

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 36/2014**

PRECAUTIONARY MEASURE No. 185-13¹

Matter of Sofia Lorena Mendoza Martinez and others concerning Mexico
December 1, 2014

I. INTRODUCTION

1. On June 9, 2013, the Inter-American Commission on Human Rights (hereinafter “Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures presented by “Red Solidaria Decada contra la Impunidad A.C.” and the “Center for Justice and International Law (CEJIL)” (hereinafter “the applicants”), asking the IACHR to request the State of Mexico (hereinafter “the State”) to protect the life and personal integrity of Sofia Lorena Mendoza Martinez and her *children* (hereinafter the proposed beneficiaries), who would be relatives of social activist Arturo Hernandez Cardona, who allegedly was disappeared on May 30, 2013, along with other persons in the city of Iguala, State of Guerrero. Later, the applicants requested to include as proposed beneficiaries Rubi Diaz Mena and her two children, family of social activist Rafael Bandera Roman, who reportedly was also disappeared; the activist Bertoldo Martinez and his family, who would be one of the main complainants in the legal proceedings related to the presumptive disappearances mentioned; and Nicolas Mendoza Villa, who was allegedly kidnapped on May 30, 2013 and had managed to escape from his captors. According to the applicants, the rights to life and personal integrity of these persons would be at risk due to the complaint filed by the alleged forced disappearance and subsequent execution of the activists Arturo Hernandez Cardona, Felix Rafael Bandera Roman and Angel Roman Ramirez, in the city of Iguala, State of Guerrero.

2. After analyzing the factual and legal allegations put forth by both parties, the Commission considers that the information presented shows *prima facie* that Sofia Lorena Mendoza Martinez, Nicolas Mendoza Villa and their families are in a serious and urgent situation, as their rights to life and personal integrity are allegedly threatened and at serious risk. Consequently, in accordance with Article 25 of the Rules of Procedure of the Commission, the IACHR requests the State of Mexico to: a) Adopt the necessary measures preserve the life and personal integrity of Sofia Lorena Mendoza Martinez and her family, Nicolas Mendoza Villa, his wife and his two sons; b) To consult with the beneficiaries and their representatives on actions to be taken to implement these measures; and c) To report on the actions taken to investigate the facts that led to the adoption of the present precautionary measures and thus prevent possible replication.

II. SUMMARY OF THE INFORMATION AND ARGUMENTS PROVIDED BY BOTH PARTIES

3. The request for precautionary measures is based on the following alleged facts and arguments:

A. Since January 2013, members of the “Popular Unit” (hereinafter “PU”) allegedly began a series of pacific actions to claim abuses from the government of the city of Iguala, State of Guerrero, Mexico. According to the applicants, on May 29, 2013, eight members of the PU, allegedly filed a complaint before the Public Prosecutor’s Office against the Mayor of Iguala, Jose Luis Abarca and other public officers of the same city. The next day, on May 30, 2013, members of the PU allegedly began a

¹ In accordance with Article 17.2.a of the Rules of Procedure of the Commission, Commissioner José de Jesús Orozco Henríquez, a national of Mexico, did not participate in the discussion or vote on this precautionary measure.

demonstration in the federal highway Mexico-Acapulco, where Federal Police officers appeared. That same day, after the demonstration, Arturo Hernandez Cardona, Hector Arroyo Delgado, Efrain Amates Luna, Gregorio Dante Cervantes, Angel Roman Ramirez, Nicolas Mendoza Villa, Rafael Bandera Roman and Jimmy Castejon, members of the PU, were allegedly disappeared.

B. On June 1, 2013, Sofia Lorena Mendoza Martinez, who serves as Councilor for Rural Development in the city of Iguala and was partner of the activist Arturo Hernandez Cardona, allegedly appeared before the Public Prosecutor's Office to file a complaint against the responsible for the alleged disappearance of the activists. Subsequently, on June 3, 2013 the bodies of Arturo Hernandez Cardona, Felix Rafael Bandera Roman and Angel Roman Ramirez were allegedly found with signs of torture. That same day, Hector Arroyo Delgado, Nicolas Mendoza Villa, Efrain Amates Luna and Gregorio Dante Cervantes, allegedly managed to escape from their captors. According to the applicants, Hector Arroyo Delgado allegedly communicated by telephone with activist Bertoldo Martinez Cruz and told him "the engineer [Arturo Hernandez Cardona] was killed on Friday. Then on Saturday [Felix Rafael] Banderas was beaten to death, and today's morning when we escaped Angel Roman Ramirez lost his life. We are alive by miracle and I am leaving Iguala because they are going to kill me."

C. On June 4, 2013, after the funeral of these persons, Sofia Lorena Mendoza Martinez allegedly noted that a car was reportedly following her.

D. On June 6, 2013 a meeting was allegedly held between authorities from the government of Guerrero and family of Mr. Arturo Hernandez Cardona, Rafael Bandera Roman and Angel Roman Ramirez, where they allegedly reached various agreements. Especially, it was agreed to request the Attorney General's Office to take over the investigations of the facts; conduct police patrols and provide emergency phones to protect the families of activists. As well to analyze the necessity of a bodyguard service; among other actions. However, the applicants expressed that these agreements allegedly were not complied with.

E. On June 19, 2013, Mr. Bartoldo Martinez Cruz allegedly received a phone call of a man identified as "Commandant Jimenez of the Judicial Police of Morelos", and allegedly asked him "for one of his sons, and said that he had troubles and that they should talk to avoid harms."

4. On August 30, 2013 the IACHR decided to request information to both parties.

5. On September 11, 2013, the applicants presented a communication indicating that: i) they had not received any information regarding concrete results on the started investigations for the alleged deprivation of liberty and subsequent execution of the PU's leaders; ii) the government of the State of Guerrero allegedly arranged a police to patrol four times a day the homes of the families of Arturo Hernandez Cardona and Felix Rafael Bandera Roman. Also, they conducted patrols once a day in the home of human rights defender Bertoldo Martinez Cruz. On this regard, the applicants indicated that "the patrols measure in the homes of the proposed beneficiaries, although it is an appropriate measure, it is by itself insufficient to guarantee the safety of the proposed beneficiaries. Especially, because it just provides minimum safety to their homes and only during certain times of the day."

6. On September 17, 2013, this information was forwarded to the State and the request for information was reiterated. On September 26, 2013, the State requested an extension, which was granted.

7. On October 29, 2013, the State responded to the request for information. In its report, the State indicated that:

A. Due to the complaints filed by the proposed beneficiaries, several working meetings were held in order to provide protective measures and information regarding the criminal proceedings. Particularly, the State expressed that on June 1, 2013, before the presence of several authorities of the entity and family, the following measures were agreed: i) the General Manager of Control Previous Inquiries was appointed to attend directly, the criminal proceedings referred by the proposed beneficiaries; ii) the responsible for the "Office of the Ministry of Public Safety and Emergency Preparedness" and the "General Director for Attention to Victims of Crimes and Community Services" were appointed to be in direct contact with the proposed beneficiaries 24 hours a day; iii) on June 4, 2013 the Committee for the Defense of Human Rights of the State of Guerrero allegedly granted precautionary measures in favor of Mr. Hector Arroyo Delgado, Efrain Amate Luna, Gregorio Dante Cervantes Maldonado, Nicolas Mendoza and Jimmy Castrejon and their families and the family of Mr. Arturo Hernandez Cardona, Felix Rafael Bandera Roman and Angel Roman Ramirez.

B. According to the State, it was also agreed: i) to implement ongoing police patrols or any other action required to protect the claimants; ii) had provided emergency phones; iii) it was agreed that they would analyze each particular case, in case they need to implement a bodyguard service; iv) educate members of the state police to improve the effectiveness of quality of monitoring service in the homes of the families of the proposed beneficiaries and maintain direct telephone contact with them; v) they asseverate that Mr. Bertoldo Martinez Cruz has protective measures which consist of patrols to his home, daily communication with the proposed beneficiary to meet his safety requirements, direct contact with the proposed beneficiary and the Operational Coordinator of the Region of Acapulco. According to the State, Mr. Martinez Cruz allegedly expressed to be "satisfied with the protective measures that are currently being implemented in his favor."

8. On November 20 and 25, 2013, the applicants presented observations on the State's report. Especially, the applicants indicated that the protective measures implemented were insufficient, the patrols would be conducted only once a day, and that constant contact between the state's authorities and the proposed beneficiaries did not exist, among other matters. Regarding to Mr. Bertoldo Martinez Cruz, the applicants indicated that indeed he expressed his satisfaction with the support provided by the competent authorities. However, the applicants stated that the proposed beneficiary would currently be monitoring several cases related to the alleged murder of various leaders in Mexico, which suggests that the risk to his life and personal integrity persists.

9. On January 31, 2014 the applicants provided a brief report indicating that on January 7, 2014 the newspaper "Milenio" allegedly published an article named "Guerrilla moves paramilitary groups and teachers." In this article, the journalist affirms that he had access to intelligence reports from the Mexican government, in which they would categorize several activists, including Bertoldo Martinez, as subversive movements.

10. On February 21, 2014, the information was forwarded to the State and specific questions regarding to the safety situation of the proposed beneficiaries were made.

11. On March 21, 2014 the State provided its report, indicating that they were conducting the accompaniments requested by the proposed beneficiaries, they attended to the phone calls made by the proposed beneficiaries and allegedly made follow-up calls to Sofia Lorena Mendoza Martinez,

Carolina Hernandez Mena, Reyna Hernandez Mena and others. Also, it informs that competent authorities continue to protect Mr. Bertoldo Martinez Cruz. The State mentioned that the investigations regarding the alleged facts remain active and that the Committee for the Defense of Human Rights had noted that it was not possible to accompany the proposed beneficiaries because they did not appear before the institution despite the efforts made to locate them.

12. On the same date, the applicants presented a new report indicating that Nicolas Mendoza Villa, who was allegedly kidnapped on May 30, 2013 and managed to escape, had presented his testimony before the Attorney General of Guerrero (hereinafter AGG), indicating that “high-profile authorities of the city of Iguala” would be involved in the alleged facts. In view of this situation, the applicants requested to consider him and his wife as proposed beneficiaries in the request for precautionary measures.

13. This matter remained inactive for the following months and on September 23, 2014 current information was requested to both parties.

14. On October 20, 2014 the applicants presented their report indicating that:

A. On July 2014, the house of Sofia Mendoza was allegedly permanently being watched. Given this situation, Carolina and Reyna Mendoza, daughters of Sofia Mendoza, had decided to leave the city. Because of this, the applicants request no to consider both persons as proposed beneficiaries on this matter. The applicants requested to consider only as proposed beneficiaries Mrs. Sofia Mendoza and her two children.

B. On August, 2014 Mrs. Sofia Mendoza was allegedly object of harassments after the statement she made before the press regarding to the persistent impunity on the murder of former congressman Armando Chavarria Barrara, which occurred 5 years ago. On October 5, 2014 around 3 P.M., while the proposed beneficiary was driving back from a visit to the Normal School of Ayotzinapa, she noted that she was allegedly being followed by a black van. The following turned evident when Mrs. Mendoza stopped her car to get gasoline, moment in which the vehicle that followed her disappeared, to reappear later behind her. When a military checkpoint became visible in the distance, the van allegedly turned in the previous street and disappeared. This fact was allegedly seen by both of the policemen in the checkpoint and the police patrol that was accompanying the proposed beneficiary at that moment. On October 13, 2014 the proposed beneficiary allegedly received a text message in her cellphone that indicated: “what happened to the code?” The proposed beneficiary allegedly called that number without getting any response. According to the applicants, after the events occurred in Ayotzinapa on September 26 and 27, 2014, in early October Sofia Mendoza noticed the presence of a red van with no plates and several short-haired and armed men were inside, just outside her home. Before the alleged situation, the Attorney General of Guerrero allegedly mentioned to the proposed beneficiary that they would proceed to carry out ministerial police patrols in her home. In this regard, the proposed beneficiary expressed that these would only take place during the day and that she does not know if they occur during the nights.

C. Regarding the family of Mr. Felix Bandera and Bertoldo Martinez Cruz, the applicants indicate that it was not possible to contact them, thus it is impossible to provide information about them. The applicants sustain that given the unsafe environment these persons had opted to leave the city. On this regard, and given the lack of contact with such persons, the applicants request no to consider them as proposed beneficiaries.

D. As to Mr. Nicolas Mendoza Villa and his wife, the applicants expressed that after his statement before the AGG of Guerrero, his situation of risk had increased to the extent of having to change his residence up to eight times. According to the applicants, on August 3, 2014 armed persons allegedly broke into his house while he was away. Without providing further details, they affirm that on September 28, 2014 around 1 am, Mr. Nicolas Mendoza and his family had to abandon their home in Morelos because a new raid has taken place at their home by at least eight armed men.

E. Regarding to the protective measures that are being implemented, the applicants indicated that the patrols that were being conducted in favor of Sofia Mendoza were being conducted "solely for the purpose that she signs the corresponding logbook" They affirm that the proposed beneficiary "used to receive police accompaniment when she traveled by car." However, after the recent acts of violence in Iguala, the police guards refuse to accompany her, arguing that it is dangerous for their integrity given the resentment that has emerged in the locals due to the recent events in Ayotzinapa." Also, they indicate that on several occasions, the patrol responsible to protect the proposed beneficiary stopped accompanying her in the middle of the service to conduct other activities in the context of other precautionary measures. The applicants highlight that the State has not provided information regarding the situation of Nicolas Mendoza Villa.

F. The applicants indicate that to this date, the proposed beneficiaries would be: i) Sofia Mendoza and her children; and ii) Nicolas Mendoza Villa and his wife.

15. On October 27, 2014 the State presented its report, indicating that the Committee for the Defense of Human Rights of the state of Guerrero allegedly ordered the implementation for precautionary measures which would continue in force and that to the date they have not received a request for intervention or complaint from the beneficiaries. This institution expressed that it was not possible to contact Nicolas Mendoza Villa in order to implement precautionary measures.

16. On November 6, 2014 the applicants presented additional information. According to the applicants in the context of the investigation regarding to the alleged disappearance of 43 students in Ayotzinapa, on November 4, 2014, Jose Luis Abarca, Mayor of the city of Iguala and his wife were detained. Given this situation and the consequent progress in the investigations, they allege that the increasing situation of risk against Nicolas Mendoza and his family is evident, for being "basically the only witness of the events." Additionally, the applicant extended the information about the alleged events that occurred on August 3, 2014 related to the presumptive raid of armed persons in the home of Nicolas Mendoza. On this regard, they indicate that around 2 am two vehicles with six armed persons arrived at his home. These men allegedly forced the door of the house and after seeing that nobody was inside, they left. The proposed beneficiary, his wife and two children were not at their home because three days earlier, they had to change residence.

III. ANALISIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY AND IRREPARABLE HARM

17. The precautionary measures mechanism is part of the Commission's function to monitor compliance with the human rights obligations set forth in article 106 of the Charter of the Organization of American States. These general monitoring functions are provided for in article 41 (b) of the American Convention on Human Rights and in article 18 (b) of the IACHR's Statute, and the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. Pursuant to this Article, the Commission grants precautionary measures in situations of gravity and urgency, in which such measures are necessary to prevent irreparable harm to the person.

18. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter 'the Inter-American Court' or 'I/A Court H.R.')

have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding the protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding the precautionary nature, the measures have the purpose of preserving a legal situation while being considered by the IACHR. The 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 usual purpose (*effect 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 Procedures, 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.

19. In the instant case, the Commission estimates that the requirement of seriousness has met given the alleged constant followings and harassments that Mrs. Sofia Mendoza, Nicolas Mendoza Villa and their families would be facing. Especially, the information provided suggests that Sofia Mendoza and Nicolas Mendoza, in their capacity as complainant and witnesses- related to the alleged disappearance of three persons occurred on May 30, 2013 in the city of Iguala, state of Guerrero-, are being object of a series of retaliations and intimidation. On these circumstances, the applicants alleged that the presumptive aggressors would know the address of Mrs. Sofia Mendoza and that Mr. Nicolas Mendoza Villa was forced to move eight times due to the alleged situations of risk.

20. In the context of analysis of this matter, the Commission notes that the information provided by the applicants would be consistent with general information that the IACHR has received about a series of alleged acts of violence that had occurred in the city of Iguala, state of Guerrero. In particular, through the granting of precautionary measures regarding to 43 students of the rural school "Raul Isidro Burgos", the Commission has knowledge of a context of alleged human rights violations in which high-profile authorities of the city of Iguala had allegedly intervened. In the context of the completion of the 153rd Session of the Commission, the Commission has also been informed of the arrest of the Mayor of the city, who applicants had identified as possible responsible for several facts underlying this matter.

21. Taking under consideration the information provided and the context in which it was presented, the Commission considers that prima facie the rights to life and personal integrity of Sofia Mendoza, Nicolas Mendoza Villa and their families would be in a situation of risk.

22. Regarding to the requirement of urgency, the IACHR considers that it has met in the view of the fact that the situation of risk of Sofia Mendoza, Nicolas Mendoza Villa and their families has increased over time, especially, before the continuous followings that they have experienced in the last weeks. In these circumstances, the Commission takes note of the protective measures that the State has implemented regarding to: i) the alleged implementation of a series of patrols that had been implemented in the home of Sofia Mendoza; ii) the alleged granting of emergency phone numbers; iii) the granting for precautionary measures at the domestic level by the Committee for the Defense of Human Rights of the state of Guerrero;

iv) the granting of bodyguards to Sofia Mendoza; among other measures. However, the Commission notes that the State has not provided information on the alleged shortcomings of the protection schemes that the applicants would be claiming, the specific protective measures that they would be providing to Mr. Nicolas Mendoza Villa and the progress on the investigations regarding the facts that led to this proceeding.

23. In this scenario, the Commission considers that to the date the State has not established the possible effectiveness of the implemented measures, with the purpose of providing in favor of Sofia Mendoza, Nicolas Mendoza Villa and their families a framework of effective protection, taking under consideration their participation as complainant and witness, and the nature of the legal proceedings in which they intervene and the context in which the alleged facts occurred. On this regard, the Commission considers that possible absence of adequate and effective measures on this matter are elements that suggest that the persons mentioned above may be in a situation of vulnerability.

24. Regarding the requirement of irreparability, the Commission believes that it is met, to the extent that the possible risk to the right to life and personal integrity embodies the highest situation of irreparability.

VI. BENEFICIARIES

25. The request was presented in favor of Sofia Lorena Mendoza Martinez and her two children, fully identified in the documents, and also, Nicolas Mendoza Villa, his partner and his two sons.

VII. DECISION

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

- a) Adopt the necessary measures preserve the life and personal integrity of Sofia Lorena Mendoza Martinez and her family, Nicolas Mendoza Villa, his wife and his two sons;
- b) To consult with the beneficiaries and their representatives on actions to be taken to implement these measures; and
- c) To report on the actions taken to investigate the facts that led to the adoption of the present precautionary measures and thus prevent possible replication.

27. The Commission requests the Government of Mexico to inform the IACHR, within 15 days from the date of this resolution, on the adoption of the precautionary measures requested and update such information regularly.

28. 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 prejudgment on any possible violation of the rights protected in the American Convention on Human Right or other applicable instruments.

29. The Commission orders the Executive Secretariat of the Inter-American Commission on Human Rights to notify the State of Mexico and the applicants of this resolution.

30. Approved on the 1 day of December, 2014 by: Tracy Robinson, President; Rose Marie Belle Antoine, First Vice-President; Felipe González, Second Vice-President; Commissioners Rosa María Ortiz, James Cavallaro and Paulo Vannuchi.