
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 65/2020**

Precautionary Measure No. 14-10
X and XX regarding Mexico¹
September 28, 2020
Original: Spanish

I. BACKGROUND INFORMATION

1. On March 3rd, 2010, the Inter-American Commission on Human Rights (IACHR) requested the adoption of precautionary measures in favor of X and XX², in Mexico. The request for precautionary measures alleged that X and XX were subject to threats and harassment since the release of X, who had previously been abducted on July 6th, 2009 in the city of Acapulco, state of Guerrero³. After analyzing the factual and legal allegations that were presented, the Commission considered that the information showed *prima facie* that X and XX were in a serious and urgent situation, given that their lives and personal integrity were at risk. Consequently, the Commission required the State of Mexico to adopt the necessary measures to guarantee the lives and personal integrity of X and XX; to consult upon the measures to be adopted with the beneficiaries and their representatives; and to inform the Commission on the actions taken to investigate the facts that led to the adoption of the precautionary measures, in order to remove the factors placing the beneficiaries at risk.

II. INFORMATION PROVIDED DURING THE TIME THE PRECAUTIONARY MEASURE WAS IN FORCE

2. During the time the precautionary measures were in force, the Commission has monitored closely the situation of these measures, by requesting information from the parties. In 2015, the State requested the lift of the precautionary measures. After requesting the representatives their observations on July 25, 2016, the representative requested a time extension, which was granted on February 15, 2017. After the granting of said time extension, the Commission has not received any response from the representative, their last communication being on 2016.

3. The State has informed about a meeting dated March 17th, 2010 between various authorities, the beneficiaries and their representatives. Subsequently, after evaluating the requests submitted by the representatives, on April 8th, 2010, according to the State, the authorities committed themselves to the following: i) provide accompaniment by the Federal Police; ii) provide psychological care through the “Comprehensive System for Attention to Victims of Crime”; iii) encourage the investigations to be carried out within the preliminary investigation that gave rise to this precautionary measure.

4. In relation to the proceedings carried out within the afore-mentioned preliminary investigation, the State reported that the government of the state of Guerrero committed itself to carry out a diligent

¹ Pursuant to Article 17(2) of the Commission’s Rules of Procedure, Commissioner Joel Hernandez, Mexican, did not participate in the debate nor in the decision of this precautionary measure.

²Following the Commission’s practice, the identity of the beneficiaries is kept confidential in this resolution.

³In addition, the request indicated that “during the 10 days of her abduction, X was allegedly drugged, raped, tortured, and kept in chains. The request for precautionary measures alleges that officers of the Ministerial Police were involved in the abduction, the applicants linked this to the fact that XX had previously reported alleged unlawful actions by State officers. At the time of her release, the abductors allegedly threatened to kill her if she reported what had happened. The request indicates that X and her mother, XX, filed a complaint with the Public Ministry and with the Office of the Attorney General for the state of Guerrero, where they also requested personal protection measures, but they apparently received no response. Available in Spanish at <http://www.oas.org/es/cidh/decisiones/cautelares.asp>

investigation through the Office of the Attorney General. To this end, the State reported that: i) on June 27th, information was requested from various telephone companies in relation to the incoming and outgoing calls of certain telephones, and this information was provided by the respective companies; ii) on September 11th, 2013, a search on the Internet was conducted regarding the backgrounds of various persons related to the events under investigation; iii) on July 25th, 2014, a reminder was sent to the Zone Coordinator of the Ministerial Police of the state of Guerrero, in order to comply with the summonses that were sent.

5. The State subsequently reported on a working meeting held on May 19th, 2014 in which it was informed on the status of the respective investigation, as well as the lines of investigation. According to what was indicated, on that occasion the importance of the making their declarations was highlighted to the beneficiaries in order to prepare a spoken portrait, among other proceedings. The State mentioned that the inquiry was still in the investigation stage at that time.

6. The State indicated that, since July 2010, the Federal Police made regular and continuous contact with the beneficiaries. The State also noted that the Federal Police implemented surveillance and rounds measures, also providing the beneficiaries with a telephone number of the Acapulco station of the Federal Police. Likewise, the State reported that since a neighbor of the beneficiary Rosalinda Barrera suffered an assault at her home's door and a "suspicious" taxi had been seen, the Government of Guerrero implemented blacksmith infrastructure measures in the beneficiaries' homes. According to the State, from the above information "it is not possible to infer that there are still risk factors that could place the lives and integrity of the beneficiaries at risk." The State highlighted that during the years that the precautionary measure was in force, there were no new incidents of risk.

7. The last communication of the representatives dates from August 23rd, 2016. In their written communication, the representatives indicated that they were facing a situation of "labor repression." In general, the representatives mentioned an accusation of the Superior Court of Justice and the Governor of the state arising from having ties to a criminal group.

8. In the report presented by the State dated June 13th, 2018, it was highlighted that more than 4 years had gone by and the beneficiaries had not reported any incident against them. In this regard, for the State, a "long term of procedural inactivity" has gone by and there are no facts that could call for the maintenance of this precautionary measures.

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

9. 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 and, in the case of the Member States that have not yet ratified the American Convention, the Declaration of the Rights and Duties of Man. These general oversight functions are established in Article 18 of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm to persons.

10. The Inter-American Commission and the Inter-American Court of Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, one being precautionary and the other being protective. As regards the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary

nature, these measures have the purpose of preserving legal situations while they are being considered by the IACHR. 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 the determination, through the information provided, of 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.

11. With regard to the abovementioned, Article 25(7) of the Commission’s Rules of Procedure establishes that “the decisions of granting, extending, modifying or lifting precautionary measures, should be adopted through reasoned resolutions.” Article 25(9) establishes that “the Commission shall evaluate periodically, on its own initiative or upon request from one of the parties, whether to maintain, modify or lift precautionary measures in force.” In this regard, the Commission must evaluate if the serious and urgent situation and the possible generation of irreparable harm, that caused the adoption of the precautionary measures, persist. Moreover, the Commission must consider if new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

12. The Commission notes that these precautionary measures were granted in 2010 considering the threats and harassment to which X and her mother XX were subjected, in the city of Acapulco, state of Guerrero, after the abduction and release of X.

13. Following the transfer of information between the parties, the Commission assesses the actions taken by the State of Mexico to implement these precautionary measures. Specifically, those actions taken with a view to protect the beneficiaries, consult upon those measures and investigate the facts (*vid supra* paras. 2-5), given that since 2015 the State has been requesting the lift of these precautionary measures. After having requested observations from the representatives, there is no sufficient information to analyze the current situation of both of the beneficiaries. In particular, the Commission notes that approximately 4 years have gone by without a response since the representatives stopped providing information in 2016, when they mentioned general topics, without focusing on the risk situation of the proposed beneficiaries, despite the requests for information and the extensions granted.

14. Taking into consideration the analysis previously carried out, the Commission recalls that when a State requests the lift of a precautionary measure, it must submit sufficient evidence and arguments to support its request⁴. Likewise, the representatives of the beneficiaries who wish the measures to remain in force must submit evidence of the reasons for this⁵. Even though the assessment of regulatory requirements when adopting precautionary measures is made from the standard *prima facie*, the maintenance of these measures requires a more rigorous evaluation⁶. In this regard, the burden of proof and argumentation increases as time goes by and there is no imminent risk⁷. Moreover, according to Article 25, subsection 11, the Commission may lift or revise a precautionary measure when the

⁴/A Court H.R. Provisional measures regarding Mexico. Order of February 7, 2017, paras. 16 and 17. Available at http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf

⁵ibid.

⁶ibid.

⁷ibid.

beneficiaries or their representatives, in an unjustified manner, refrain from giving a satisfactory response to the Commission on the requirements raised by the State for its implementation.

15. In these circumstances, in view of the State's request to lift, and taking into consideration the absence of concrete and updated information on the current situation of the beneficiaries, the Commission does not identify sufficient elements to continue supporting at the present time the effectiveness of the regulatory requirements. In that regard, considering that exceptionality and temporality is a characteristic of precautionary measures⁸, the Commission considers that it is appropriate to lift these precautionary measures.

IV. DECISION

16. The Commission decides to lift the precautionary measures granted in favor of X and XX.

17. The Commission recalls that in accordance with Articles 4 and 5 of the American Convention in relation to Article 1.1. of the same instrument, the State of Mexico has the obligation to respect and guarantee the rights of X and XX, notwithstanding the lift of these measures.

18. The lift of this measure does not prevent the IACHR from assessing a new request in accordance with the provisions of Article 25 of its Rules of Procedure.

19. The Commission instructs the Executive Secretariat of the IACHR to notify the State of Mexico and the representatives of this resolution.

20. Approved on September 28, 2020, by: Antonia Urrejola, First Vice-President; Flávia Piovesan, Second Vice-President; Julissa Mantilla Falcón and Edgar Stuardo Ralón Orellana, members of the IACHR.

María Claudia Pulido
Assistant Executive Secretary

⁸/A Court H.R., Matter of Meléndez Quijano et al. regarding El Salvador. Provisional Measures. Order of the Inter-American Court of Human Rights of August 21, 2013, para. 22; and Matter of Galdámez Álvarez et al. regarding Honduras. Provisional Measures. Order of the Inter-American Court of Human Rights of November 23, 2016, para. 24.