
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 74/2020**

Precautionary Measure No. 719-19
Nabor Santiago Santiago regarding Mexico¹
October 20, 2020
Original: Spanish

I. BACKGROUND INFORMATION

1. On August 3rd, 2019, the IACHR decided to grant precautionary measures to Nabor Santiago Santiago, in Mexico. The proposed beneficiary, a Mexican national, was deported from the United States on May 2nd, 2019, and handed over to the National Institute of Migration in the state of Tamaulipas. Later, according to the applicants, he fell into the hands of a human trafficking network and his whereabouts remained unknown until May 3rd, 2019. Between May 15th and June 25th, the proposed beneficiary reportedly telephoned his mother, who was still living in the United States, and asked her to send a sum of money to secure his release; however, the place where he was being held, and by whom, could not be established. On June 13th, a complaint was lodged with the public prosecution service (*fiscalía*), which to date is still investigating the facts.

2. Upon analyzing the allegations of fact and law submitted by the parties, the Commission considered that, from the *prima facie* standard, the proposed beneficiary was in a serious and urgent situation, given that his rights to life and personal integrity faced a risk of irreparable harm. Consequently, pursuant to Article 25 of the IACHR Rules of Procedure, it was requested that Mexico: a) adopt the necessary measures to determine the whereabouts or fate of Mr. Nabor Antonio Santiago Santiago, in order to protect his rights to life and personal integrity; b) consult and agree upon the measures to be adopted with the beneficiary's representatives; and c) report on the steps taken to investigate the facts that gave rise to the adoption of this precautionary measure, so as to prevent them from reoccurring.²

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

3. During the time these precautionary measures were in force, the Commission made requests for information to the parties with a view to monitoring their implementation. Following the forwarding and requests for information, the State submitted its response on October 23rd, 2019, and the applicants provided their observations and additional information on September 6th and 17th, 2019, and March 18th, 2020.

1. Information provided by the State

4. On June 13th, 2019, once the Office of the Attorney General of the state of Oaxaca (FGEO) learned of the disappearance of Mr. Antonio Santiago, it carried out various procedures aimed at determining the whereabouts of the proposed beneficiary. Subsequently, for reasons of powers, the Office of the Attorney

¹ In accordance with Article 17.2.a of the Commission's Rules of Procedure, President Hernández García, a Mexican national, did not participate in the debate or deliberation on this matter.

² IACHR, Resolution 39/19, PM 719/19 Nabor Santiago Santiago, Mexico, August 3, 2019. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2019/39-19MC719-19-MX.pdf>

General of the state of Tamaulipas (FGET) continued the investigation. The State provided a detailed list of proceedings carried out.³

5. On August 19th, 2019, a working meeting was allegedly held with various authorities in Mexico City to establish agreements and commitments to implement the precautionary measures. Upon request by the representative of the beneficiary's relatives, it had been established to study and create an analysis to make it possible to bring the investigation to the Office of the Attorney General of Mexico. At the meeting, the Agent of the Public Ministry (*Ministerio Público*) responsible for the investigation, exchanged telephone numbers with the relatives of Mr. Nabor Santiago, in order to maintain continuous communication.

6. Lastly, the State indicated that, on September 6th, 2019, the beneficiary appeared before his representative's office, sustaining that he had been held for approximately three months by a criminal group in the city of Matamoros, Tamaulipas and that on August 15th, 2019 he had been released in the state of Hidalgo. The State reported that it continues with the investigations.

³ On July 31, 2019, an official letter was received from the National Search Commission, notifying of a disappearance report made by Ms. Virgen Santiago Santiago, for the non-localization of her brother Nabor Antonio Santiago Santiago. The Investigative Police was ordered to disclose the rights to the victim's sister and to request different authorities and individuals or legal entities information on the background of Nabor Antonio Santiago Santiago. On August 1st, 2019, the person in charge of the Migrant's House (*Casa del Migrante*), Juan Diego A.C. from Matamoros, Tamaulipas, was asked to report if he had any entry record of Mr. Nabor Santiago, reporting on the same date that they did not have a record. The same day, the FGET sent an official communication to the person in charge of the Office of the Federal Delegation [*Despacho de Delegación Federal*] (Migration), requesting a report on any entry record of Mr. Nabor Santiago. However, no positive result was obtained either. On August 7th, 2019, the FGET received a police report indicating that they went to the National Institute of Migration, to the San Juan Diego Migrant's House, to various hospitals, to the facilities of the Secretariat for Public Security and Roads (*Secretaría de Seguridad Pública y Vialidad*) in order to request reports on whether they had a record of Nabor, without positive results. Moreover, information was requested from the Unit of the Single Criminal Information System (SUIC, by its Spanish acronym), which had a registry of a license issued in the state of Oaxaca with expiration date corresponding to 2017; communication was established with her sister, informing her of her rights and providing the names to whom the deposits were made: Jonathan Alejandro Martínez Álvarez, with address in Puerto Boyacá, Colombia; Leidy Johana Orozco Herrera with address in Puerto Boyacá, Colombia; and John Jairo Ortiz Cardona. On August 10th, 2019, a letter was sent to the National Institute of Migration of Tamaulipas, in order to request information about surveillance cameras in its facilities and, where appropriate, send the videos taken from 00:00 to 23:59 hours of May 2nd, 2019. On August 10th, 2019, a letter was sent to the Unit of the Single Criminal Information System and to the Department of Analysis and Technical-Scientific Tactical Investigation of the State Anti-kidnapping Coordination, whereby it was requested to inform whether in the databases the number 8683114608 had any record of extortion. The SUIC Unit did not find any record of extortion in the number belonging to Mr. Nabor Santiago; however, it was possible to establish communication with Virgen Santiago, the victim's sister, in order to request information related to any social network of Mr. Nabor Santiago, mentioning the fact that he appears on Facebook as Santiago Martínez. On August 13th, 2019, the person in charge of the National Institute of Migration was requested to report the process carried out with the certificate of reception of repatriated Mexicans No. 1318821, issued by the National Institute of Migration, dated May 2nd, 2019. On August 14th, 2019, the INM informed the FGET that Mr. Nabor Santiago had been taken to the San Juan Diego and San Francisco de Asís Migrant's House. On August 13th, 2019, the Analysis Unit of the Special Prosecutor's Office for the Investigation of Crimes of Forced Disappearance of Persons was requested to carry out a context analysis of the social networks of Mr. Nabor Santiago, Jonathan Alejandro Martínez Álvarez, Leidy Johana Orozco Herrera and John Jairo Ortiz Cardona. Furthermore, support was requested from Expert Services to print the technical network and geographic positioning map, which is attached to the file. On August 13th, 2019, the FGET instructed the research staff to go to Migration and San Juan Diego Migrant's House facilities with the purpose of questioning about the certificate of reception of repatriated Mexicans No. 1318821, issued by the National Institute of Migration, dated May 2nd, 2019. The research staff was also instructed to go to the Bansefi bank, in order to request the video recordings dated May 2nd, 2019. In relation to the National Institute of Migration, the officers responded that a thorough search will be carried out and that they will provide the records for May 2nd of this year, as soon as possible. Moreover, the FGET made a phone call to the victim's sister, who was asked for a photograph and email to send her the missing persons protocol questionnaire, but there was no response. On August 13th, 2019, Expert Services was requested to extract images contained in the compact discs, which contain the record and control of communications for the telephone line 8683114608, a technical network and a map of digital geographic positioning locations. On August 14th, 2019, the investigative police again went to the San Juan Diego and San Francisco de Asís Migrant's House, in order to request a copy of the videos of the surveillance cameras and information regarding Mr. Santiago Santiago. An interview was obtained from the head of that institution in which she stated that another search was carried out with the name of Nabor Santiago, which yielded a record of May 2nd of this year, without a departure record but it was on May 3rd, a call to the city of Florida has been registered to the number 0013862097814. Similarly, she mentioned that the company *Core Maquiladora* sends human resources staff to hire personnel. However, that company reported that it did not have any record of Nabor Santiago. Similarly, the FGET contacted Ms. Virgen Santiago to ask her if she knows who the phone number 0013862097814 belongs to, the same one that her brother Nabor Antonio talked about during his stay at the Migrant's House; however, she said she did not know this information.

2. Information provided by the representatives

7. The representatives reported that the beneficiary was held for approximately 3 months by a criminal group in the City of Matamoros, Tamaulipas. The beneficiary was purportedly released around August 15th, 2019 in the state of Hidalgo. He allegedly made a statement before the Human Rights Ombudsman's Office of Oaxaca on what happened.

8. In the same way, the representatives reported that on August 19th, 2019, a working meeting was held at the Secretariat of the Interior (*Secretaría de Gobernación*) of Mexico City to follow up on precautionary measures. At that meeting, various authorities, both federal and from the government of the state of Oaxaca were present, as well as the Public Ministry Specialized in the Investigation of Crimes of Forced Disappearance of Persons of the Tamaulipas' Office of the Attorney General, and beneficiary's relatives. The representatives indicated that when that meeting was held, they were still unaware of the fact that the beneficiary had reappeared. The representatives questioned the progress of the investigations.

9. Lastly, the representatives requested that the events to which the beneficiary had been subject be clarified. In general, the representatives indicated that they do not rule out that those responsible may seek to contact the beneficiary.

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

10. 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 (b) 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.

11. The Inter-American Commission and the Inter-American Court of Human Rights 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. For purposes of taking a decision, 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.

12. With regard to the foregoing, Article 25.7 of the Commission's Rules of Procedure establishes that "the decisions of granting, extending, modifying or lifting precautionary measures shall be adopted

through reasoned resolutions.” Article 25.9 establishes 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 should 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.

13. The Commission notes that these precautionary measures were granted in 2019, taking into account that the whereabouts of the beneficiary were unknown since May 3rd, 2019 (vid. *supra* para. 1), thus it requested that the State “adopt the necessary measures to determine the whereabouts or fate.” Having granted the precautionary measures, the Commission notes that the State implemented them, holding an internal working meeting between the competent authorities and the beneficiary’s relatives, and making progress on the corresponding investigations. Subsequently, the parties reported that the beneficiary was localized between August and September 2019, appearing before the competent authorities. In this regard, it is not a matter of dispute between the parties that the whereabouts or fate of the proposed beneficiary is currently known.

14. The Commission assesses the actions taken by the State in favor of the beneficiary, as well as the status of the investigations undertaken to find his whereabouts in due course (see footnote 3). While the representatives expressed their concern about the possibility that the beneficiary could be contacted by those allegedly responsible, that information is presented in a general way. In this regard, no specific events of risk have been indicated for the Commission to infer that a “serious and imminent” risk persists to date under the terms of Article 25 of the Rules of Procedure. The Commission also emphasizes that since September 2019 the whereabouts of the beneficiary are known; no actual events of risk against the beneficiary, such as direct threats or harassment, have been reported; and approximately more than 12 months have gone by without allegations in that respect. Furthermore, the Commission notes that no information exists indicating that the State has refused to provide protection when needed.

15. In light of the foregoing analysis, and given that it is not a matter of dispute between the parties that the whereabouts of the beneficiary is known, the Commission notes that the circumstances that initially gave rise to the adoption of these precautionary measures have substantially changed. Moreover, the IACHR does not have information to support that the beneficiary is in a situation of serious and urgent risk of irreparable harm to his rights, as established in Article 25 of the Rules of Procedure. In this regard, the Commission deems that, given that no actual events or current complaints have been identified, and taking into consideration that the precautionary measures were granted when the whereabouts of the proposed beneficiary was unknown and that his fate has been found, it is appropriate to lift these precautionary measures.

16. Lastly, with regard to the questioning of the investigations, the Commission notes that such allegations would require, at present, an analysis of the merits of a petition or case and, therefore, exceed the precautionary nature of the precautionary measures mechanism as well as the analysis *prima facie* of this mechanism. Notwithstanding, the Commission recalls that in accordance with Articles 8 and 25 of the American Convention, the State of Mexico is obliged to diligently investigate the circumstances that gave rise to the alleged abduction and trafficking of Nabor Santiago Santiago. The State is called upon to exhaustively investigate all the hypotheses that may arise throughout the investigation itself and, if applicable, establish the corresponding liabilities.

IV. DECISION

17. The Commission decides to lift the precautionary measures granted to Nabor Santiago Santiago.

18. 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 is under the obligation to respect and guarantee the rights of Nabor Santiago Santiago, regardless of the lifting of these measures.

19. The Commission recalls that the lifting of these precautionary measures does not preclude the representatives from filing a new request for precautionary measures should they consider that there is a situation of risk that complies with the requirements established in Article 25 of the Rules of Procedure.

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

21. Approved on October 20, 2020 by Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay; and Esmeralda Arosemena de Troitiño, commissioners of the IACHR.

María Claudia Pulido
Acting Executive Secretary