

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 18/2020**

Precautionary Measure No. 183-20  
Narly Gómez Jiménez regarding Colombia  
April 23, 2020  
Original: Spanish

**I. INTRODUCTION**

1. On March 3<sup>rd</sup>, 2020, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for precautionary measures filed by Tamara Estefanía Salazar Ayala (“the applicant”), urging the Commission to require that the Republic of Colombia (“the State” or “Colombia”) adopt the necessary measures to protect the rights to life and personal integrity of Narly Gómez Jiménez (“the proposed beneficiary”). According to the applicant, the proposed beneficiary disappeared on January 27<sup>th</sup>, 2020 in Popayán, Cauca, after being last seen in the company of her former romantic partner,<sup>1</sup> who previously had threatened her. To date, her whereabouts are unknown.

2. The IACHR requested information from both parties on March 5<sup>th</sup>, 2020, in accordance with Article 25.5 of its Rules of Procedure. Upon being granted a timeline extension, the State submitted its report on March 13<sup>th</sup> and on the same date the applicant responded.

3. Having analyzed the submissions of fact and law by the parties, the Commission considers that the information presented shows *prima facie* that Narly Gómez Jiménez and her child V.T.M.G. are in a serious and urgent situation, given that the whereabouts of the former are unknown to date, while the latter reportedly does not have any psychological support nor is her guardianship and custody defined. Consequently, based on Article 25 of its Rules of Procedure, the Commission requests that Colombia: a) take the necessary measures to determine the whereabouts or fate of Narly Gómez Jiménez, in order to protect her rights to life and personal integrity and provide all the necessary measures to guarantee the rights of the child V.T.M.G.; b) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent such events from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

**1. Information provided by the applicant**

4. According to the request, the proposed beneficiary disappeared on January 27<sup>th</sup>, 2020 after meeting with E.M., the father of her 4-year-old child, from whom she had separated months earlier after suffering repeated acts of physical and psychological violence.

5. In December 2019, the proposed beneficiary allegedly reported E.M. for the crime of domestic violence, noting that due to physical abuse and the contagion of sexually transmitted diseases, she no longer wished to live with him. Despite the above, he continued to threaten her, in addition to verbally insulting her and revealing her health situation to her friends and family. The proposed beneficiary added that a month earlier, E.M. tried to force her to have sex, and that due to her refusal, he beat her, threatening with taking away her child. Despite having filed a complaint, it appears that Narly was not referred for a

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<sup>1</sup> A professional soldier assigned to date to the Light Cavalry Group Battalion *Meteroro* No. 7.

medical-legal assessment, nor was she provided any type of protection by the authorities who heard the case.

6. According to the information provided, on January 19<sup>th</sup>, 2020, the proposed beneficiary was physically and verbally attacked again by E.M., who demanded that she hand over the deed of a house they had gotten during their cohabitation. As a protection measure, the proposed beneficiary's relatives decided to take turns in accompanying her at her residence. However, on January 26<sup>th</sup>, Narly was alone with her child and was attacked again by E.M.; on January 27<sup>th</sup>, 2020, the proposed beneficiary disappeared, along with her child, having been last seen leaving a school where she had taken her to complete the enrollment process.

7. On January 29<sup>th</sup>, the child's father reportedly called the proposed beneficiary's relatives and told them that on the day of the incident Narly was with him, but she had disappeared after going outside to answer a call, so he allegedly decided to take his child with him. According to the applicant, the missing woman's family subsequently managed to establish that the child's father, along with one of his sisters, had tried to "give" the child to some relatives, but in view of their refusal to take her, they chose to leave her in the care of her paternal grandmother.

8. According to the request, the child, who is currently being cared for by her mother's relatives, has stated that on the day of the disappearance, her father had locked her in a room, and had taken her mother with him. He then returned "wet, shirtless and smeared with blood," which frightened her, therefore E.M. beat her and transported her in a car. The applicant indicates that, even though the facts were reported, the Office of the Attorney General (*Fiscalía*) has not acted quickly, or with due diligence, by telling her relatives that "nothing can be done, all that's left to do is wait," because these cases "are very difficult." The Office of the General Attorney also forbade them from making the matter public through media outlets because it "would be detrimental to the investigation." In addition, on March 9<sup>th</sup>, an unknown man approached a relative of the proposed beneficiary and told him to "[...] stop searching for the missing woman, because they had already targeted the people who were searching [...]." In addition to this fact, there is fear that E.M. might claim the custody of his child, and the whereabouts of the proposed beneficiary are still unknown, which generates anguish, anxiety, and terror in her relatives. The relatives therefore request that the precautionary measure be adopted in favor of the missing woman and her nuclear family, stressing that the proposed beneficiary's child does not have any psychological support and she would be at risk should her father decide to remove her from the care of her maternal relatives.

9. The applicant emphasized the allegedly degrading and revictimizing treatment that the authorities in charge of the investigation gave to Narly's relatives upon learning of the complaint filed before the Commission. The authorities reportedly summoned the relatives to tell them that "the investigator of the case was very stressed with the search," and proceeding until that date to hear them and receive the information collected by them such as videos, cell phone screenshots, among others. Furthermore, complaints of domestic violence, forced disappearance and threats are under preliminary investigation, yet the police have not yet obtained the version of the main suspect of Narly's disappearance. The main suspect's location is currently unknown, as he reportedly evaded his bringing before the Army group to which he belongs.

## **2. Response from the State**

10. The State indicated that the Office of the Attorney General of the Nation has been conducting the investigation for the crime of forced disappearance of the proposed beneficiary since January 31<sup>st</sup>, 2020, but due to the secrecy set forth by law it was not possible to provide information. However, the State specified that, on that same day, it ordered the activation of the Urgent Search Mechanism and the entry

of the missing woman's data into the Information System of the Missing Persons and Corpses Network (SIRDEC) of Legal Medicine, and that a preliminary hearing for a prior check of selective database search was scheduled for April 16<sup>th</sup>, 2020. In addition, the State informed that the National Commission for the Search of Missing Persons requested that the Sub-directorate of Forensic Services of the National Institute of Legal Medicine and Forensic Sciences proceed with the review of individualizing data available in the SIRDEC<sup>2</sup> and carry out alphanumeric and technical searches, as well as technical comparative analyses using files of corpses recovered on the date of her disappearance and with a registered medical-legal autopsy. Moreover, efforts are being undertaken to follow-up and further the investigation of the alleged disappearance of Ms. Gómez Jiménez.

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

11. The precautionary measures mechanism is part of the Commission's function to 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's Statute, while the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations, and in which such measures are necessary to prevent irreparable harm to persons or to the object of a petition or case before the organs of the Inter-American System.

12. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, both precautionary and protective. As regards the protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding the precautionary nature, precautionary measures have the purpose of preserving legal situations being considered by the IACHR. Their precautionary nature aims to safeguard the rights at risk until the request under consideration in the Inter-American System is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits of the case 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 allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations. Regarding the process of decision making and, according to Article 25(2) of the 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.

13. In the analysis of the aforementioned requirements, the Commission recalls that the incidents that give rise to a request for precautionary measures need not be proven beyond doubt, but rather the information must be assessed from a *prima facie* standard.<sup>3</sup> In addition, when analyzing these

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<sup>2</sup> Information System of the Missing Persons and Corpses Network of the Institute of Legal Medicine and Forensic Sciences.

<sup>3</sup> In this regard, for example, referring to the provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to assess *prima facie* a situation of extreme seriousness and urgency. I/A Court H.R., *Matter of children and adolescents deprived of*

requirements, the Commission emphasizes that the precautionary measures mechanism is not called upon to establish the facts of the incident concerning the proposed beneficiary that took place on January 27<sup>th</sup>, 2020. The analysis that the Commission carries out is exclusively related to the provisions set out in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits of the case.

14. As it pertains to the requirement of seriousness, the Commission recalls that, according to the provisions set out by the I/A Court, women's disappearances require exhaustive search operations. In addition, swift and immediate action from police authorities, as well as prosecutors and legal authorities is essential to order timely and necessary proceedings to determine the whereabouts of the victim. Adequate procedures for complaints should be in place, and these should involve effective investigations from the very start. The authorities should also assume that the disappeared person is still alive until the uncertainty is resolved, and the facts of the case are established.<sup>4</sup> In addition, with regard to the context of the matter, it is also worth noting that, despite the fundamental principle which helps women and young girls live a violence-free life,<sup>5</sup> the legal system often encounters difficulties when offering protection and legal guarantees to protect the dignity and safety of women who report acts of violence that they suffer. Furthermore, the Commission notes that the special enhanced protection that should be offered when dealing with children and direct or collateral victims of violence should be translated into specific and concrete actions carried out by the State.<sup>6</sup>

15. In the present matter, the Commission considers that the aforementioned requirement is met as it has received no information whatsoever on the whereabouts or fate of Narly Gómez Jiménez since January 27<sup>th</sup>, 2020. The seriousness of the situation is equally shown in the precedents which register alleged violence from her former partner, the possibility that she might have been injured (*vid. supra* para. 8) and his position as an officer of the National Army. Even though the Commission has reported the aforementioned to the competent authorities, it recalls that the prolonged disappearance of the proposed beneficiary could imply an increased possibility that her rights be violated as, due to the described circumstances, she is in a special situation of vulnerability.<sup>7</sup>

16. Furthermore, it must be mentioned that while the alleged perpetrator is not detained, the child V.T.M.G. faces a dangerous situation as she not only witnessed the incident, but may also suffer further harm at the hands of her father. In addition to these circumstances, the child may also face important consequences to her psychological wellbeing, as the applicant claims that the child has not received any psychological support.

17. The Commission acknowledges the information submitted by the State regarding the proceedings of the investigations aimed at determining the whereabouts of the proposed beneficiary. Notwithstanding, to date, the whereabouts or fate of the proposed beneficiary is yet to be determined,

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*liberty in the "Complexo do Tatuapé" of the CASA Foundation*. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

<sup>4</sup> I/A Court H.R., *Case of López Soto et al. v. Venezuela*. Merits, Reparations and Costs. Judgment of September 26, 2018. Series C No. 362., paragraph 142.

<sup>5</sup> IACHR, *Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe* (Violence and Discrimination Against Women and Girls in Latin America and the Caribbean) OEA/Ser.L/V/II. Doc. 233, November 14<sup>th</sup>, 2019, paragraph 1. Available (in Spanish) at: <http://www.oas.org/es/cidh/informes/pdfs/ViolenciaMujeresNNA.pdf>

<sup>6</sup> IACHR, *Violencia y discriminación contra mujeres, niñas y adolescentes*, paragraph 79. (In Spanish)

<sup>7</sup> As the IACHR has stressed, when analyzing an alleged case of forced disappearance, one must take into account that the deprivation of an individual's liberty should only be understood as the beginning of the configuration of a complex violation that extends in time until the fate and whereabouts of the victim are known. Moreover, the IACHR has considered that, due to the very nature of forced disappearance, the victim is in an aggravated situation of vulnerability, from which the *risk* of violating various rights arises, among them, the right to life. See: I/A Court. Matter of Chitay Nech *et al. v. Guatemala*. Merits, Reparations and Costs. Judgment of May 25<sup>th</sup>, 2010. Series C No. 212, paras. 89 and 96.

which implies a source of risk that has not been mitigated or neutralized. In this regard, there is specific concern regarding the applicant's allegations as, according to them, there have been obstacles when collecting evidence and, when these obstacles were reported to the authorities in charge, they allegedly said that all they could do was "wait." In addition, the Commission notes that the State has not provided information regarding the domestic violence complaints filed by the proposed beneficiary<sup>8</sup> or on other support measures for her child, nor on any possible lines of investigation concerning the incidents of this matter, even though they occurred more than two months after Narly Gómez Jiménez's disappearance.

18. In view of the aforementioned, taking into account the specific characteristics of the matter and in light of the *prima facie* standard, the Commission considers that the life and personal integrity of Gómez Jiménez and her child V.T.M.G. are at serious risk as the whereabouts and fate of the mother are unknown and the child has not received any physiological support or protection measures in her favor to date.

19. As it pertains to the requirement of urgency, the Commission considers it is met as the time which has transpired without knowing the whereabouts of the proposed beneficiary could cause further harm to her rights to life and personal integrity, as well as negatively impact the full development of her child.

21. As it pertains to the requirement of irreparable harm, the Commission considers that it is complied with, insofar as the possible impact on the rights to life, personal integrity and health constitutes the maximum situation of irreparability.

#### **IV. BENEFICIARIES**

22. The Inter-American Commission on Human Rights declares that the proposed beneficiaries of these precautionary measures are Narly Gómez Jiménez and her child V.T.M.G, who have been duly identified.

#### **V. DECISION**

23. The Inter-American Commission on Human Rights considers that the present case meets *prima facie* the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Colombia:

- a) take the necessary measures to determine the whereabouts or fate of Narly Gómez Jiménez, in order to protect her rights to life and personal integrity and provide all the necessary measures to guarantee the rights of the child V.T.M.G.; and
- b) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent such events from reoccurring.

24. The Commission requests that the Government of Colombia report, within 15 days as from the date of this resolution, on the adoption of the precautionary measures requested and to update this information periodically.

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<sup>8</sup> The Commission has noted that, in the region, women continue to face serious challenges to be respected and have their fundamental rights protected in a context of structural and endemic violence and discrimination against them. Inter-American Commission on Human Rights Report "Violencia y discriminación contra mujeres, niñas y adolescentes: Buenas prácticas y desafíos en América Latina y en el Caribe, 2019". (Violence and Discrimination Against Women and Girls in Latin America and the Caribbean). Available in Spanish at <http://www.oas.org/es/cidh/informes/pdfs/ViolenciaMujeresNNA.pdf>

25. The Commission emphasizes that, in accordance with Article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected in the applicable human rights instruments.

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

27. Approved on April 23, 2020 by Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; Esmeralda Arosemena de Troitiño; Julissa Mantilla Falcón; and Edgar Stuardo Ralón Orellana, members of the IACHR.

Paulo Abrão  
Executive Secretary