

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**  
**RESOLUTION 30/2014**

PRECAUTIONARY MEASURE No. 423-14<sup>1</sup>

Matter of Clara Gómez González and others regarding Mexico  
October 10, 2014

**I. INTRODUCTION**

1. On October 7, 2014, the Inter-American Commission on Human Rights (hereinafter ‘Commission’ or ‘IACHR’) received a request for precautionary measures presented by ‘Human Rights Watch,’ the ‘Miguel Agustín Pro Juárez Center for Human Rights,’ the ‘Mexican Commission on the Defense and Promotion of Human Rights,’ the ‘Center on Analysis and Investigation,’ the ‘Foundation for Justice and the Rule of Law,’ and the ‘Mexican Institute on Human Rights and Democracy’ (hereinafter ‘the applicants’), requesting that the IACHR require the Mexican State (hereinafter ‘Mexico’ or ‘the State’) to adopt the necessary protective precautionary measures to safeguard the life and personal integrity of Clara Gómez González and of her immediate family members, composed by her mother Bertha González Flores, her sons Omar, Saddam and Armando Guzmán Gómez, and their father Omar Guzmán Pineda (hereinafter, ‘the proposed beneficiaries’). According to the request for precautionary measures, Ms. Clara Gómez González faced a situation of risk, in the sense that she witnessed and survived the alleged extrajudicial execution of 22 individuals, which reportedly occurred on June 30, 2014, in the municipality of Tlatlaya, in the state of Mexico.

2. After analyzing the factual and legal arguments put forth by the applicants, the Commission considers that the information presented shows *prima facie* that Ms. Gómez González and her immediate family members face a serious and urgent situation, since their lives and personal integrity face an imminent risk. Consequently, according to Article 25 of the Rules of the IACHR, the Commission requires that Mexico: a) Adopt the necessary measures to protect the lives and personal integrity of Clara Gómez González and of her immediate family members; b) Agree on the measures to be adopted with the beneficiaries and their representatives; and c) Report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure in order to prevent its repetition.

**II. SUMMARY OF THE FACTS AND ARGUMENTS ALLEGED BY THE APPLICANTS**

3. According to the request for precautionary measures, Ms. Clara Gómez González and her immediate family members faced an alleged situation of risk against their lives and personal integrity, since she witnessed and survived the alleged extrajudicial execution of 22 individuals, which was reportedly carried out by members of the Mexican Army on June 30, 2014, in the municipality of Tlatlaya, in the state of Mexico. The request for precautionary measures is based on the following alleged facts and arguments:

- A. Since May 2014, Ms. Gómez González, who lived in the municipality of Arcelia, where she worked as a rural professor, had supposedly lost contact with her daughter, Érika Gómez González, who was 15 years old. The mother heard rumors about her (the daughter) “leaving with an individual identified as male.’ On June 29, 2014, Ms. González received a phone call from her daughter, who told her that on that same day she would head to the community of San Pedro Limón, in the municipality of Tlatlaya, state of Mexico. With the purpose of meeting her, Ms. Gómez González had gone to the locality above mentioned.

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<sup>1</sup> According to Article 17.2 of the Rules of the Commission, Commissioner José de Jesús Orozco Henríquez, a Mexican citizen, did not take part in the debate or in the deliberation process of the present precautionary measure.

“Once she arrived to the community, approximately around 10:00 pm, Ms. Gómez González was walking on the road when she noticed that a pick-up was approaching. Then, she [allegedly] found out that her daughter was sitting in the front, next to the driver, together with other two individuals on the back and other two individuals in the open part of the pick-up. Ms. Gómez González had made use of body language to make the vehicle slow down. The vehicle stopped a few meters in front of her and her daughter stepped off to talk to her.” While the proposed beneficiary and her daughter were talking, an armed individual had got off the pick-up to question her on the reason of her presence there and he then ordered her to get on the vehicle. Fearing that they might attempt to violate their lives and personal integrity, the proposed beneficiary agreed to get on the pick-up.

- B. The non-identified individuals transferred Ms. Gómez González and her daughter to a warehouse under construction located near the road, towards San Pedro Limón. The non-identified individuals had then told Ms. Gómez González that they could not let her go since they feared that she would “betray them by going to Government authorities.’ According to Ms. Gómez González, approximately other 20 individuals were in that place.
- C. On June 30, 2014, in the early morning, the applicants stated that the Mexican Army supposedly found the non-identified individuals’ whereabouts. Then, an armed confrontation took place, which reportedly lasted for 30 minutes. During the operation, one of the bullets allegedly hit Érika Gómez González, wounding one of her legs. According to the proposed beneficiary, her daughter was still alive and was lying next to a van. Approximately half an hour later, the armed confrontation supposedly ceased, after the Army authorities requested the non-identified individuals to surrender, in return of ‘sparing their lives.’ According to the proposed beneficiary, once the non-identified individuals dropped their guns and surrendered, some members of the Army shot them, hitting Érika Gómez González, who was lying ‘defenseless on the ground.’
- D. Supposedly, members of the Army relocated her daughter’s corpse and put a weapon on her left hand. ‘Then, an undetermined number of individuals who were part of the group in the warehouse were placed one in front of the other,’ and were placed ‘in a vigilance cabin that was next to the building.’ After that, they had taken out the individuals one by one and purportedly ‘shot them in their legs and arms to immobilize them,’ while, allegedly, members of the Army expressed: ‘oh, what a big man you are! Sons of bitches, weren’t you that brave?’ Later on, they made them ‘kneel and asked them their names, age and where they came from. They also did the same thing to another group of individuals whose number of people was undetermined.’
- E. Then, members of the Army found Ms. Gómez González and detained her, since they did not believe when she told them that she had been taken there by the non-identified individuals. ‘At that moment [,] [the proposed beneficiary had seen] that other four individuals were alive: two men and two women, whose hands were tied on their backs and who were lying facing down, and they said that they were kidnapped and asked them not to kill them.’ Ms. Gómez González presumably saw that ‘the militaries executed the two groups of people that were wounded.’ According to her testimony, ‘each man was shot in his abdomen or chest. She asked them not to kill them but the militaries answered ‘these dogs don’t deserve to live.’
- F. As for Ms. Gómez González, the applicants affirm that she was transferred to Toluca, state of Mexico, so that she could be interrogated by the Office of the State Prosecutor (hereinafter, ‘PGJ’ for its Spanish acronym). While she was at the headquarters, the applicants argued

that she was supposedly coerced and forced to sign many documents although she had no knowledge of their content. Later on, she had been transferred to the Office of the Assistant Prosecutor Specialized on Organized Crime Investigations (hereinafter, 'SEIDO' for its Spanish acronym), from the Office of the General Prosecutor of the Republic (hereinafter, 'PGR' for its Spanish acronym), in the Federal District. There, she had been interrogated once again and more documents had been handled to her so that she could sign them, even though she had not been able to previously read them. The applicants affirmed that, although she allegedly witnessed the alleged facts, on July 6, 2014, the proposed beneficiary was released, left the office of the SEIDO and had to 'ask for help to get to the south bus terminal and return home.'

- G. A few days later, members of the National Commission on Human Rights (hereinafter, 'CNDH' for its Spanish acronym) supposedly contacted the proposed beneficiary in order to ask her some questions regarding the alleged facts which had occurred in Tlatlaya. On September 27, 2014, they had requested the proposed beneficiary to accompany them to carry out an onsite inspection. Ms. Gómez González allegedly refused because of her emotional and psychological status.
- H. The applicants asserted that the Tlatlaya matter apparently was widely covered by national and international media. Initially, 'the official version which the State provided the day after the [alleged] facts occurred was that an armed confrontation took place between a criminal group and members of the Army, and that the 22 individuals were killed during the crossfire.' On July 8, 2014, the press agency 'Associated Press' published a report on the alleged facts, with a series of pictures and statements regarding holes in one of the walls which were covered by blood, as well as more information that purportedly raised doubts about the official version. At the beginning of September 2014, the magazine 'Esquire' carried out an interview to Ms. Gómez González – identified in the article as 'the witness Julia' –, in which she reported that, according to her testimony, 'it was not an armed confrontation, but a summary execution.' Shortly after that, other media supposedly fully identified 'the witness Julia' as Érika Gómez González' mother and tried to get declarations from the family. In this regard, the applicants affirmed that, since then, the Mexican authorities 'perfectly know her location.' As a consequence of the pressure from international media who got access to the proposed beneficiary's interview, the Mexican State communicated on September 25, 2014, that to date the Office of the Military Justice Prosecutor (hereinafter, 'PJM' for its Spanish acronym) had detained 8 militaries who were allegedly involved in the alleged facts, and who were being processed under the military jurisdiction for the crimes of disobedience and infraction of military duties. Similarly, the PGR had recently confirmed that it would detain 3 militaries charged with murder, while press releases indicate that it detained 3 militaries on that account and other 5 for concealment. The applicants argued that, to date, the public information regarding current criminal investigations is supposedly incomplete.
- I. Concerning the current purported situation of risk against the lives and personal integrity of Ms. Gómez González and of her immediate family members, the applicants affirm the following alleged facts:
  - i. Within the context of the alleged extrajudicial execution carried out by members of the Mexican Army, Ms. Gómez González supposedly provided 'highly relevant information' to determine criminal responsibilities in the present matter. Furthermore, the proposed beneficiary was publicly exposed as 'Julia.' Once her real identity was revealed, as well as her work place and the location where she lives,

Ms. Gómez González faces a ‘particular situation of vulnerability,’ which apparently made her lock herself inside her house during these last days, since she feared possible retaliations due to her public statements.

- ii. Ms. Gómez González is living in a particularly exposed zone and with limited access, in the sense that the military forces are highly present in the area covering the municipality of Arcelia, state of Guerrero. According to the applicants, ‘the community of El Terrerito, the place where the proposed beneficiary goes to work as a teacher, is still more uncommunicated since it does not have access to basic telecommunications.’ In these alleged circumstances, applicants highlighted the purported context of military checkpoints within the aforementioned area, alleged disappearances, and that the local police had few margin to act in light of the presence of members of the Armed Forces, among other elements.
- iii. The applicants reported that, on two occasions, members of the Mexican Army supposedly showed up in front of Ms. Gómez González’ house and, on two other occasions, in front of the proposed beneficiary Omar Guzmán Pineda’s residence. On September 29, 2014, non-identified individuals who were riding a motorbike appeared at the proposed beneficiary’s workplace, asking for her, using her name and referring to her as ‘the teacher,’ telling that they ‘urgently needed’ to talk to her. Moreover, on recent days, the PGR tried to notify her of a summons requiring her presence in order to make a declaration before the SEIDO.
- iv. Another risk factor that Ms. Gómez González and her immediate family members might face is related to information provided by the media, according to which the Army was ‘annoyed’ because of the detention of 8 militaries. According to the request, it was ‘reported that members of the Armed Forces considered that the detained individuals were unjustly being held responsible for obeying orders, and that according to them, the aforementioned was due to declarations that were not close to reality.’ The applicants affirmed that an invitation for ‘a demonstration in favor of the 8 detained militaries’ was circulating.
- v. Regarding the protective measures requested from the relevant authorities, the applicants reported that the CNDH apparently still did not implement or request protective measures in favor [of the proposed beneficiaries]. In addition, they alleged that the PGR had qualified Ms. Gómez González as a ‘witness’ of the alleged facts of Tlatlaya, instead of a ‘victim.’ Thus, she apparently could not have access to the protective mechanisms established in the Mexican legislation for that purpose. On October 3, 2014, the applicants required the director of SEIDO that he granted protective measures in her favor. On this point, the applicants stated that he agreed to implement them. However, they indicated that supposedly these were not enough, in the sense that militaries still were visibly close to Ms. Gómez González’ house.

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

4. 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.

5. 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 is 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 effect (*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 and imminent risk or threat which can materialize, thus requiring immediate preventive or protective action; and
- c. 'irreparable harm' refers to an injury to rights which, due to their nature, is not susceptible of reparation, restoration or adequate compensation.

6. In the present situation, the Commission considers that the requirement of seriousness is met, in light of the nature of the alleged facts put forth by the applicants and a series of alleged occasions in which militaries and non-identified individuals showed up at Ms. Gómez González' and her immediate family members' houses. Specifically, the applicants stated that Ms. Gómez González survived and witnessed the alleged extrajudicial execution of 22 individuals, which was supposedly carried out by some members of the Mexican Army. During the purported facts, Érika Gómez González, who was 15 years old as well as the witness' daughter, presumably died because of the armed confrontation. In this scenario, it is worth highlighting that, according to the applicants, the witness' identity was revealed and that this had been done within an alleged context of wide media coverage on the alleged facts.

7. In this sense, the Commission points out that the information presented by the applicants is consistent with a series of concerns expressed by the United Nations Special Rapporteur for extrajudicial, summary or arbitrary executions, in relation to the present matter. In particular, on September 29, 2014, the said Rapporteur expressed that '[t]he Mexican government has the duty to fully investigate, prosecute, and punish all suspected cases of extra-legal, arbitrary and summary executions.' Also, the Rapporteur asked the State authorities that they 'urgently provide protection to the survivor who witnessed [the alleged facts] as well as to the two detainees, including the reporter and the photograph who wrote the article, and the Mexican media outlets that published it.'<sup>2</sup>

8. Taking into consideration the specific characteristics of the present situation and the general context in which it is taking place, the Commission considers *prima facie* that the rights to life and

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<sup>2</sup> See: UN. <http://www.ohchr.org/en/NewsEvents/Pages/DisplayNews.aspx?NewsID=15117&LangID=E>

personal integrity of Ms. Gómez González and of her immediate family members are in a situation of risk.

9. Regarding the requirement of urgency, the IACHR considers that it is met, to the extent that her alleged situation of risk increased due to the progresses made on the investigations, in which presumably some individuals who were allegedly responsible have been detained. In this sense, Ms. Gómez González' testimony acquired a relevant role in such proceedings. In these circumstances, the Commission acknowledges that Ms. Gómez González supposedly requested protective measures from the relevant authorities. However, the applicants alleged that the State authorities did not implement adequate and effective measures to safeguard her life and personal integrity, taking into consideration that she witnessed and survived the alleged facts. Furthermore, applicants also stressed the challenges faced regarding protective measures, due to the alleged zone in which Ms. Gómez González would live, indicating that it had a difficult access and obstacles to obtain communication. In this regard, the IACHR considers that the possible lack of specific protective measures which should take into account, as a whole, the elements presented by the applicants, might suggest that Ms. Gómez González and her immediate family members face a situation of vulnerability and lack of protection.

10. Regarding the requirement of irreparable harm, the Commission considers it is met, to the extent that the possible impact on the right to life and personal integrity represents the most irreparable situation.

11. Under Article 25.5 of the Rules of the IACHR, the Commission generally requests that the State concerned present information prior to taking its decision on a request for precautionary measures, except in a matter such as the present case where the immediacy of the potential harm allows for no delay.

#### **IV. BENEFICIARIES**

12. The request for precautionary measures is presented in favor of Clara Gómez González and of her immediate family members, composed by her mother Bertha González Flores, her sons Omar, Saddam and Armando Guzmán Gómez, and their father Omar Guzmán Pineda.

#### **V. DECISION**

13. In view of the above mentioned information, the Commission considers that this matter meets *prima facie* the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that State of Mexico to:

- a. Adopt the necessary measures to protect the lives and personal integrity of Clara Gómez González and of her immediate family members;
- b. Agree on the measures to be adopted with the beneficiaries and their representatives; and
- c. Report on the actions taken to investigate the alleged facts that gave rise to the adoption of this precautionary measure in order to prevent its repetition.

14. The Commission also requests that the Government of His Excellency provide information within a time limit of 10 days from the date that the present resolution is issued, on the adoption of precautionary measures, and provide updated information periodically. In view that the present precautionary measures have been granted without having previously requested information from the State, the Commission will revise this decision once it received reports from both parties.

15. The Commission wishes to point out that in accordance with Article 25(8) of its Regulations, the granting of precautionary measures and their adoption by the State shall not constitute a prejudging of any violation of the rights protected in the American Convention on Human Rights or any other applicable instrument.

16. The Commission requests that the Executive Secretariat of the IACHR notify the present resolution to the State of Mexico and to the petitioners.

17. Approved on October 10, 2014, by: Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice-President; Felipe Gonzalez, Second Vice-President; Commissioners, Rosa Maria Ortiz and James Cavallaro.