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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 22/2020**

Precautionary Measure No. 96-20  
Adolescent A.A.T.T.<sup>1</sup> and her family regarding Colombia  
May 12, 2020  
Original: Spanish

**I. INTRODUCTION**

1. On February 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 urging that the State of Colombia (“the State” or “Colombia”) take the necessary protective measures to guarantee the life and personal integrity of adolescent A.A.T.T., her mother, her grandmother, her two brothers and her sister (“the proposed beneficiaries”). According to the request, the adolescent proposed as beneficiary suffered sexual violence in April 2018 and, in the framework of the criminal proceeding that was subsequently carried out, her family, her legal defender and herself are being subject to threats and harassment.

2. On February 6<sup>th</sup>, 2019, the Commission requested information from the State and the applicant. The applicant provided additional information on February 5<sup>th</sup>, 13<sup>th</sup>, and 14<sup>th</sup> as well as March 6<sup>th</sup>, 2020. Upon being granted a timeline extension, the State provided its report on February 25<sup>th</sup> and additional information on March 4<sup>th</sup>, 2020.

3. Having analyzed the submissions of fact and law by the applicants, the Commission considers that the information proves *prima facie* that the proposed beneficiaries are in a serious and urgent situation, given that their rights to life and personal integrity are at serious risk. Consequently, pursuant to Article 25 of its Rules of Procedure, the Commission requests that the State of Colombia: a) take the necessary measures to protect the rights to life and personal integrity of A.A.T.T. and her nuclear family, with a gender perspective and taking into account her age or the relevant differential approaches, in accordance with the applicable international standards and obligations; b) consult and agree upon with the beneficiaries and their representatives regarding the measures to be taken; and c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

**II. SUMMARY OF THE FACTS AND ARGUMENTS**

**1. Information provided by the applicant**

4. The proposed beneficiary, a 16-year-old adolescent, was allegedly a victim of sexual violence on April 11<sup>th</sup>, 2018 at the hands of Mr. Arquímedes.

5. On February 28<sup>th</sup>, 2019, the alleged perpetrator was captured and charged with “abusive sexual acts with a minor under 14 years of age” and is currently in pre-trial detention. According to the applicant, that same day, his family members futilely offered the proposed beneficiary’s mother, Ms. Marle, money in exchange of withdrawing her complaint. After her refusal, the alleged perpetrator’s family reportedly instructed neighbors to send messages “to show her the family’s dangerousness,” insisting that she should withdraw the complaint. The facts were reported to the Office of the Attorney General (*Fiscalía*), where

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<sup>1</sup> Pursuant to the Commission’s common practice, as it concerns an adolescent and matters of alleged sexual abuse, the identity of the beneficiary shall remain confidential.

the proposed beneficiaries were told that “[...] that did not constitute a threat or aggression or crime of any kind.”

6. The applicant stated that in August 2019, the proposed beneficiary’s family dog disappeared and was found dead with signs of poisoning. In the following days, a mare that belonged to Ms. Marle allegedly disappeared and, after days of searching for her in their property to no avail, the mare was found on the property with signs of having been drugged and stabbed, therefor a complaint was filed. In addition, in December of 2019, family’s groceries were stolen on several occasions, and complaints were subsequently filed. The applicant considers that the incidents are related to the criminal proceedings and interprets them as threats and harassment.

7. The alleged perpetrator’s lawyer reportedly requested his release, therefore on January 3<sup>rd</sup>, 2020, a hearing to remove the measures of assurance was held before the judge of Popayán. The applicant alleged that his defense lawyer, Cesar, who is reportedly a retired military, based the request on revictimizing arguments against A.A.T.T. which violated her right to intimacy, and did so using inappropriate language and gender stereotypes. The hearing was suspended to be assessed and was resumed on January 13<sup>th</sup> when the applicant requested that the measures of assurance against the alleged perpetrator not be revoked and reported “the murder of an animal and the theft of groceries (food) for the children.”

8. On the following day, January 14<sup>th</sup>, men allegedly tried to enter Ms. Marle’s property but were scared away by the dogs. Subsequently, in the early hours of January 20<sup>th</sup>, men who “seemed armed” allegedly tried to enter the property where Ms. Marle and her children, including A.A.T.T., were. The men reportedly entered the lot but, upon attempting to enter the house, they saw that the children were not alone and were frightened off by Ms. Marle’s mother’s reaction and the dogs. After this incident, the police commander in the municipality of Timbio stated that they cannot provide them adequate protection and that they should resort to the national army. For these reasons, an extension of previous complaints was filed.

9. On the same day, January 20<sup>th</sup>, the advocate learned of the entry attempt via *WhatsApp* during the hearing. Hence, at that very moment, these facts were brought to the attention of the judge and the Office of the Attorney General, requesting the adoption of urgent protection measures. At the hearing, the alleged perpetrator was denied his freedom and “some measures to restore the rights of the underaged victim” were taken (no details), but the judge did not rule on the incidents reported. The decision was allegedly appealed by the defense and, in turn, the applicant reiterated “the seriousness of the safety situation of the victims and their relatives.” This reiteration allegedly disturbed the defense lawyer, who interrupted the applicant and indicated that he would report her to the Ombudsperson’s Office.<sup>2</sup>

10. The applicant stated that, after the entry attempts on January 14<sup>th</sup> and 20<sup>th</sup>, 2020, and the indication from the police that they were unable to protect them, the proposed beneficiary’s family had to relocate. The applicant further mentioned that the above had caused the family to separate, as Ms. Marle had to seek refuge in one location and her sons and daughters had to be relocated in a shelter elsewhere. After they moved, as from February 4<sup>th</sup>, they registered the presence of persons who do not live, and have

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<sup>2</sup> The Ombudsperson’s Office allegedly called the applicant’s attention to the fact that they had not reported the situation to the regional Ombudsperson’s Office before, and that this was “a forced displacement of a social leader.” The applicant then indicated that these facts were presented at the hearing immediately after they were discovered, and that she was not a social leader. In view of the report by the alleged perpetrator’s lawyer that Ms. Marle is allegedly a social leader, they indicated that she reportedly benefits from social agricultural production projects, but that she does not exercise social leadership. They therefore indicated that they fear that they could be attacked “under the excuse of social leadership.” In addition, in a complaint filed due to a theft it that Ms. Marle identifies herself as a “community leader of the village of El Guayabal in the municipality of Timbio-Cauca.”

never been seen, in the *vereda* (rural division) where Ms. Marle and her mother are taking refuge. In addition, on February 5<sup>th</sup>, unknown persons purportedly tried to forcefully enter their place.

11. The applicant states that, despite the various claims, no protective measures were implemented until their relocation was reported, when, as a protective measure, the police was warned that the family was at risk and, even then, they did not carry out any major proceedings. The Office of the Attorney General did not adopt any protective measures either and, on February 6<sup>th</sup>, a hearing was requested to the judicial office seeking to obtain measures of assurance. To date, this hearing has not been scheduled. The applicant also reported that alleged officers from the Colombian Institute of Family Welfare (ICBF) reportedly contacted Ms. Marle with very accurate information on her situation, which she considered strange.

12. On another note, the applicant stated that the legal defender had been followed on February 4<sup>th</sup> by a person on a vehicle who followed her to her house and to her office. In addition, on February 10<sup>th</sup>, a gray van with tinted windows followed her as she headed to the Palace of Justice. The applicant mentioned alleged irregularities in the Ombudsman's Office, claiming workplace harassment against the advocate which she attributes to the alleged perpetrator's defense lawyer, who "threatened her with his connections in the Ombudsman's Office," given that he allegedly had many friends in that office because he had previously worked there.

13. On March 6<sup>th</sup>, 2020, the applicant sent additional information regarding obstacles in the criminal proceeding. She also reported that the community action committee of the *vereda* where the proposed beneficiaries lived ordered the family's eviction. The president of the committee indicated that the complaints filed by Ms. Marle were false and put Mr. Arquímedes and his family at risk. Therefore, it is considered that the alleged perpetrator has too much influence on the community action committee. The applicant indicated that this was a sign that they are not safe in that *vereda*. In addition, Mr. Arquímedes' relatives reportedly filed a complaint for slander and libel against Ms. Marle and the very applicant due to the follow-up of the criminal proceedings and the filed complaints.

14. Ms. Marle voiced her "fear of continuing with the judicial proceedings," mentioning that during the trial persons may attempt on her or her children for testifying.

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

15. The State provided information from the Office of the Attorney General of the Nation, indicating that the criminal proceeding "concerns the crime of sexual acts against an underaged person, in which the alleged perpetrator is Mr. Arquímedes [...]," and also provided information on the proceedings carried out since April 12<sup>th</sup>, 2018 when the mother filed the complaint.

16. The ICBF reported that, upon not receiving information on the case, it assigned a [female] Family Advocate on February 10<sup>th</sup> and, indeed, on February 12<sup>th</sup>, they searched for Ms. Marle to no avail. On February 13<sup>th</sup>, they were able to contact her and she refused to provide any information on her current place of residence.

17. Lastly, the National Protection Unit (UNP) stated that the proposed beneficiaries are not registered in its data base. The State of Colombia requested that the Commission "require that the proposed beneficiaries or their representatives provide information with a view to receiving assistance from the State."

18. Through a report dated March 4<sup>th</sup>, 2020, the State added that on January 1<sup>st</sup>, 2020 the National Police gave Ms. Marle a National Police Self-Protection Recommendation Guide. It further stated that they

carried out patrols, searches and identification of persons and vehicles in the *vereda*. However, it was indicated that, for safety reasons, Ms. Marle decided to leave the *vereda*. Moreover, the State emphasized that it had contacted her by phone in February 2020, but that Ms. Marle had refused to reveal her location.

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

19. The precautionary measures mechanism is part of the Commission's functions of overseeing Member State compliance with human rights obligations established in Article 106 of the Charter of the Organization of the American States ("OAS"). These general functions are set forth in Article 41 (b) of the American Convention on Human Rights, also mentioned in Article 18 (b) of the Statute of the IACHR, while the precautionary measures mechanism is enshrined in Article 25 of the Rules of Procedure, by which the Commission grants precautionary measures in serious and urgent situations, where such measures are necessary to prevent an irreparable harm to persons.

20. 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 protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving legal situations while the bodies of the Inter-American System analyze a petition or case. Their objective 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 *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. For such purposes, 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.

21. In the analysis of these requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the information provided should be assessed from a *prima facie* standard, in order to determine whether a serious and urgent situation exists.<sup>3</sup>

22. Before analyzing the procedural requirements, the Commission notes that, even though the applicant also provided information sustaining the existence of possible events of risk against the advocate, she is already a beneficiary of precautionary measures in a different file. Therefore, in this resolution, the IACHR will only address the situation of the family of adolescent A.A.T.T.

23. When assessing the requirement of seriousness, the Commission considers it important to take into account the current context, pursuant to the provisions in Article 25.6 of the Rules of Procedure. The

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<sup>3</sup> In this regard, see I/A Court. Matter of the communities of the Miskitu indigenous people of the North Caribbean Coast Region of Nicaragua regarding Nicaragua. Provisional Measures Extension. Inter-American Court on Human Rights Resolution of August 23<sup>rd</sup>, 2018, considerandum 13; Matter of children and adolescents deprived of 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. Available (in Spanish) at: [http://www.corteidh.or.cr/docs/medidas/febem\\_se\\_03.pdf](http://www.corteidh.or.cr/docs/medidas/febem_se_03.pdf)

Commission has learned of the obstacles that women face when trying to report the violence they have suffered, as well as the lack of judicial protection and guarantees to protect their dignity, safety and privacy during the process.<sup>4</sup> In its recent report, the Commission has noted that “the record of high rates of gender-based homicides, harassment and sexual violence, among other forms of violence, as well as the persistence of serious obstacles, keep women from gaining timely access, without discrimination, to justice and to full redress and protection from such acts.”<sup>5</sup> In the same way, the IACHR has received information regarding “the prevalence of many obstacles for women and girls to have access to an equitable, impartial justice within a reasonable time.”<sup>6</sup>

24. In turn, it should not be ignored what has been indicated by the I/A Court H.R. that States should adopt comprehensive measures to comply with due diligence in cases of violence against women, with a strategy of prevention that should prevent risk factors and strengthen institutions so that they can provide an effective response to cases of violence against women.<sup>7</sup> In this regard, it is important to recall that the Court indicated that

state authorities have a responsibility to be aware of a situation of special risk, to identify or determine whether the person being threatened or harassed requires protection measures or to refer the matter to the competent authority for that purpose and to offer the person at risk timely information on the measures available. The assessment of whether a person requires protection measures and what those measures should be is the State’s obligation, and this must not be limited to requiring that the victim request it before “the competent authorities,” without knowing which authority can best address the situation, since it is the State’s responsibility to establish coordination measures between its institutions and officers for this purpose.”<sup>8</sup>

25. In this specific matter, the Commission notes that the risk faced by the family proposed as beneficiary emerged as they sought justice for the sexual violence the adolescent A.A.T.T. suffered at the hands of Mr. Arquímides. In this sense, the applicant reported that from February 28<sup>th</sup>, 2019, the day the alleged perpetrator was arrested, his family has sought to make them withdraw their complaint in exchange of money. Upon their refusal, the proposed beneficiary’s family received messages stating that the alleged perpetrator’s family is dangerous and urging them to withdraw the complaint. The applicant then reported that both a dog and a mare had disappeared from their property, which reportedly turned up dead, and that food purchased for the family was being stolen. The Commission notes that, even though the harassment to withdraw the complaint may not involve a serious risk, and that the events relating to the animals and food seem to be minor, isolated incidents, the situation as a whole, along with fact that they may have occurred in relation to the complaint filed, provide evidence of an initial risk.

26. In line with the background above, the Commission finds it concerning that on January 14<sup>th</sup>, one day after the continuance of the hearing to modify the measures of assurance, the first entry attempt into Ms. Marle’s house was registered. Subsequently, in the morning of February 20<sup>th</sup> when a new hearing was to take place, another entry attempt was registered in the domicile where A.A.T.T., her siblings and her grandmother were staying. These incidents, along with information stating that the *vereda* wanted to expel them, allegedly motivated the family’s relocation. However, it was stated that in the location that

<sup>4</sup> IACHR, *Access to Justice for Women Victims of Violence in the Americas*, OAS/Ser.L/V/II., Doc. 68, January 20<sup>th</sup>, 2007, para. 172.

<sup>5</sup> IACHR, *Violence and Discrimination against Women and Girls: Best Practices and Challenges in Latin America and the Caribbean* OAA/Ser.L/V/II., Doc. 233, November 14<sup>th</sup>, 2019, para. 7. Available at: <http://www.oas.org/en/iachr/reports/pdfs/ViolenceWomenGirls.pdf>

<sup>6</sup> IACHR, *Violence and Discrimination against Women and Girls ...*, para. 131.

<sup>7</sup> I/A Court. *Matter of López Soto et al Vs. Venezuela*. Interpretation of the Merits, Reparations and Costs Judgement. Judgement from May 14<sup>th</sup>, 2019. Serie C No. 379, para. 131.

<sup>8</sup> I/A Court. *Matter of Luna López vs. Honduras*. Merits, Reparations and Costs. Judgment from October 10<sup>th</sup>, 2013. Series C. No. 269, para. 127. Available at: [https://www.corteidh.or.cr/docs/casos/articulos/seriec\\_269\\_ing.pdf](https://www.corteidh.or.cr/docs/casos/articulos/seriec_269_ing.pdf). See *inter alia*: IACHR, *Maria Patricia Arce Guzmán and children regarding Bolivia* (PM-1123-19), Resolution 68/2019 from December 25<sup>th</sup>, 2019, para. 32. Available (in Spanish) at: <http://www.oas.org/es/cidh/decisiones/pdf/2019/68-19MC1123-19-BO.pdf>; IACHR, *Yaku Pérez Guartambel regarding Ecuador* (PM-807-18), Resolution 67/18 from August 27<sup>th</sup>, 2019, para. 30. Available (in Spanish) at: <http://www.oas.org/es/cidh/decisiones/pdf/2018/67-18MC807-18-EC.pdf>

Ms. Marle and her mother are currently sheltered, unidentified persons have been wandering and there was another entry attempt. When assessing the above, the IACHR notes that the alleged monitoring or follow-up of the advocate can be assessed from a *prima facie* standard in line with the above. Especially in relation to these situations, the Commission observes that the family of the alleged perpetrator is reportedly attempting to hinder the judicial actions initiated by the proposed beneficiary's family by filing complaints against Ms. Marle and the applicant.

27. The Commission notes the State's response, from which it is understood that the UNP does not have any register of the proposed beneficiaries in its database, but that the National Police carried out patrols and handed them a Self-Protection Guide. Even though the State urges the IACHR to request that the applicant provide information, the available information states that the proposed beneficiaries have filed complaints before the police, the Office of the Attorney General of the Nation and, in addition, has allegedly requested protection in hearings before the Attorney General and the judge hearing the case. Despite reporting the alleged risk to diverse authorities, the information provided by the parties does not show that a risk assessment or an evaluation of the situation of the family proposed as beneficiary has been carried out. Furthermore, in relation to the point, the Commission stresses that the risk assessment should be carried out regardless of whether or not Ms. Marle carries out social leadership activities, notwithstanding the fact that her eventual work may have an impact on her risk.

28. The IACHR finds it concerning that the reported acts caused the separation of the mother from her daughters and sons. In this sense, the Commission positively acknowledges that on February 10<sup>th</sup>, the ICBF, apparently in view of recently learning of the situation after having been requested information, took steps aimed at protecting the boys, girls and adolescent proposed as beneficiaries.

29. Regarding the foregoing elements of risk, in relation to the described context, the Commission considers that the situation of the adolescent A.A.T.T. and Ms. Marle shows that their rights are at risk from a *prima facie* standard. In addition, in view of the alleged risks, the IACHR considers that the risk is also extended to the nuclear family described in the framework of this proceeding.

30. With regard to the requirement of urgency, the IACHR observes that, according to the provided information, the proposed beneficiary relocated to a different *vereda*, as a result of the attempts to enter her house and, in her new place of residence situations that may place her at risk continued. The Commission emphasizes that, in view of the complaints filed and the request for protection, the only action taken was reporting to the police after the relocation. The police carried out patrols in their former *vereda* and handed them a Self-Protection Guide, but they still do not have effective protective measures. In view of the aforementioned, the Commission considers that the requirement of urgency is met, inasmuch as the reported risk may imminently come to fruition due to the situation of vulnerability that the proposed beneficiaries face, especially in view of the progress of the criminal proceeding.

31. Regarding 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**

32. The IACHR considers that the beneficiaries of this precautionary measure are the adolescent A.A.T.T. and the identified members of her nuclear family, who are all duly identified in this request.

## V. DECISION

33. The Inter-American Commission on Human Rights considers that this matter 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 protect the rights to life and personal integrity of A.A.T.T. and her nuclear family, with a gender perspective and taking into account her age or the relevant differential approaches, in accordance with the applicable international standards and obligations;
- b) consult and agree upon with the beneficiaries and their representatives regarding the measures to be taken; and
- c) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

34. The Commission also requested that the State 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.

35. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of precautionary measures and their adoption by the State shall not constitute a prejudgment on the violation of any right protected by the American Convention on Human Rights or other applicable instruments.

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

37. Approved on May 12, 2020 by Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Esmeralda Arosemena de Troitiño and Julissa Mantilla Falcón, members of the IACHR.

Paulo Abrão  
Executive Secretary