity of María Stella Jara Gutiérrez and her son; to reach agreement with the beneficiary and her representation on the measures to be adopted; and to inform the Commission about the steps taken to investigate the events that led to the adoption of precautionary measures.

3. Representation before the Commission was exercised by Iván Velásquez Gómez and Carlos Rodríguez Mejía.

III. INFORMATION PROVIDED DURING THE TIME THESE PRECAUTIONARY MEASURES HAVE BEEN 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. The representation submitted communications on the following dates:

---

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 discussion and deliberation of this matter.


3 On July 4, 2013, the beneficiary informed the Commission that her representation would be assumed by Iván Velásquez Gómez and Carlos Rodríguez Mejía. Following the last request for information made by the Commission, Carlos Rodríguez Mejía responded on December 3, 2023, indicating that he did not exercise representation in the framework of the precautionary measure.
2013 | July 4
2014 | February 5 and September 30

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

<table>
<thead>
<tr>
<th>Year</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>June 24, July 15 and 16, December 17</td>
</tr>
<tr>
<td>2011</td>
<td>October 25</td>
</tr>
<tr>
<td>2013</td>
<td>September 19, October 25</td>
</tr>
<tr>
<td>2014</td>
<td>May 6, November 26</td>
</tr>
</tbody>
</table>

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

<table>
<thead>
<tr>
<th>Year</th>
<th>Dates</th>
</tr>
</thead>
<tbody>
<tr>
<td>2010</td>
<td>July 6, August 2</td>
</tr>
<tr>
<td>2011</td>
<td>November 16</td>
</tr>
<tr>
<td>2013</td>
<td>June 10, August 9, August 29</td>
</tr>
<tr>
<td>2014</td>
<td>February 19, October 31</td>
</tr>
<tr>
<td>2015</td>
<td>January 13</td>
</tr>
<tr>
<td>2022</td>
<td>October 28</td>
</tr>
<tr>
<td>2023</td>
<td>November 27</td>
</tr>
</tbody>
</table>

7. On January 13, 2015, the IACHR requested information from the representation. No reply was received. On October 28, 2022 and November 27, 2023, the IACHR again requested additional information from the representation “with a view to analyzing keeping these precautionary measures in force.” No reply was received.

A. Response from the State

8. In 2010, the State indicated that on June 17, a meeting was held to agree upon the precautionary measures. The beneficiaries' representation was present, as well as high-level delegates from various entities of the Colombian State. In this space, the beneficiaries allegedly indicated their upcoming absence due to travel abroad and it was reported that a preliminary document was established. This document allegedly contained the rules to regulate the implementation of protection measures upon their return to Colombia. By communication dated July 15, 2010, the State reported that the material protection measures implemented in favor of Judge Stella Jara has been continued. These measures consisted of a driver, an armored vehicle, and two police officers as permanent security agents. Subsequently, these measures were reinforced by the assignment of three police units to provide fixed point service at the beneficiary's residence in shifts of eight hours each. In this way, a police unit would safeguard at the judge's residence 24 hours a day. Moreover, protection measures were reportedly implemented in relation to the second beneficiary. He was assigned four escort agents, a driver, and a bulletproof vest. In addition, the Ministry of the Interior and Justice reportedly provided two means of communication to improve the beneficiary's communication with her protection detail. The State also indicated that the beneficiary's son allegedly had protection measures while residing in the city of Villavicencio. In relation to the investigations, the State indicated that they were be carried out in strict confidentiality but that the beneficiary would be made aware of the progress and efforts, nonetheless.
9. By means of a communication dated December 15, 2010, the State informed that it had proceeded to the immediate implementation of a security plan consisting of an armored vehicle, two motorcycles, and nine units upon the beneficiaries' return to Colombia on December 13, 2010. Ms. Stella Jara reportedly had three units at her residence, five units in her personal security detail, an armored vehicle, and a motorcycle. Her son reportedly had an escort and a motorcycle available. The State indicated that the security plan would be in force until the Technical Risk Level Study was reevaluated. Once this has been carried out, a meeting will be convened in order to agree upon the implementation of new material protection and security measures.

10. In 2014, the State reported that on February 14 of that year, a consultation and follow-up meeting was held with the participation of the beneficiary and the applicant. The State indicated that the National Protection Unit explained that the judge's case first went through the Committee for Risk Evaluation and Recommendation of Measures (Comité de Evaluación de Riesgo y Recomendación de Medidas, CERREM) for Officials and then was transferred to a CERREM for Precautionary Measures. The State indicated that, by means of a communication dated February 28, 2014, the National Protection Unit informed that Ms. Jara allegedly had material protection measures consisting of an armored vehicle, a bulletproof vest, a motorcycle, and a means of communication. Moreover, the National Protection Unit reported that the reassessment of the beneficiary's Risk Level Study was requested and reportedly carried out on April 4, 2014. The evaluation stated that the beneficiary had an alleged “ordinary” level of risk. In this regard, the State reported that the field analysis highlighted that “there was no clear and precise evidence of situations of vulnerability or special exposure to risk which the person under evaluation could face as a result of her position as a Judge”.

11. Furthermore, it was indicated that the National Protection Unit stated that Ms. Jara had a protection plan shared by the National Police and the National Council of the Judiciary consisting of: (1) armored vehicle, three (3) police officers with a fixed post in residence, one (1) with her son in Villavicencio, one (1) motorcycle with its police driver, three (3) protection guards of the National Police, one (1) bulletproof vest, and one (1) means of communication. The State indicated that, on November 19, 2014, the Superior Council of the Judiciary reportedly informed that the beneficiary continued to have a protection plan in place and still had the physical means determined for her safety from the moment the precautionary measures were granted by the IACHR. In relation to the events that occurred on August 30 and 31, 2014, the Directorate of Protection and Special Services of the National Police (Dirección de Protección y Servicios Especiales de la Policía Nacional) reportedly informed that on August 31, two motorized units were sent to escort Mrs. Jara throughout the day until her return to Bogota with accompaniment by the highway police.

B. Information submitted by the representation

12. In 2013, the representation indicated that on April 25 of that year, the lock on the door that led to the judge's office was forced and several personal documents were stolen. The facts were reported to the authorities. Given the lack of progress in the investigations, the judge reported the facts to the Office of the Attorney General on June 26, 2013. In addition, the representation reported that the beneficiary was allegedly the victim of a “judicial scheme” promoted by a police officer whose purpose was to incriminate the judge of having received money to acquit a person prosecuted for drug trafficking. In this regard, the representation indicated that no progress had been made in the investigations.
13. In 2014, the representation indicated that, in a communication dated January 10 of that year, the beneficiary was informed that the State had decided to terminate the protection measures implemented in her favor. The representation challenged the decision. The representation stated that this communication indicated that the dismantling of the security measures was to be carried out progressively over a period of three months and that there was reportedly no possibility of appeal against this decision. In this regard, the representation stated that the measures could only be lifted once serious investigations were carried out and the perpetrators and participants of the facts that led to the granting of the precautionary measures were identified. The representation reported that the judge allegedly observed that a removable USB stick with personal files and video recordings of tapes related to the events that affected her in the performance of her duties were missing from her home. These events were not reportedly brought to the attention of the Prosecutor’s Office, as there is insufficient evidence to determine whether it involved strangers or the actions of domestic or escort personnel. The representation indicated that the judge reportedly had to face disciplinary and even criminal investigations for her judicial activities. Moreover, given the attacks and threats that she experienced, the beneficiary reportedly lives alone, and she requested that her son’s father live with him in another city. The representation indicated that, if the protection measures in her favor are withdrawn, her progress in overcoming the damages caused to her would be negatively affected. Her transportation and her presence in the Court would be hindered by the alleged unsafe conditions. Moreover, fear would affect her ability to leave her home to work, return, and carry out other activities outside her residence.

14. On September 30, 2014, the representation indicated that Ms. Jara received a communication of the same date signed by the Coordinator of the CERREM Technical Secretariat. The communication indicated that, given that her risk level was “ordinary”, all protection measures would be suspended. The representation informed that this communication would not provide any explanation as to how the ordinary nature of the risk was established, nor would it provide information as to whether the pending judicial investigations had been completed and the perpetrators and participants had already been brought before the courts.

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

15. The precautionary measures mechanism is part of the Commission’s functions of overseeing Member States’ compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States These general functions are set forth in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. Moreover, the precautionary measures mechanism is enshrined in Article 25 of the Rules of Procedure. In accordance with 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.

16. 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

---

4 The communication attached by the representation, sent by the National Protection Unit, indicates that it was determined that the level of risk of the beneficiary was deemed ordinary. This conclusion was reportedly reached on the basis of inquiries, verifications and field work carried out by the company’s personnel.
provisional measures have a dual nature, both protective and precautionary.\(^5\) Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.\(^6\) 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.\(^7\) 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:

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

17. 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 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.

18. 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.\(^8\)

---

\(^5\) 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 Milagro Sala*, Provisional Measures, Order of July 6, 2009, considerandum 16.


\(^8\) Order of Provisional Measures regarding Mexico, February 7, 2017, paras. 16 and 17.
19. When analyzing the matter at hand in light of Article 25 of the Rules of Procedure, the Commission notes that, following the State’s responses in 2014, the representation has not provided observations or additional information, despite the requests for information in 2015 and 2022. In the last communication of 2022, the Commission informed the representation that it would proceed with the analysis of keeping these precautionary measures in force.

20. Upon analyzing the available information, the Commission understands that, at least until 2014, the State implemented protection measures in favor of the beneficiaries, as well as spaces for consultation. It was reported that, following a risk assessment that year, it was established that certain elements of the protection plan would be removed. However, it was also reported that the elements of protection implemented by the Superior Council of the Judiciary remain in force. From the end of 2014 to the date of this decision, the Commission has not received any response or information from the representation regarding any events that could be interpreted as events that put the proposed beneficiary at risk in light of Article 25 of the Rules of Procedure. Despite requests for information from the IACHR, the representation has not responded in approximately eight years. Therefore, the Commission observes that, despite the fact that there has been an interest among the parties to follow up on the measures at hand, the information available refers to events that occurred up to 2014. Therefore, no events of risk to the life and integrity of the beneficiaries have been alleged at the present time.

21. The Commission therefore does not have any assessment elements that would allow it to identify a situation that places the beneficiaries at risk in terms of Article 25 of the Rules of Procedure. 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. Similarly, Article 25, subparagraph 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.

22. The Commission considers that the information available does not allow it to conclude that there is a risk situation under the terms of Article 25 of the Rules of Procedure. In view of the foregoing and taking into account the temporary and exceptional nature of the precautionary measures mechanism, the Commission considers that, in use of its procedural powers, it is appropriate to lift these measures.

V. DECISION

23. The Commission decides to lift the precautionary measures granted in favor of María Stella Jara Gutiérrez and her son in Colombia.

24. 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 beneficiaries.

---

9 Ibidem.
25. The Commission recalls that the lifting of the measures at hand does not prevent the representation from filing a new request for precautionary measures if they consider that they are at risk and meet the requirements set forth in Article 25 of the Rules of Procedure.

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 December 5, 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; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary