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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 70/2024**

Precautionary Measure No. 189-01  
Gerardo Santibáñez Potes and nine others regarding Colombia<sup>1</sup>  
October 4, 2024  
Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of the members of the board of directors of SINTRAEMSDES. At the time of making the decision, the Commission assessed the actions taken by the State during implementation, and the beneficiaries' current situation. Following the requests to lift and upon not identifying compliance with the requirements outlined in Article 25 of its Rules of Procedure, the IACHR has decided to lift these measures.

**II. BACKGROUND INFORMATION**

2. On November 26, 2001, the Commission granted precautionary measures to protect the life and personal integrity of (1) Gerardo Santibáñez Potes, (2) Orlando Ospina Loayza, (3) Dora Galvis, (4) Iván Velásquez, and (5) Carlos Flores Loaiza, who were then members of the Board of Directors of the Union of Public Service Workers and Employees, Autonomous Corporations, Decentralized Institutes, and Territorial Entities of Colombia (*Sindicato de Trabajadores y Empleados de Servicios Públicos, Corporaciones Autónomas, Institutos Descentralizados y Territoriales de Colombia*, SINTRAEMSDES), Section in Pereira, due to threats they had received from the United Self-Defense Forces of Colombia (*Autodefensas Unidas de Colombia*, AUC). At least two members of this section had been killed. The Commission urged Colombia to urgently implement the necessary measures to ensure the life and personal integrity of the individuals mentioned above, to collaborate with the applicants and the protected individuals to determine appropriate security measures, and to conduct an investigation and take necessary actions to eliminate the threats against members of SINTRAEMSDES.<sup>2</sup>

3. On July 24, 2002, the precautionary measures were extended in favor of (6) Olinto González Rivera, a leader of the Union of the Water Supply and Basic Sanitation Company of Barrancabermeja (*Empresa de Acueducto y Saneamiento Básico de Barrancabermeja*, EDASABA), which has since merged with the Barrancabermeja sub-directive of SINTRAEMSDES. On August 10, 2004, measures were granted in favor of: (7) Miguel Antonio Ruiz Beltrán, who was then a member of the national Board of Directors of SINTRAEMSDES; (8) William José Paternina Hernández, who served as the president of SINTRAEMSDES Subdirectiva Sincelejo; and (9) César Castillo Moreno, who was then the vice president of the union. On September 28, 2004, in favor of (10) Dagoberto Olmos Pérez, then leader of SINTRAEMSDES Sincelejo.

4. The José Alvear Restrepo Lawyers Collective Corporation (*Corporación Colectivo de Abogados José Alvear Restrepo* -CAJAR) and Orlando Ospina Loayza exert representation before the Commission.

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

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<sup>1</sup> In accordance with Article 17.2 of the Rules of Procedure of the IACHR, the Commissioner Carlos Bernal Pulido, of Colombian nationality, did not participate in the debate and deliberation of this matter.

<sup>2</sup> Inter-American Commission on Human Rights (IACHR), Precautionary Measures 2001, [Precautionary Measures Granted or Extended by the Commission during 2001, Colombia](#).

5. During the time the precautionary measures were in force, the Commission has monitored the situation through requests for information from both parties and thematic hearings.<sup>3</sup> In recent years, communications have been received from the parties and sent from the IACHR on the following dates:

	<b>State</b>	<b>Representation</b>	<b>IACHR</b>
2011	September 21, November 15	No communications	November 11
2013	June 18 and 26, September 3	March 22, April 20 and 25	June 7
2014	No communications	No communications	September 11
2015	October 26 (Request to evaluate keeping the precautionary measures in force)	No communications	October 9
2016	June 3 (Request to lift)	January 26, May 5	May 12
2017	March 31 (Request to lift was reiterated)	No communications	No communications
2018	No communications	March 13, July 5	January 19
2019	June 14, August 1	July 24	May 15
2021	December 6 and 7 (Request to lift was reiterated)	No communications	No communications
2022	April 22 (Request to lift was reiterated)	No communications	No communications
2023	No communications	No communications	December 22
2024	May 10	July 17 and 31	January 12, April 16, July 10, July 18

6. The Commission recalls that the State requested that these precautionary measures be lifted on five occasions: October 26, 2015, June 3, 2016, March 31, 2017, December 7, 2021, and April 22, 2022. On January 12, 2024, the Commission requested information from the representation in order to evaluate keeping the precautionary measures in force. The request was reiterated on April 16 and July 10, 2024.

**A. Information provided by the State**

7. In 2011, the State reported on the investigation concerning the crime of threats, indicating that SINTRAEMSDDES was not involved in the investigations regarding the illegal interceptions carried out by the Administrative Department of Security (*Departamento Administrativo de Seguridad, DAS*). A consultation meeting was held on August 11, 2011. In 2013, after performing a risk assessment, it was determined that Gerardo Santibáñez Potes and Orlando Ospina Loayza were at ordinary risk level, which led to the lifting of the latter's protection detail. Regarding Gerardo Santibáñez Potes, Orlando Ospina Loayza, Iván Velásquez, Dora Galvis, and Carlos Flores Loaiza, a protection detail consisting of three security personnel and an armored vehicle was approved.

8. On December 15, 2015, a follow-up and consultation meeting was held. In 2016, the State indicated that the police had taken protective actions in favor of the beneficiaries, which included ongoing patrols and police checks at the organization's headquarters, a security sponsorship plan, self-defense measures, provision of dedicated police phone lines, and continuous direct dialogue. The police carried out preventive measures such as police rounds at Gerardo Santibáñez Potes' residence.

<sup>3</sup> IACHR, 185th Regular Period of Sessions, [Hearing No. 15. Implementation of precautionary measures for human rights defenders in Colombia](#), October 27, 2022 (Audio and autogenerated subtitles in Spanish).

9. In 2019, the State stated that the coordinator of the police human rights group acted as a liaison for security issues in favor of the beneficiaries. The request claimed that Gerardo Santibáñez Potes had preventive security measures in place and was provided with contact numbers to report any irregular situation. On June 18, 2019, a meeting was held with Iván Velásquez, in which the beneficiary stated that he had not received any threats. The beneficiary stated that the police conducted regular inspections of the union headquarters. According to the beneficiary at the meeting, Orlando Ospina Loayza, Carlos Flórez Loaiza, and Dora Galvis were retired and had no longer had contact with the union. It was indicated that Olinto González Rivera died. In 2021, it was announced that the investigation into threats concerning the organization related to the events of September 3, 2008, had been finalized in 2013 due to the inability to identify or establish an active perpetrator.

10. In 2024, the State indicated that, since June 18, 2019, officials from the Human Rights Coordination and the Protection and Special Services Section had met with Iván Velásquez to provide him with recommendations for security and self-protection measures. The beneficiary stated that he had not received any threats. It was also reported that the Metropolitan Police of Pereira conducted police patrols and police rounds at Iván Velásquez's residence and at the SINTRAEMSDES headquarters. In addition, it was announced that there is an investigation for the crime of threats for events that occurred on February 4, 2013, against the beneficiaries.

#### **B. Information provided by the representation**

11. On March 8, 2011, the board of directors of SINTRAEMSDES Pereira was reportedly designated as a military target by the paramilitary group "Águilas Negras." Furthermore, in 2013, the representation reported that Orlando Ospina Loayza was notified about the withdrawal of his security detail. On March 7, 2013, leaders of the organization were allegedly subjected to intimidating actions by unknown individuals in civilian clothing. On April 25, 2013, Juan Carlos Valencia, a member of SINTRAEMSDES in the Department of Risaralda, along with his children, reportedly faced harassment and persecution from illegal armed groups as well as authorities and law enforcement members. On January 28, 2015, Juan Carlos Cardona and Héctor García Ramírez, members of the board of directors of SINTRAEMSDES were threatened via a pamphlet.

12. In 2016, the representation disclosed that the beneficiaries of the precautionary measures established in 2001 were no longer members of the Board of Directors of SINTRAEMSDES - Pereira Sub-directive. and that there was no evidence to suggest that any of them faced any risk. It was clarified that Orlando Ospina Loayza, Gerardo Santibáñez Potes, Dora Galvis, Iván Velásquez, and Carlos Flores Loaiza were no longer part of the organization's board. In addition, the composition of the sub-directive for the 2014-2018 period was provided, and it was highlighted that it does not include any beneficiaries of these precautionary measures. The representation noted that keeping the precautionary measures in force was reportedly relevant as a mechanism to prevent attacks on the lives of the members of the Pereira Sub-directive. It was reported that, on April 16, 2016, the beneficiaries of the precautionary measures were summoned to the National Protection Unit (UNP) Risaralda headquarters, where they were reportedly informed that their security detail was to be lifted. The members of the organization's Board of Directors requested protection measures from the Ombudsperson's Office and the Constitutional Judge.

13. In 2018, the representation reported that: (1) Gerardo Santibáñez Potes is retired and engages in social activities related to union education and user advocacy; (2) Orlando Ospina Loayza is retired and acts as a social, union, and community activist; (3) Dora Galvis is retired and serves as a community leader; (4) Iván Velásquez Marín holds a position as a union leader within SINTRAEMSDES; (5) Carlos Flores Loaiza is retired and participates in social and community activities; (6) William José Paternina, César Castillo Moreno, and Dagoberto Olmos Pérez were affiliated with the organization until 2008, and no updated information was available; and (7) Olinto González Rivera has passed away. In 2019, the representation notified of the existence of threatening pamphlets in 2016 and 2017 against current members of the SINTRAEMSDES board of directors.

14. In 2024, the representation reported that Juan Carlos Cardona, director of SINTRAEMSDES Pereira received a threatening message via WhatsApp on November 30, 2020. On August 11, 2022, Rafael Ovalle, Oscar Estupiñan, Victor Julio Cortés, Imelda Martínez and Mauricio Martínez, members of SINTRAEMSDES Bucaramanga, received threats from the Gaitanist Self-Defense Forces of Colombia (*Autodefensas Gaitanistas de Colombia*). On January 2, 2023, Mariela Reyes Montenegro, social leader and leader of SINTRAEMSDES, Santander de Quilichao Sub-directive, was murdered. On July 31, 2023, a threatening message was found at the SINTRAEMSDES union headquarters against Juan Carlos Cardona. The representation reported that Juan Carlos Cardona has a protection detail consisting of a security agent, a bulletproof vest, and a means of communication.

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

15. 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 provided for in Article 41 (b) of the American Convention on Human Rights, as well as in Article 18 (b) of the Statute of the IACHR; while 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.

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 stated that precautionary and provisional measures have a dual nature, one protective and the other precautionary.<sup>4</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.<sup>5</sup> 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.<sup>6</sup> Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under study by the organs of the inter-American system. The precautionary character aims at safeguarding the rights at risk until the request pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;

<sup>4</sup> I/A Court H.R., [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#), Provisional Measures regarding the Bolivarian Republic of Venezuela, Order of March 30, 2006, considerandum 5; Case of Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of July 6, 2009, considerandum 16 (Available only in Spanish).

<sup>5</sup> I/A Court H.R., [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; [Case of Bámaca Velásquez](#), Provisional measures regarding Guatemala, Order of January 27, 2009, considerandum 45; [Matter of Fernández Ortega et al.](#), Provisional measures regarding Mexico, Order of April 30, 2009, considerandum 5; [Matter of Milagro Sala](#), Provisional measures regarding Argentina, Order of November 23, 2017, considerandum 5. (Available only in Spanish)

<sup>6</sup> I/A Court H.R., [Matter of Milagro Sala](#), Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish); [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; [Matter of the Criminal Institute of Plácido de Sá Carvalho](#), Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6 (Available only in Spanish).

- 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.

17. In this sense, 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 shall assess whether the serious and urgent situation and the risk of 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 outlined in Article 25 of its Rules of Procedure.

18. Similarly, the Commission recalls that while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard of review, keeping such measures in force requires a more rigorous evaluation.<sup>7</sup> In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.<sup>8</sup> The Inter-American Court has indicated that the passage of a reasonable time without any threats or intimidation, in addition to the lack of imminent risk, may lead to lifting international protection measures.<sup>9</sup>

19. In this matter, the Commission recalls that the precautionary measures were granted and extended in 2001, 2002, and 2004. Upon reviewing the case file, the Commission observes that the scope of the precautionary measures focused on the following identified members of SINTRAEMSDES: (1) Gerardo Santibáñez Potes, (2) Orlando Ospina Loayza, (3) Dora Galvis, (4) Iván Velásquez, (5) Carlos Flores Loaiza, (6) Olinto González Rivera, (7) Miguel Antonio Ruiz Beltrán, (8) William José Paternina Hernández, (9) César Castillo Moreno, and (10) Dagoberto Olmos Pérez, all located in Colombia.

20. Following the monitoring of the matter, the Commission notes the current situation of the beneficiaries as follows:

- i. Gerardo Santibáñez Potes: He left the union organization and is retired.
- ii. Orlando Ospina Loayza: He left the union organization and is retired.
- iii. Dora Galvis: She left the union organization and is retired.
- iv. Iván Velásquez: In 2018, it was indicated that he was a union director at SINTRAEMSDES. However, no incidents were reported against them during the last years of the protective measures being in force.
- v. Carlos Flores Loaiza: He is retired.
- vi. Olinto González Rivera: In 2018, it was reported that he had passed away.
- vii. Miguel Antonio Ruiz Beltrán: No information has been submitted regarding this beneficiary during the time the precautionary measures were in force.
- viii. William José Paternina Hernández: In 2018, the representation revealed that he has not been part of the organization since 2008.
- ix. César Castillo Moreno: The representation stated that it does not have information on the beneficiary. In 2008, he left SINREMSDES.

<sup>7</sup> I/A Court H.R., [Fernandez Ortega et al.](#), Provisional Measures regarding Mexico, Order of February 7, 2017, considerandums 16 and 17 (Available only in Spanish).

<sup>8</sup> I/A Court H.R., [Fernandez Ortega et al.](#), Provisional Measures regarding Mexico, Order of February 7, 2017, considerandums 16 and 17 (Available only in Spanish).

<sup>9</sup> I/A Court H.R., [Fernandez Ortega et al.](#), Provisional Measures regarding Mexico, Order of February 7, 2017, considerandums 16 and 17 (Available only in Spanish).

- x. Dagoberto Olmos Pérez: In 2018, the representation stated that the beneficiary has not been affiliated with the organization since 2008, and that they do not have any information on his current status.

21. In addition, the Commission acknowledges the ongoing efforts by the State to ensure their protection over time, which include follow-up meetings,<sup>10</sup> police patrols, and security checks at the organization's headquarters or the beneficiaries' residences, a security sponsorship plan, self-protection measures, provision of police phone lines, and continuous direct communication. In this regard, the willingness to implement measures with police searches at Iván Velásquez's home and at the headquarters of SINTRAEMSDES is highlighted.

22. Considering that the State has been requesting the lifting of the precautionary measures since 2015,<sup>11</sup> and taking into account that the representation has not provided information regarding situations of risk that affect the beneficiaries to justify keeping these measures in force,<sup>12</sup> the Commission concludes that it lacks factual elements to meet the requirements of Article 25 of its Rules of Procedure concerning the ten individuals identified in Colombia. The most recent information on the beneficiaries' situation dates back approximately ten years. In view of the above, and taking into account its exceptional and temporary nature,<sup>13</sup> the Commission considers that it is appropriate to lift these precautionary measures. Regarding the corresponding investigations, the Commission calls for them to continue in light of the applicable standards.

23. In line with the Inter-American Court,<sup>14</sup> 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 all persons; and recalls that the lifting of these measures does not prevent the representation from submitting a new request for precautionary measures in case it considers that there is a situation of risk that complies with the requirements established in Article 25 of its Rules of Procedure.

24. Lastly, the Commission notes that the representation has mentioned other members of the trade union in various regions of Colombia who were not initially identified as beneficiaries in this matter. Recently, information was received on Juan Carlos Cardona, Rafael Ovalle, Oscar Estupiñan, Víctor Julio Cortés, Imelda Martínez, and Mauricio Martínez. Given the nature of the information presented and considering the requirements of Article 25 of its Rules of Procedure, the Commission concludes that, at this time, it lacks sufficient elements to analyze a risk situation concerning these individuals. Notwithstanding, the Commission calls for an investigation into the murder of Mariela Reyes Montenegro in 2023. If the representation deems it necessary, it may submit a new request for precautionary measures to thoroughly analyze the situation of all the aforementioned individuals.

## V. DECISION

25. The Commission, in the exercise of its procedural powers, has decided to lift the precautionary measures granted in favor of Gerardo Santibáñez Potes, Orlando Ospina Loayza, Dora Galvis, Iván Velásquez, Carlos Flores Loayza, Olinto González Rivera, Miguel Antonio Ruiz Beltrán, William José Paternina Hernández, César Castillo Moreno, and Dagoberto Olmos Pérez.

<sup>10</sup> Follow-up and consultation meetings held on August 11, 2011, December 15, 2015 and June 18, 2019.

<sup>11</sup> The State requested that the precautionary measures be lifted on October 26, 2015, June 3, 2016, March 31, 2017, December 6, 2021, and April 22, 2022.

<sup>12</sup> I/A Court H.R., [Provisional Measures regarding Mexico](#), Order of February 7, 2017, paras. 16 and 17 (Available only in Spanish).

<sup>13</sup> I/A Court H.R., [Matter of Adrián Meléndez Quijano et al.](#), Provisional Measures regarding El Salvador, Order of August 21, 2013, para. 22 (Available only in Spanish); [Matter of Galdámez Álvarez et al.](#), Provisional Measures regarding Honduras, Order of November 23, 2016, para. 24 (Available only in Spanish).

<sup>14</sup> I/A Court H.R., [Matter of Giraldo Cardona et al.](#), Provisional Measures Regarding Colombia, Order of January 28, 2015, considerandum 40 (Available only in Spanish).

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26. 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 its Rules of Procedure.

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

28. Approved on October 4, 2024, by Roberta Clarke, President; José Luis Caballero Ochoa, Second Vice-President; Arif Bulkan; and Andrea Pochak, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary