

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION N. 3/2013**

PRECAUTIONARY MEASURE No. 186-13<sup>1</sup>  
Topic Carlos Eduardo Mora and family regarding Colombia  
October 3, 2013

**I. INTRODUCTION**

1. On June 13, 2013, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission", "the Commission" or "IACHR") received a request for precautionary measures submitted by Carlos Eduardo Mora (hereinafter "the petitioner" or "the proposed beneficiary"), a Colombian National Army Corporal working as an intelligence specialist, currently in active service. The request for precautionary measures seeks that the Republic of Colombia (hereinafter "Colombia" or "the State") protect the life and physical integrity of the petitioner and his family, who are named in the request. According to the request, the proposed beneficiary and his family are at risk, in view of the participation of Corporal Mora as a witness in court cases dealing with extrajudicial executions, allegedly carried out by members of the Colombian army.

2. After the Commission requested further information from the petitioner, he provided information through a series of emails in July, August and September 2013. On August 1, 2013, the IACHR requested information from the State. On August 20, 2013, Colombia responded by requesting an extension of time, which was granted. The State submitted its report on September 19, 2013.

3. After analyzing the factual and legal arguments presented by the petitioners, the Commission considers that the information presented *prima facie* shows that the proposed beneficiary and his family are in a serious and urgent situation, as their lives and physical integrity are threatened and at severe risk. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requests that the Government of Colombia: a) adopt the necessary measures to guarantee the life and physical integrity of Corporal Carlos Eduardo Mora and his family; b) agree on the measures to be adopted with the beneficiaries, taking into account his role as a witness, the nature of the processes in which he is involved and that he is an active serving member of the army; and c) report on the actions taken to investigate the facts that gave rise to the precautionary measures, in order to prevent future incidents.

**II. SUMMARY OF ALLEGATIONS BY THE PETITIONER**

4. In its request for precautionary measures and subsequent communications, the petitioner presents the following allegations:

a) In 2005, Carlos Eduardo Mora belonged to the "15th Mobile Brigade", a special military intelligence unit of the Colombian National Army, in the Municipality of Ocaña, Department of Norte de Santander. While in the 15th Mobile Brigade, the petitioner became aware of "how National Army members murdered civilians and then passed them off as [ ... ] killed in combat". He tried to denounce the situation; however, he received "death threats from brigade members." In 2008, he reported the killing of civilians to the Attorney General's Office.

b) Since reporting the incident, he became one of the main witnesses for the Attorney General's Office and as a result, several military members have been convicted. Specifically, the petitioner emphasizes his role as a witness in the "Soacha Case", in the Department of Cundinamarca.

---

<sup>1</sup> In accordance with Article 17.2.a of the Rules of Procedure of the Commission, Commissioner Rodrigo Escobar Gil, a Colombian national, did not participate in the discussion or vote on this precautionary measure..

c) Due to his involvement in the legal proceedings, the proposed beneficiary alleges that he has continuously been the target of "threats and attacks." On May 21, 2010, he received a phone call from number "314-315-1354", in which he was informed "you will die snitch son of a bitch." The petitioner alleges that in January 2013, an Army Mayor incarcerated due to the proposed beneficiary's testimony, made death threats against him and indicated that they [the military] knew his every move. On May 16, 2013, he received a phone call from an Army Sergeant, who indicated that due to his testimony there was a "plan to kill him." The petitioner alleges that he filed complaints regarding the aforementioned threats but there were no results in terms of their clarification.

d) In this context, the petitioner requested protection from the State in 2008, but the authorities failed to provide him with protection. In May, 2013, the petitioner requested protection from the Witness Protection Program from the Attorney General's Office. On May 24, 2013, the National Protection Unit indicated that "they are not the competent institution to provide him with protection [... and that], as a member of the Armed Forces, it is the Commander General who must take measures to protect [...] his rights to life and physical integrity." He states that, under these circumstances, the Army only offered him as a protective measure "to stay in a room inside a military base", located at "CITEC headquarters" in Facatativá, in the Department of Cundinamarca. According to the petitioner, this proposal is not an adequate option, given that his wife and daughter live in Bogotá and that the State authorities are not taking into account that he has served as a witness in the legal proceedings against members of the Armed Forces.

e) The petitioner alleges that on August 30, 2013, he reported to the "military medical battalion", in order to undergo a psychological examination. During the medical examination he was told that "he had mild depression, due to stress connected with his testimony against members of the Armed Forces involved in the so-called false positives." The petitioner claims that he was referred to the "Central Military Hospital" and also to a psychiatric clinic located in Bogota. At the clinic, he was told that "following orders from the Army", the hospital had to confine him for a period of 15-20 days, without informing him of the medical treatment that he would receive, the specific reasons for his hospitalization and, in addition, that he had to hand over all his communication devices. Therefore, the proposed beneficiary alleges that he decided to escape from the hospital because they intended to confine him without his consent. According to the petitioner, the purpose of the forced hospitalization was to discredit his testimony and prevent him from testifying in the related judicial proceedings.

f) The petitioner alleges that he is currently in a situation "completely lacking State protection against an imminent danger" to his life and physical integrity. Specifically, the petitioner alleges that he is at risk of imminent danger in light of new legal proceedings that will be initiated in September 2013, in which he was called to provide testimony. In the words of the petitioner, "the dangerous situation in which I find myself is extremely serious [...]; my effective collaboration with the Colombian justice system is at risk."

### **III. SUMMARY OF ALLEGATIONS BY THE STATE**

5. The State submitted a report on September 19, 2013, which indicated that:

a) Corporal Carlos Eduardo Mora has indeed provided testimony in various legal proceedings against members of the Armed Forces. In this regard, the State reports that "among those convicted for these events are: one Army Major, one Lieutenant, one Corporal, one Sergeant and three professional soldiers. In addition, there are links to some Colonels, Corporals, Majors and among other members of the National Army." In this regard, the State indicates "the Attorney General's Office [...] reported that the Human Rights Unit [...] is in charge of several investigations in which Corporal Carlos Eduardo Mora testified as a witness. [ ... ] Thus, according to this institution, [...] the criminal investigations are under way, and are at the pre-trial proceeding stage."

b) As regards the proposed beneficiary's request to be included in the "Witness Protection Program from the Attorney General's Office", the State indicates that "this request was redirected to the Human Rights Department of the Ministry of Defense, on the grounds that given his role as a Corporal of the Military Forces [...], the General Command of the Armed Forces is the competent authority." In this regard, Colombia states that "on September 2, 2013, the Director of Human Rights and International Humanitarian Law of the Ministry of Defense reported that

the Chief of Staff was requested [...] to provide him with a house, located on a Military base, to be inhabited by the Corporal and his family [...]. This will contribute to improving his own perception of security.”

c ) In relation to protective measures, Colombia states: i) "the Chief of Staff requested [...] that courses with experts in the area of protection and security be arranged so the Corporal could be trained in adopting preventive and self-protection measures"; and ii) it was "requested that the proposed beneficiary report every day in the morning and at night by telephone with his immediate superior and the Chief of Staff [ ... ] in order to report any events that he considers relevant." In addition, he was "ordered to keep a log book in which he can record his movements outside the military base.”

d) Regarding the events that occurred in the Central Military Hospital, the State indicates that "the Ministry of Defense is preparing a complete report [...], which will be sent to the [...] Commission as soon as possible.”

e) The State argues that the Colombian authorities "have provided suitable protection for Corporal Carlos E. Mora, considering he is serving in the National Army.”

#### **IV. ANALYSIS OF THE ELEMENTS OF GRAVITY, URGENCY AND IRREPARABILITY**

6. 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.

7. 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.

8. In the present situation, the Commission considers that the requirement of gravity is met, in view of the allegations of threats and intimidation against Corporal Carlos Eduardo Mora. Specifically, the information provided suggests that the situation arises from retaliation and intimidation against him, in light of his role as a witness in the context of proceedings concerning the extrajudicial execution of civilians allegedly perpetrated by members of the National Army. Within the analysis of this requirement, the Commission observes that the information provided by the petitioner is consistent with general information received with regard to extrajudicial

executions perpetrated by members of the security forces, which have been a concern of the IACHR in its Annual Reports since 2006<sup>2</sup>. The IACHR and the international community continue to be concerned with clarifying these reports and following up on the measures adopted by the State to prosecute the responsible parties and to prevent future incidents.

9. In this regard and in this specific context, the Commission has also received general information with regard to threats and intimidation against the relatives of the victims, witnesses and human rights defenders involved in such cases<sup>3</sup>. Similarly, various United Nations mechanisms have expressed their concern with regard to the situation of the families of victims, witnesses and lawyers of the victims in these trials and the necessity of effective protective measures on their behalf<sup>4</sup>. In particular, in its 2012 Annual Report, the United Nations High Commissioner takes note of a decision against "a military defense lawyer who had threatened and intimidated military witnesses [...] with regard to extrajudicial executions in collusion with accused officers and active army members<sup>5</sup>."

10. In light of the characteristics of the current situation and the specific context in which it is presented, the Commission considers that *prima facie* it is established that the right to life and physical integrity of Corporal Carlos Eduardo Mora are at risk. The characteristics of the current situation, in the context of possible retaliation due to his testimony, suggest that his family shares the same risk factors.

11. Regarding the requirement of urgency, the Commission considers that it is satisfied, as the threats have increased over time and due to the legal proceedings in which the Corporal Mora is acting as a witness. In this regard, the Commission takes note of the protection mechanisms identified by the State, in relation to the possible implementation of self-protection courses, the daily reporting system by Corporal Mora, and the possibility of housing "located on a military base." However, the Commission observes that the State has not demonstrated the potential effectiveness of such measures, in order to provide him with an effective protective framework, taking into account his role as a witness, the nature of the processes in which he is involved and that he is a serving member of the Army. Additionally, the Commission notes that the State did not provide substantive information on investigations, regarding the threats and intimidation against Corporal Mora, in order to prevent future incidents.

12. On the requirement of irreparability, the Commission believes that it has been met, to the extent that the possible risk to the right to life and physical integrity embodies the highest situation of irreparability.

13. The Commission considers it necessary to mention that the standards of suitability and effectiveness of the protection measures regarding Human Rights Defenders are applicable to the situation of witnesses in judicial proceedings of this nature. In this regard, the IACHR considers it important to mention that the protective measure implemented by the States must be adequate and effective<sup>6</sup>. For protective measures to be adequate they must be an appropriate means of protecting the person at risk; to be effective, they must produce the expected results

---

<sup>2</sup> See IACHR, Chapter IV – Colombia, in the 2006 Annual Report of the IACHR; Chapter IV – Colombia in the 2007 IACHR Annual Report, and Chapter IV-Colombia in the 2008 IACHR Annual Report; Chapter IV – Colombia in the 2008 IACHR Annual Report; Chapter IV – Colombia in the 2009 IACHR Annual Report; Chapter IV – Colombia in the 2010 IACHR Annual Report; and Chapter IV – Colombia in the 2011 IACHR Annual Report.

<sup>3</sup> See "Preliminary report of the "International Mission of Observers on Extrajudicial Executions and Impunity in Colombia," made public in Bogotá on October 10, 2007. See also Human Rights and International Humanitarian Law Observatory of the Colombia–Europe–USA Coordination, "False Positives: Extrajudicial killings directly attributed to the security forces in Colombia, July 2002 to June 2006." Annual Report 2008, Chapter IV Colombia: <http://www.cidh.oas.org/annualrep/2008eng/Chap4.a.eng.htm>.

<sup>4</sup> Ver: UN. "Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, Philip Alston. Additional recommendations " of May 15, 2012; " Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions" of March 31, 2010; "Report of the High Commissioner of the United Nations for Human Rights on the situation of human rights in Colombia in 2011" February 27, 2012, and" Report of the High Commissioner of the United Nations for Human Rights on the situation of human rights in Colombia, 2010" February 24, 2011.

<sup>5</sup> See: UN. "Report of the High Commissioner for Human Rights on the human rights situation in Colombia" January 7, 2013.

<sup>6</sup> IACHR, Report on the Situation of Human Rights Defenders in the Americas, para. 129.

so that the risk to the person being protected ceases<sup>7</sup>. In these circumstances, the State and the beneficiaries must jointly design the type of protection measures to be provided<sup>8</sup>.

#### **V. BENEFICIARIES**

14. The request for precautionary measures has been submitted in favor of Corporal Carlos Eduardo Mora and his family, who are named in the documents submitted in this proceeding.

#### **VI. DECISION**

15. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of gravity, urgency and irreparability contained in Article 25 of its Regulations. Consequently, the Committee requests that the Government of Colombia:

- a) adopt the necessary measures to guarantee the life and physical integrity of Corporal Carlos Eduardo Mora and his family;
- b) agree on the measures to be adopted with the beneficiaries, taking into account his role as a witness, the nature of the processes in which he is involved and that he is an active serving member of the Army; and
- c) report on the actions taken to investigate the facts that gave rise to the precautionary measures, in order to prevent future incidents.

16. The Commission also requests the Government of Colombia to inform, within 10 days from the date of the issuance of this resolution, on the adoption of the required precautionary measures and to update said information on an ongoing basis.

17. The Commission emphasizes that, according to article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State shall not constitute a pre-judgment on any possible violation of the rights protected in the American Declaration and other applicable instruments.

18. The Commission orders the Secretariat of the Inter-American Commission to notify the State of Colombia and the applicants of this resolution.

19. Approved on the 3rd day of October, 2013, by: José Orozco, President; Tracy Robinson, First Vice President; Rosa María Ortiz, Second Vice President; Commissioners Felipe González, Dinah Shelton and Rose-Marie Belle Antoine.

---

<sup>7</sup> IACHR, Report on the Situation of Human Rights Defenders in the Americas, para. 133.

<sup>8</sup> I/A Court H.R., Matter of Mery Naranjo et al. regarding Colombia. Provisional Measures. Order of November 23, 2010, Operative para. 27.