

Human rights in the Inter-American System

WHAT IS THE INTER-AMERICAN HUMAN RIGHTS SYSTEM?

It is a regional system for the promotion and protection of human rights, and it is made up of two organs: the Inter-American Commission on Human Rights (“IACHR” or “the Commission”) and the Inter-American Court of Human Rights (“Court” or “Inter-American Court”), which monitor compliance by the Member States of the Organization of American States (“OAS”) with the obligations they have undertaken.

1. What is the Inter-American Commission on Human Rights?

The Commission is a principal and autonomous organ of the OAS established in 1959 whose mandate stems from the Charter of the OAS. The Commission is made up of seven members, independent experts on human rights who do not represent any country, who are elected by the General Assembly of the OAS.

A permanent Executive Secretariat headquartered in Washington, DC, United States, provides the Commission with professional, technical, and administrative support.

2. What is the OAS?

The OAS is an organization that brings together the 35 independent countries of the Americas, and has as its purposes:

- ◆ To strengthen the peace and security of the continent
- ◆ To promote and consolidate representative democracy, with due respect for the principle of nonintervention
- ◆ To prevent possible causes of difficulties and to ensure the peaceful settlement of disputes that may arise among the Member States
- ◆ To provide for common action on the part of those States in the event of aggression
- ◆ To seek the solution of political, juridical, and economic problems that may arise among them
- ◆ To promote, by cooperative action, their economic, social, and cultural development
- ◆ To eradicate extreme poverty, which constitutes an obstacle to the full democratic development of the peoples of the hemisphere, and
- ◆ To achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the Member States.

The OAS has four fundamental pillars for attaining its objectives. These are: democracy, human rights, security, and development. In addition, respect for the fundamental rights of the human being is among the basic principles of the OAS.

3. What are the OAS Member States?

The 35 Member States of the OAS are: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay, and Venezuela.

4. What is the Commission's function?

The Commission's function is to promote the observance and defense of human rights in the Americas. The Commission performs this function by making visits to the countries, carrying out thematic activities and initiatives, preparing reports on the human rights situation in a certain country or on a particular thematic issue, adopting precautionary measures or requests for provisional measures to the Inter-American Court, and processing and analyzing individual petitions with a view to determining the international responsibility of the States for human rights violations, and issuing the recommendations it deems necessary.

The individual petitions that the Commission examines may be submitted by individuals, groups of individuals, or organizations that allege violations of the human rights guaranteed in the American Declaration of the Rights and Duties of Man ("the American Declaration"), the American Convention on Human Rights ("the American Convention"), and other inter-American human rights treaties.

5. Against whom can I file a petition alleging a violation of human rights?

The complaint must be filed against one or more Member States of the OAS considered to have violated the human rights contained in the American Declaration, the American Convention, and other inter-American human rights treaties.

The State may be responsible for violating human rights for:

- ◆ **action** (as a result of an act by the State or its agents),
- ◆ **acquiescence** (as a result of the tacit consent of the State or its agents), or
- ◆ **omission** (as a result of the State or its agents failing to take action when they should have done so).

6. Can the Commission determine the liability of an individual person?

No. The Commission is not competent to attribute individual liability, that is, it cannot determine whether an individual person is or is not guilty. The Commission can only determine the international responsibility of a Member State of the OAS.

7. What results can I expect if I file a petition alleging a violation of human rights against a Member State of the OAS?

If the Commission determines that a State is responsible for having violated the human rights of a person or group of persons, it will issue a report that may include the following recommendations to the State:

- ◆ suspend the acts in violation of human rights;
- ◆ investigate and punish the persons who turn out to be responsible;
- ◆ make reparation for the damages caused;
- ◆ make changes to legislation; and/or
- ◆ require that the State adopt other measures or actions.

In addition, a friendly settlement of the matter may be pursued with the State.

8. In which cases will the Commission not be able to help me?

The Commission cannot:

- ◆ issue a ruling with respect to a State that is not a member of the OAS;
- ◆ provide attorneys to assist in domestic judicial proceedings or to submit a petition or request for precautionary measure to the Commission;
- ◆ provide economic assistance or materials and supplies to persons;
- ◆ undertake immigration procedures, or process the granting of visas or political asylum.

9. On what basis does the Commission determine that a State violated or did not violate human rights?

The Commission examines the petitions that allege violations of the American Convention, which applies only to those States that have ratified it. For the Member States that have not yet done so, one can allege violations of rights contained in the American Declaration. One can allege the violation of a right protected in another human rights treaty of the system to the extent that the State in question has ratified it and depending on the applicable conditions.

10. Which States have ratified the American Convention?

The countries that have ratified the American Convention are: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago,¹ Uruguay, and Venezuela. In relation to all other States of the OAS, the Commission is competent to receive petitions alleging violations of the American Declaration or other inter-American treaties of human rights ratified by the State.

11. What happens if the State that I am alleging violated human rights is suspended from participating in the OAS?

In the event that a State is suspended from participating in the OAS, it continues to be obligated to ensure human rights and the Commission continues to be competent to monitor the situation of human rights in that country.

12. What is the Inter-American Court of Human Rights?

The Inter-American Court, installed in 1979, is an autonomous judicial organ of the OAS whose mandate arises from the American Convention. The Court is headquartered in the city of San José, Costa Rica, and it is made up of seven judges elected in their personal capacity who are from the OAS Member States. The objective of the Court is to interpret and apply the American Convention and other inter-American human rights treaties, in particular by issuing judgments on cases and consultative opinions.

13. How can I bring a case before the Inter-American Court?

Only the States parties to the Convention who have accepted the Court's contentious jurisdiction and the Commission may submit a case to the Inter-American Court. Individuals do not have direct recourse to the Inter-American Court; they must first submit their petition to the Commission and go through the procedure for cases before the Commission.

14. Against what States can the Commission refer a case to the Inter-American Court?

The Commission may, when the conditions are met, refer cases to the Inter-American Court only with respect to those States that have ratified the American Convention and have previously recognized the

¹ Trinidad and Tobago withdrew from the American Convention. The Commission and the Court are competent to examine alleged violations of the rights contained in the American Convention with respect to events that occurred or began to occur from May 28, 1991 to May 26, 1999. The Commission remains competent with respect to the American Declaration.

contentious jurisdiction of the Court, unless a State accepts jurisdiction expressly for a specific case. The States that have recognized the contentious jurisdiction of the Inter-American Court are: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago,² Uruguay, and Venezuela.

WHAT HUMAN RIGHTS ARE PROTECTED?

The Commission is competent to examine petitions in which violations are alleged of the human rights contained in the American Declaration, the American Convention and other inter-American human rights treaties.

15. What are the inter-American human rights treaties?

- ◆ American Convention on Human Rights (“Pact of San José, Costa Rica”), 1969;
- ◆ Inter-American Convention to Prevent and Punish **Torture**, 1985;
- ◆ Additional Protocol to the American Convention in the area of **Economic, Social and Cultural Rights**, “Protocol of San Salvador”, 1988;
- ◆ Protocol to the American Convention on Human Rights to Abolish the **Death Penalty**, 1990;
- ◆ Inter-American Convention on the Prevention, Punishment and Eradication of **Violence against Women**, “Convention of Belém do Pará,” 1994;
- ◆ Inter-American Convention on **Forced Disappearance** of Persons, 1994;
- ◆ Inter-American Convention on the Elimination of All Forms of **Discrimination against Persons with Disabilities**, 1999.

16. What rights are protected?

The American Convention protects the following human rights:

- ◆ The right to juridical personality
- ◆ The right to life
- ◆ The right to humane treatment
- ◆ The right of every person not to be subject to slavery or to involuntary servitude
- ◆ The right to personal liberty
- ◆ The right to a fair trial
- ◆ Freedom from ex post facto laws
- ◆ The right of every person to be compensated in accordance with the law in the event of having been sentenced by a final judgment through a miscarriage of justice
- ◆ The right to privacy
- ◆ The right to freedom of conscience and religion
- ◆ Freedom of thought and expression
- ◆ The right of reply
- ◆ The right of assembly
- ◆ Freedom of association
- ◆ The rights of the family

² *Idem.*

- ◆ The right to a name
- ◆ The rights of the child
- ◆ The right to nationality
- ◆ The right to property
- ◆ Freedom of movement and residence
- ◆ The right to participate in government
- ◆ The right to equal protection
- ◆ The right to judicial protection
- ◆ The right to the progressive development of economic, social and cultural rights

The American Declaration also contains a complete list of the rights that the States must respect and protect. In addition to the rights mentioned above, the American Declaration specifically recognizes the right to work and to fair remuneration, the right to social security, the right to the benefits of culture, and the right to health, among others.

17. What are the rights protected in the “Protocol of San Salvador”?

The Protocol of San Salvador protects economic, social, and cultural rights, such as the right to education, to organize and join trade unions, to social security, to health, to a healthy environment, to food, and to the benefits of culture.

While the Protocol protects all these rights and the Commission can make observations and recommendations with respect to all of them, the right to education and to organize and join unions are the only ones on which the Commission and the Inter-American Court may rule in the context of an individual petition submitted against a State.

18. What do the other inter-American human rights treaties prohibit?

The objective of these treaties is to reaffirm the protection and develop the content of the human rights guaranteed by the American Declaration and the American Convention. These treaties prohibit, among others, the following acts:

- ◆ torture or cruel, inhuman, or degrading punishment;
- ◆ reestablishment of the death penalty in those countries that have abolished it;
- ◆ physical, sexual, and psychological violence and discrimination against women;
- ◆ forced disappearance; and,
- ◆ discrimination against persons with disabilities.

Not all the Member States of the OAS have ratified all the treaties. You may find the above-mentioned treaties and the ratifications by the States on the IACHR’s website, at the following link: www.cidh.org.

Guide for submitting a petition

IN WHICH SITUATIONS CAN THE COMMISSION INTERVENE?

19. Must I have initiated some judicial proceeding before turning to the Commission?

Yes. For the Commission to be able to examine a petition, one must have exhausted domestic judicial remedies in keeping with the legislation in force in the State in question.

20. What does it mean to exhaust domestic judicial remedies?

It means that those persons who want to file a petition with the Commission must first attempt to have the domestic courts decide on the situation they are denouncing. A person has exhausted domestic remedies when the judicial branch has issued a decision of last resort.

In case that it is not possible to exhaust domestic remedies, one must explain why, since the rule on prior exhaustion of domestic remedies does have exceptions.

21. What are the domestic judicial remedies that need to be exhausted?

One need exhaust those domestic judicial remedies that are adequate and effective.

- ◆ A judicial remedy is adequate when pursuing it may protect the right allegedly violated. For example, *habeas corpus* is an adequate remedy in the case of a forced disappearance.
- ◆ A judicial remedy is effective when it is capable of obtaining the result for which it was designed. For example, a remedy is not effective when the State has not ensured its proper application by the judicial authorities, or when there is unwarranted delay in the decision.

22. What are the exceptions to the requirement to exhaust domestic remedies?

The Commission may examine a petition in which domestic remedies have not been exhausted when:

- A. domestic laws do not provide due process to protect the rights allegedly violated;
- B. the alleged victim has not been allowed access to domestic remedies or has been kept from exhausting them; or
- C. there is delay in the issuance of a final decision on the case with no valid reason.

Under certain circumstances, a person may be exempted from having to exhaust domestic remedies, for example if the person is living in extreme poverty so critical that one would not be able to pay an attorney in those cases in which legal assistance is necessary, and so long as the State does not offer this service free of charge.

23. When must I submit my petition?

The petition must be submitted within six months of the date of notification of the final judicial decision that exhausted domestic remedies. When an exception to the exhaustion of domestic remedies requirement applies, the six-month term does not apply. In such cases, the petition must be filed within a reasonable time.

24. Can the Commission and the Court review decisions issued by domestic courts?

The mere fact that a judicial judgment does not satisfy a person's interests does not mean that his or her human rights have been violated. The Inter-American Commission and Court are competent to review possible violations of the rights protected in the inter-American treaties.

HOW CAN I SUBMIT A PETITION?

25. Who can file a complaint with the Commission?

Any person, group of persons, or organization, on its own or in representation of another, may file a petition alleging a violation of human rights against one or more Member States of the OAS.

A person may be both the petitioner and the alleged victim in a petition.

- ◆ Petitioner(s): person or group of persons who file the petition.
- ◆ Alleged victim(s): person or group of persons allegedly affected by the facts reported in the petition. The alleged victims must be identified or identifiable.

If the alleged victim wishes to change his/her representative or to be a petitioner in his/her own petition, he/she should immediately communicate this to the Commission in writing, since, as a general rule, the Commission will maintain contact with the petitioner. In addition, it is important that any change in address or other contact information be notified in writing.

26. Can the Commission keep the identity of the alleged victim confidential?

In general, when the Commission addresses the State in relation to a petition, it communicates the identity of the alleged victim, since the State should be informed of the person who is affected by the facts alleged in the petition. If there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

In certain cases, the Commission may protect the identity of the alleged victim in the documents that are made public, for example, by substituting the person's complete name by his or her initials. The request to protect the victim's identity must be made to the Commission, with an explanation.

27. Can the Commission keep the petitioner’s identity confidential?

Yes. The Commission can keep the petitioner’s identity confidential if the petitioner makes an express request in this regard. If the petitioner and the alleged victim are the same person, the Commission generally communicates the identity of the alleged victim to the State. If there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

28. In what language should I file my petition?

The official languages of the IACHR are Spanish, English, Portuguese, and French, and in general one need send the petition in just one of these languages that is used by the State. Nonetheless, if there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

In any event, it is important to bear in mind that if it is decided to process the petition, it should be forwarded to the State in the official language it uses. For this reason, when a petition is not in that language, it is possible that the Commission may require the petitioner to seek the means necessary for it to be translated.

29. Do I need a lawyer to file my petition?

The Commission does not require the representation of a lawyer to file and process the petition.

30. Is there a fee for filing my petition?

No. The procedures before the Commission are free of charge.

31. What should I include in my petition?

Every petition should include:

- ✓ the personal information of the alleged victim(s) and that of his/her relatives;
- ✓ the personal information of the petitioner(s), such as complete name, phone number, postal address, and email;
- ✓ a complete, clear, and detailed description of the facts alleged that includes how, when, and where they occurred, as well as the State considered responsible;
- ✓ an indication of the State authorities considered responsible;
- ✓ the rights considered violated, if possible;
- ✓ the judicial bodies or authorities in the State to which one has turned to remedy the alleged violations;
- ✓ the response of the State authorities, especially of the courts of justice;
- ✓ if possible, uncertified and legible copies of the principal complaints and motions filed in pursuit of a remedy, and of the domestic judicial decisions and other annexes considered relevant, such as witness Statements; and
- ✓ an indication as to whether the petition has been submitted to any other international organization competent to resolve cases.

If possible, it is recommended that a list be included indicating the annexes attached to the petition to facilitate their identification.

32. What requirements must the annexes to the petition meet?

- ◆ Photocopies of documents do not require any formality, that is, it is not necessary that they be certified, notarized or legally authenticated; legible, uncertified copies are sufficient. One need not send several copies of the same document.
- ◆ If the petition and its annexes are sent by postal mail, it is preferable that the documentation not be bound, attached, or laminated in any way.

As a general rule, the Commission does not return documents that have been sent in the context of a petition. Accordingly, originals should not be sent.

33. Where should I send my petition?

While the petition may be submitted personally, it is not necessary to come to the Commission since one can send it by any of the following means:

- **Email:** cidhdenuncias@oas.org
- **Electronic form:** www.cidh.org. If you wish to send your petition via the electronic form, you have the option of drafting your petition in a separate document and uploading it to the Commission's website.
- **Fax:** +1 (202) 458-3992 or 6215
- **Mail:**
Inter-American Commission on Human Rights
1889 F Street, N.W.
Washington, D.C. 20006
United States

If the documents are sent electronically, it is not necessary to resend them manually.

The petition form attached to this informational brochure can be used as a guide for submitting the petition. If using the form, you may attach the additional pages necessary.

Every petition or communication sent should be addressed to the Inter-American Commission on Human Rights.

WHAT IS THE PROCEDURE FOR MY PETITION BEFORE THE COMMISSION?

34. Should I go to the Commission's headquarters at some point?

It is not necessary to go to the Commission, because the procedure is mainly written. In certain cases and once a petition is processed and the State is notified, the Commission may, if relevant, call hearings or working meetings.

35. How can I be sure that the Commission received the complaint?

The Commission sends a letter acknowledging receipt of the petition and indicating the reference number assigned to it. The letter will be sent to the address indicated by the petitioner in the petition.

36. After my petition is sent, may I submit additional information?

If necessary, additional information may be submitted. All additional information and documents sent in will be included in the file associated with the petition. Every communication sent by the petitioner should indicate the reference number of the petition. It is important to notify the Commission immediately of any change of address.

37. What happens once receipt of the petition is acknowledged?

Once receipt of the petition is acknowledged, the petition will be under study. Given the large number of petitions the Commission receives, the preliminary evaluation of a petition may take some time. All the petitions submitted to the IACHR are evaluated, and a response is given.

38. What happens once the preliminary evaluation of the petition is completed?

After a preliminary evaluation, there may be a decision:

- A. not to process the petition;
- B. to request additional information or documentation; or
- C. to open the petition for processing. At that moment, the petition will enter the *admissibility* stage. This decision means that the necessary requirements were met for the Commission to study it, but it is not yet a decision with respect to the subject-matter presented.

39. What does it mean that my petition is in the admissibility stage?

It means that the petition submitted will be sent to the State for observations. A process of exchange of information is begun, in which the Commission may request information to decide whether the petition is admissible. Any information submitted by a party will be forwarded to the other party. After this exchange of information, the Commission decides whether the petition is *admissible* or *inadmissible*.

40. What happens once a petition is found admissible?

When a petition is *admissible*, the Commission will analyze the parties' allegations and the evidence submitted. In this stage, the Commission may ask the State and the petitioner for more information, evidence, or documents and if necessary, may convene a hearing or working meeting.

41. Can a friendly settlement be reached with the State?

Yes. It is a process that depends on the wishes of the parties and consists of negotiations aimed at resolving the matter without the need to reach a conclusion on the matter in dispute. The process unfolds under the Commission's supervision. If it is not possible to reach a friendly settlement, the Commission will continue analyzing the parties' allegations and will decide on the case, determining whether the State is or is not responsible for the violations alleged.

42. What happens if the Commission decides that the State is responsible for the violations of human rights?

The Commission will issue a report on the merits that will include recommendations to the State that may be aimed at:

- ◆ bringing a halt to the acts that are in violation of human rights;
- ◆ clarifying the facts, carrying out an official investigation, and imposing a sanction;
- ◆ making reparation for the harm caused;
- ◆ making changes to the law; and/or
- ◆ requiring the adoption of other measures or actions by the State.

43. What happens if the State does not comply with the recommendations?

The Commission will decide:

- ◆ to publish the case; or
- ◆ to refer the case to the Court if it considers it appropriate.

44. What happens if the Commission decides to refer the case to the Court?

If the Commission decides to refer the case to the Court, the Court will analyze it and issue a reasoned judgment. The Commission, the State, and the victim(s) participate in the process before the Court.

Serious and urgent situations

In certain serious and urgent situations, and provided that certain requirements are met, the Commission may adopt precautionary measures. To learn about the criteria the Commission has used in practice, you can visit the IACHR website (www.cidh.org), and refer to the section of precautionary measures that have been granted or to the IACHR annual reports.

Furthermore, in addition to precautionary measures, there is a mechanism established in Article XIV of the Inter-American Convention on Forced Disappearance of Persons, which the Commission can use in cases of alleged forced disappearances with respect to the States that have ratified this treaty.

45. In which cases can the Commission adopt precautionary measures?

The Rules of Procedure of the IACHR provide:

Article 25. Precautionary Measures

1. In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons or to the subject matter of the proceedings in connection with a pending petition or case.
2. In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons under the jurisdiction of the State concerned, independently of any pending petition or case.
3. The measures referred to in paragraphs 1 and 2 above may be of a collective nature to prevent irreparable harm to persons due to their association with an organization, a group, or a community with identified or identifiable members.
4. The Commission shall consider the gravity and urgency of the situation, its context and the imminence of the harm in question when deciding whether to request that a State adopt precautionary measures. The Commission shall also take into account:
 - a. whether the situation of risk has been brought to the attention of the pertinent authorities or the reasons why it might not have been possible to do so;
 - b. the individual identification of the potential beneficiaries of the precautionary measures or the identification of the group to which they belong; and
 - c. the express consent of the potential beneficiaries whenever the request is filed before the Commission by a third party unless the absence of consent is duly justified.
5. Prior to the adoption of precautionary measures, the Commission shall request relevant information to the State concerned, unless the urgency of the situation warrants the immediate granting of the measures.
6. The Commission shall evaluate periodically whether it is pertinent to maintain any precautionary measures granted.
7. At any time, the State may file a duly grounded petition that the Commission withdraws its request for the adoption of precautionary measures. Prior to the adoption of a decision on the State's

petition, the Commission shall request observations from the beneficiaries or their representatives. The submission of such a petition shall not suspend the enforcement of the precautionary measures granted.

8. The Commission may request relevant information from the interested parties on any matter related to the granting, observance, and maintenance of precautionary measures. Material non-compliance by the beneficiaries or their representatives with such a request may be considered a ground for the Commission to withdraw a request that the State adopt precautionary measures. With regard to precautionary measures of a collective nature, the Commission may establish other appropriate mechanisms of periodic follow-up and review.
9. The granting of such measures and their adoption by the State shall not constitute a prejudgment on the violation of the rights protected by the American Convention on Human Rights or other applicable instruments.

46. In which cases will the Commission not be able to help me?

The Commission cannot:

- ◆ issue a ruling with respect to a State that is not a member of the OAS;
- ◆ provide attorneys to assist in domestic judicial proceedings or to submit a petition or request for precautionary measure to the Commission;
- ◆ provide economic assistance or materials and supplies to persons;
- ◆ undertake immigration procedures, or process the granting of visas or political asylum.

47. Can I file a request for precautionary measures without filing or having filed a petition?

Yes. While it is possible for precautionary measures to be associated with petitions, the procedures for precautionary measures and the filing of petitions may be pursued independently.

48. Does the decision made by the Commission with respect to the request for precautionary measures influence the decision regarding the petition?

No. As they are independent procedures, if the Commission decides to adopt or reject the request for precautionary measures, the petition will continue its course until the Commission decides how it is going to respond.

HOW CAN I SUBMIT A REQUEST FOR PRECAUTIONARY MEASURES?

49. Who can submit a request for precautionary measures with the Commission?

Any person or group of persons, on their own behalf or in representation of another, may file a request for precautionary measures with the Commission.

A person may be both an applicant and a beneficiary.

If the person who is the beneficiary wishes to change the representation or to come forward as the applicant, he/she must so indicate to the Commission immediately in writing, since as a general practice the Commission will maintain communication with the applicant(s). In addition, it is important to give written notice of any change in address or other contact information.

- ◆ Applicant(s): person or group of persons who file(s) the request for precautionary measures.
- ◆ Beneficiary or beneficiaries: person or group of persons on whose behalf precautionary measures are adopted. Such person or persons must be identified or identifiable.

50. Can the Commission keep the identity of the proposed beneficiary confidential?

In general, when the Commission addresses the State in relation to the request for precautionary measures, it must communicate the identity of the proposed beneficiary, since the State must know to whom it is to provide protection. Nonetheless, if there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

In certain cases, the Commission may opt to protect the identity of this person in the documents that are made public, for example, by replacing the full name by his or her initials. The request to protect the identity of the proposed beneficiary should be made to the Commission with a statement of the reasons.

51. Can the Commission keep the name of the applicant confidential?

Yes. Provided that the applicant expressly requests it, the Commission can keep his or her name confidential. However, if the applicant and the proposed beneficiary are the same person, the Commission generally informs the State of the person's identity. If there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

52. In what language should I submit my request for precautionary measures?

The official languages of the IACHR are Spanish, English, Portuguese, and French. In general it is only necessary to send the request for precautionary measures in one of the official languages that is used by the State. Nonetheless, if there is any problem doing so, the situation can be communicated to the Commission for its consideration.

In any event, it is important to bear in mind that if it is decided to forward the request to the State, it should be in the official language used by the State. For this reason, when a request for precautionary measures is not in that language, the Commission may require the applicant to obtain the means necessary for it to be translated.

53. Do I need a lawyer to file my request for precautionary measures?

No. The Commission does not require the representation of an attorney in filing and processing the request for precautionary measures.

54. Is there a fee for submitting my request?

No. The procedures before the Commission are free of charge.

55. What information is important to include in my request for precautionary measures?

➤ PERSONAL INFORMATION

- ◆ The applicant's contact information, such as full name, telephone, postal address, fax, and email, and the indication as to whether applicant seeks to keep his or her identity confidential.
- ◆ The determination of the person or group of persons proposed as the beneficiary, and the contact information, if possible. If it is not possible to name all the persons individually, the data provided must be sufficient for the State to be able to provide them protection.
- ◆ If the person is deprived of liberty, please indicate where he or she is detained.

➤ FACTS ALLEGED

- ◆ A detailed and chronological description of the facts that shows the existence of a serious and urgent situation and irreparable harm.
- ◆ The current situation of the persons proposed as beneficiaries and their degree of risk.
- ◆ If possible, legible, uncertified copies should be sent of the documents needed to understand the situation of the person or group of persons proposed as the beneficiary, such as copies of complaints presented to the authorities, medical certificates in situations involving health, and any other relevant legal motions that have been presented. If it is not possible to send these documents, the reasons should be provided. Photocopies of documents do not require any formality, that is, it is not necessary that they be certified, notarized or legally authenticated. One need not send several copies of the same document. If the request and its annexes are sent by post, it is preferable that the documentation not be bound, attached, or plasticized in any way.

➤ COMPLAINTS TO STATE AUTHORITIES

- ◆ An explanation of whether the facts alleged have been reported to the authorities or whether the State has been asked to provide protection, and a description of the response, if any; or an explanation of why it has not been possible to put such protection in place.
- ◆ An indication as to whether the person or group or persons proposed as beneficiaries already has any measures of protection domestically. If so, an explanation of how effective those measures have been.

➤ MEASURES REQUESTED

- ◆ A description of the measures of protection or others measures that have been requested.

➤ ASSOCIATION WITH A PETITION OR CASE BEFORE THE COMMISSION

- ◆ An indication as to whether the person has already filed a petition or has a case pending before the Commission, and if so, the date of submission of the petition and the reference number assigned to the petition or case.

As a general rule, the Commission does not return documents received in the context of a request for precautionary measures. Accordingly, originals should not be sent.

56. Where should I send my request for precautionary measures?

While the request may be made personally, it is not necessary to come to the Commission, as the request may be sent by any of the following means:

- **Email:** cidhdenuncias@oas.org
- **Fax:** +1 (202) 458-3992 or 6215
- **Mail:**
Inter-American Commission on Human Rights
1889 F Street N.W.
Washington, D.C. 20006
United States

If the documents are sent electronically, it is not necessary to resend them in hard copy.

Every petition or communication sent should be addressed to the Inter-American Commission on Human Rights.

WHAT IS THE PROCEDURAL COURSE OF MY REQUEST FOR PRECAUTIONARY MEASURES?

57. Should I go to the Commission's headquarters at some point?

It is not necessary to go to the Commission, because the procedure is mainly written. The Commission may call hearings or working meetings in certain matters.

58. How will I find out the Commission's decision regarding my request for precautionary measures?

The Commission sends a letter giving notice of the decision. The letter will be sent to the applicant at the address indicated in the request.

59. After sending in my initial request for precautionary measures, can I submit additional information?

If necessary, the applicant may send additional communications regarding the situation of the proposed beneficiary or the facts alleged at any time.

60. What happens if the Commission decides to grant my request for precautionary measures?

If it grants the request, the Commission will turn to the authorities who represent the State in question to ask them to adopt certain measures of protection or prevention. It is the State, in consultation with the beneficiary, that implements the precautionary measures granted.

For more information, visit the IACHR website at www.cidh.org