

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 18/2014

PRECAUTIONARY MEASURE No. 218-14

Matter of Y.C.G.M. and her immediate family regarding the Republic of Colombia
June 20, 2014

I. INTRODUCTION

1. On June 11, 2014, the Inter-American Commission on Human Rights (hereinafter, ‘the Inter-American Commission,’ ‘the Commission’ or ‘the IACHR’) received a request for precautionary measures presented by ‘Sisma Mujer Corporation’ and by the ‘Center for Justice and International Law’ (hereinafter, ‘the applicants’), requesting that the IACHR require the Republic of Colombia (hereinafter, ‘Colombia’ or ‘the State’) to adopt the necessary precautionary measures to ‘prevent the violation of the right to life and personal integrity’ of Mrs. Y.C.G.M. and her family¹. According to the request, Mrs. Y. C. G. M. had been threatened and attacked for being a human rights and women’s rights defender.

2. After analyzing the factual and legal arguments put forth by the applicants, the Commission considers that the information presented shows *prima facie* that Mrs. Y.C.G.M. and her immediate family are in a serious and urgent situation, as their lives and personal integrity are threatened and at severe risk. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requests that Colombia: a) adopt the necessary measures to protect the life and personal integrity of Y.C.G.M. and her immediate family; b) take the necessary measures to ensure that Y.C.G.M. can perform her activities as human rights defender, without being subjected to acts of violence and harassment because of the performance of her duties; c) agree on 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 to prevent its repetition.

II. SUMMARY OF ALLEGATIONS BY THE APPLICANTS

3. According to the applicants, Y.C.G.M. and her family had allegedly been victims of forced displacement and later, in 2002, Y.C.G.M. was raped when she was 13 years old. The applicants emphasize that the alleged context and factual precedents were presented to the IACHR in relation to the Admissibility Report No. 18/14², issued on April 3, 2014. In that report, the Commission declared the petition to be admissible on the bases of purported violations of ‘articles 5, 8, 19, 22, 24 and 25, in relation to articles 1.1 and 2 of the American Convention and to article 7 of the Belem do Pará Convention.’ Currently, Y.C.G.M. ‘is 25 years old and [...] due to her life experience, she has become involved in regional activities for the defense of women’s rights. In particular, she is part of the Regional Committee on the follow-up of the Resolution 092, issued by the Constitutional Court of Colombia, which ordered the adoption of comprehensive measures for the protection of women’s fundamental rights, who had been displaced because of the armed conflict in the country.’ The applicants state that

¹ The identity of the proposed beneficiaries, in favor of whom the request for precautionary measures was presented, is kept in secrecy in the current resolution. The persons in question are fully identified in the documents sent to the State.

² Cfr. IACHR. Petition 1625-07, YCGM and Relatives v. Colombia. Report No. 18/14, Admissibility Report.

women who participated in this Committee have been threatened in many ways. Specifically, Y.C.G.M. has allegedly suffered, on many occasions, the following alleged incidents:

i) On September 20, 2011, after a meeting of the Committee on the follow-up of the Resolution 092, an unknown man approached Y.C.G.M., calling her by her name and trying to talk to her; the proposed beneficiary refused. Later, at 7:30 pm, when Y.C.G.M. left her home, she observed a man that was standing 'in front of the opposite house, staring at her.' On September 2012, Y.C.G.M. received three calls to her cell phone, no words being pronounced. The applicants assert that when Y.C.G.M. tried to call back those numbers, no one answered. According to the applicants, in spite of reporting these facts to the relevant authorities, 'the answer obtained did not decrease the risk situation.' In the framework of the protection requested by the Regional Committee on the follow-up of the Resolution 092, the National Protection Unit (hereinafter, 'NPU') granted Y.C.G.M. approximately 300 USD per month, as a replacement minimum salary. However, applicants sustain that this measure has not been effective, in that it did not allow her to definitively move to another residence, which is why she had to return to her previous home. According to the applicants, 'the lack of effective protective measures by the relevant authorities increased the risk [suffered by Y.C.G.M.], in that the threats became increasingly more serious and directly related to her work as a women's rights defender.'

ii) On October 6, 2012, Y.C.G.M. was approached in her neighborhood by a man who threatened her, asking her if she knew what happened to '[informants]', telling her to take this as 'a warning.'

iii) On March 2013, Y.C.G.M. reported to the relevant authorities 'the presence of strange men in the neighborhood', who 'inquired' of her about the reason for her meetings. On March 16 and 17, 2013, members of the self-denominated illegal group 'the Urabeños' gathered in a park in the same neighborhood, where a neighbor had heard of an alleged plan to murder Y.C.G.M. because she had contacted the Police and the Prosecutor. On March 18, 2013, a mototaxi driver – who had picked-up Y.C.G.M. after her lessons, driving her to a graveyard in spite of her indications – called her by her full name and informed her that he had orders to kill her, but instead told her to leave the neighborhood.

iv) On April 8, 2013, Y.C.G.M. and her family requested protective measures. Due to the aforementioned facts, the NPU granted to Y.C.G.M and her three children approximately 460 USD per month (1.5 times the replacement minimum salary), with no time limit. On September 9, 2013, the relevant authorities classified the risk she faced as 'extraordinary.' Nevertheless, the applicants highlight that apparently the only measure recommended was to use an avante communication device. Also, in October 2013, the economic support to Y.C.G.M. was 'de facto' suspended. According to the applicants, the NPU ordered the withdrawal of protective measures on the basis of a new risk evaluation, supposedly without providing any explanation and less than a month after characterizing the risk she faced as 'extraordinary.' Consequently, Y.C.G.M. and her family were forced to return to their former neighborhood.

v) On November 5, 2013, an unknown man called Y.C.G.M. by her name and followed her from the moment she left her home. On November 23, 2013, after leaving a young leaders activity organized by the National Government in Cartagena, Y.C.G.M. was approached once she stepped out of the bus by an

unknown man, who told that '[she] was going to be killed for getting involved in what doesn't concern [her].' On December 2013, she also received many phone calls from unknown persons, who said nothing. The applicants affirm that the last call was received on December 27, 2013, from the number '3112209053.'

vi) On January 11, 2014, while Y.C.G.M.'s family was standing in front of their home, two unknown persons wandered around it three times on their motorbike. On January 12, 2014, while she was leaving her house, Y.C.G.M. encountered the same man who had threatened her on November 23, 2013. He had taken her by force, covering her mouth and touching her breasts and genital organs. Later on, an unknown man picked-up the purported attacker, which led the applicants to believe that the action was premeditated. On January 13, 2014, once he left the residence, Y.C.G.M.'s father was approached by an unknown man who told him: 'old piece of crap, where are you going, you all are [informants].' On January 14, 2014, the NPU had reported that a new risk evaluation was under study, and on May 20, 2014, some five months later, the NPU determined that the risk was 'ordinary,' apparently without providing any reason to justify that decision.

vii) On June 5 and 6, 2014, Y.C.G.M. was participating in a meeting with other victims of sexual violence in Turbaco, with the organization 'Woman, follow my path.' On June 6, 2013, at night, Y.C.G.M. left her home to meet some friends. When she returned, 'a tall, skinny, hooded and armed man approached her from behind, covered her mouth with his hand and used the other to threaten her with his weapon. He drove her into the common room, where a couple of vehicles were parked, and pushed her against one of the cars.' While he was threatening her with the weapon, he told her 'to take off [her] clothes, then he leapt on her with the weapon, and raped her.' 'During the attack, [Y.C.G.M.] remembers that the man told her that happened because she was [an informant], a snitch and that that was a warning.'

viii) On June 7, 2014, Y.C.G.M. went to the 'Mother Bernarda Clinic.' According to the applicants, she was attended four hours after arriving in the emergency area. She then asked for medical attention for rape. However, apparently the Clinic provided her only general medical attention, prescribing medication that required payment, but without providing information regarding the standard protocol for such cases, nor care for her sexual and reproductive health. The applicants sustain that Y.C.G.M. 'was not certain that the medication prescribed prevented her from getting sexual transmitted diseases, from being pregnant, nor from having any other illness related to violence of this kind.' On June 8, 2014, Y.C.G.M. went to the National Legal Medicine and Forensic Sciences Institute, where she allegedly was required to complete a number of administrative procedures and to wait a significant period of time before being attended, causing her companions to complain. The applicants emphasize that the medical attention resulted in 'gender-based discriminatory mistreatment.' They note that the physician who attended her was annoyed by the 'mess' Y.C.G.M. caused in order to get medical attention. According to the applicants, 'the gynecologist performed a gynecological examination but did not prescribe any medication [...], meaning that currently [Y.C.G.M.] does not know whether the treatment has been completed or not.'

ix) The applicants state that they filed claims in relation to the facts described in the present request for precautionary measures, but the investigations have been fruitless. Also, in spite of the many requests

for protective measures, no means were put in place to resolve this situation, as they allege the information provided above demonstrates. In this respect, the applicants stress that ‘the most serious acts of violence committed against Y.C.G.M. were based on her gender; it is why they should be considered as a gender issue.’ According to the applicants, ‘in spite the fact that [the relevant authorities] knew about [Y.C.G.M.]’s rape, in January 2014, and that such attacks could happen again, they applied a standard risk evaluation protocol in disregard of the characteristics of this gender case.’

III. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY AND IRREPARABLE HARM

4. The mechanism of precautionary measures is a part of the Commission’s function of overseeing Member State 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 set forth in Article 41 (b) of the American Convention on Human Rights, and Article 18 of the Commission’s Statute. The mechanism of precautionary measures is set out in Article 25 of the Commission’s Rules of Procedure. According to this Article, the Commission issues precautionary measures in situations that are serious and urgent, and where such measures are necessary to prevent irreparable harm to persons.

5. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding their protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR. Their precautionary nature aims to preserve those rights at risk until the petition in the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, avoid infringement of the rights at issue, a situation that may adversely affect the useful purpose (*effet utile*) of the final decision. In this regard, precautionary measures or provisional measures thus enable the State concerned to fulfill the final decision and, if necessary, to comply with the reparations ordered. As such, for the purposes of making a decision, and in accordance with 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.

6. In the current situation, the Commission considers that the requirement of seriousness is met, in view of the constant cycle of threats, harassments, tracking, physical attacks and sexual violence allegedly faced by Y.C.G.M., a purported victim of the individual case P-1625-07, currently awaiting a merits report. Specially, the information suggests that the present risk situation she currently faces is a form of

intimidation and retaliation, due to the Y.C.G.M.'s work in defense of the rights of women in Colombia. In this regard, in the context of the sexual violence to which YCGM has allegedly been subjected recently, the perpetrators allegedly referred to these events as a consequence of her work as a human rights defender. In these circumstances, the apparent lack of appropriate medical attention towards Y.C.G.M., despite the alleged sexual abuse situation, also acquire particular consequence, as they aggravate her situation of vulnerability.

7. Within the context of analysis of this requirement, the Commission notes that the information presented is consistent with the general information received by the IACHR regarding the particular risk situations that human rights defenders face, due to their work. In particular, regarding the particular situation of women human rights defenders in Colombia, through the report on 'Violence and Discrimination Against Women in the Armed Conflict in Colombia,'³ the second 'Report on the Situation of Human Rights Defenders in the Americas,'⁴ public hearings,⁵ and the country visit carried out in Colombia in December, 2012, the IACHR has learned about other kinds of violence suffered by women, including sexual violence, and especially instances affecting women human rights defenders.⁶ In this context, the IACHR consistently notes that States, in general, must 'guarantee in particular the security of women human rights defenders whenever they are at risk of attack through specific mechanisms because of their gender.'⁷

8. In relation to Y.C.G.M.'s relatives identified in the present request, the IACHR considers these persons share the same level of risk that Y.C.G.M., given that the information presented suggests that the purported perpetrators knew their residence, wandered around it many times and directly threatened Y.C.G.M.'s father.

9. Taking into consideration the information provided and the particular context in which it is presented, the Commission considers *prima facie* that the rights to life and personal integrity of Y.C.G.M. and her immediate family are at serious risk.

10. Regarding the requirement of urgency, the IACHR believes that it is satisfied, to the extent that the allegations regarding acts of violence against Y.C.G.M. and her family have increased continuously over time, without being provided effective protection. In these circumstances, the Commission considers that various factors converge – related to the situation of a woman, who is a human rights defender and an alleged victim of sexual abuse – that require the immediate adoption of special protection measures to avert the various risk scenarios to which Mrs. Y.C.G.M. and her family are constantly exposed. In this regard, the Commission notes that, according to the same applicants, the State has provided some protective measures at different times and according to the different risk situations that Y.C.G.M has faced. However, the Commission observes that such protective measures apparently have not been

³ See: IACHR. Violence and Discrimination against Women in the Armed Conflict in Colombia, October 2006.

⁴ See: IACHR. Second Report on the Situation of Human Rights Defenders in the Americas, December 2011.

⁵ See IACHR Public Hearings: 'Situation of Human Rights of Women in Colombia' (147^o Session), 'Situation of Human Rights of Afro-descendant Women in Colombia' (147^o Session), 'Violence against Women in Colombia' (143^o Session), among others. Available at: <http://www.oas.org/en/iachr/activities/sessions.asp>

⁶ See: IACHR. Press release 144/12. 'IACHR'S Preliminary Observations on Its Onsite Visit to Colombia.' December 7, 2012.

⁷ See: IACHR. Report on the Situation of Human Rights Defenders in the Americas, recommendation 7.

adequate and effective, given that such measures did not include a specific gender approach nor prevention strategies and comprehensive protective measures in the short, medium and long term. Additionally, according to the information provided by the applicants, the different risk situations have not been sufficiently investigated, which allegedly allowed the risk factors to remain active to date, thus placing Y.C.G.M. in a defenseless situation.

11. Regarding the requirement of irreparable harm, the Commission considers it fulfilled, to the extent that the possible effect on the right to life and personal integrity represents the most irreparable situation.

12. Under Article 25.5 of the Rules of the IACHR, the Commission generally requests that the State concerned present information prior to taking its decision on a request for precautionary measures, except in a matter such as the present case where the immediacy of the potential harm allows for no delay.

13. The Commission wishes to reiterate the importance of human rights defenders' work in the region. In this regard, the IACHR has consistently highlighted the value of such activities carried out by those who promote, defend and follow human rights, as well as organizations in which many of them are affiliated. In this regard, the OAS General Assembly, in its resolution GA/RES 2579 (XL-0/10), acknowledged the work done by human rights defenders – particularly women – generally, in the region and pointed out that due to their activities and specific needs, these women should be entitled to all necessary protective measures from the State to safeguard their protection and their relevant work. In these circumstances, the Commission considers that acts of violence against human rights defenders not only affect the guarantees of particular human beings, but also, in light of the fundamental role such actors play within society, such acts exacerbate the vulnerability of those on whose behalf human rights defenders work.

IV. BENEFICIARIES

14. The request has been presented in favor of Y.C.G.M. and her immediate family, which includes nine individuals fully identified in the documents attached by the applicants.

V. DECISION

15. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the Republic of Colombia:

- a) Adopt the necessary measures to protect the life and personal integrity of Y.C.G.M. and her immediate family;
- b) Take the necessary measures to ensure that Y.C.G.M. can perform her activities as a human rights defender, without being subjected to acts of violence and harassment because of the performance of her duties;

c) Agree on 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 in order to prevent its repetition.

16. The Commission also requests that the Government of His Excellency provide information within a time limit of 15 days from the date that the present resolution is issued, on the adoption of precautionary measures, and provide updated information periodically.

17. The Commission wishes to point out that in accordance with Article 25(8) of its Regulations, the granting of precautionary measures and their adoption by the State shall not constitute a prejudging of any violation of the rights protected in the American Convention on Human Rights or any other applicable instrument.

18. The Commission requests that the Executive Secretariat of the IACHR notify the present resolution to the State of Colombia and to the petitioners.

19. Approved on June 20, 2014, by: Tracy Robinson, President; Felipe Gonzalez, Second Vice-President; Commissioners Jose de Jesus Orozco, Rosa Maria Ortiz, James Cavallaro and Paulo Vannucchi.

Signed by Mario Lopez Garelli
On behalf of the Assistant Executive Secretary