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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 89/2021**

Precautionary Measure No. 485-11  
“X” regarding Mexico<sup>1</sup>  
November 15, 2021  
Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of “X” regarding the State of Mexico. When adopting this decision, the Commission takes into account that the State carried out an investigation into the disappearance of “X,” as a result of which it determined that “X” had never been missing. The representation continued to question what was reported by the State; however, the Commission did not identify sufficient elements to disprove what was indicated by the State. In any event, given that approximately 10 years have elapsed since the purported disappearance, the Commission considered that the allegations concerning the analysis of the actions undertaken in the investigation should be assessed in the petition and case system.

**II. BACKGROUND INFORMATION**

2. On May 8, 2012, the IACHR granted precautionary measures in favor of girl “X,” in Mexico. The request for precautionary measures alleged that on July 17, 2011, approximately at 1 a.m., a group of 15 armed police officers and paramilitaries entered the house of the family of “X,” in the state of Chiapas. The request further alleged that the father of the family was not present, and that the mother tried to wake up their four children, but “X” did not wake up in time and the mother escaped with the other three children. The whereabouts of girl “X” were undetermined. The IACHR requested that the State of Mexico immediately adopt the necessary measures to determine the situation and whereabouts of girl “X” in order to protect her life and personal integrity, as well as inform on the actions taken to investigate the facts that led to the adoption of these precautionary measures.<sup>2</sup>

**III. INFORMATION PROVIDED DURING THE TIME THE MEASURES WERE IN FORCE**

3. Throughout the time the precautionary measures have been in force, the Commission has followed-up on the situation that is the subject matter of these measures through the request of information from the parties. On June 6, 2012, the State furnished its report, which was forwarded to the beneficiary’s representation on July 27, 2012. On August 15, 2012, the representation presented its report. On August 24, 2012, the Commission requested updated information from the parties. Upon a timeline extension was requested, on September 7, 2012, the Commission granted a time extension to the representatives and reiterated to the State the request for information made on August 24, 2021. On September 12, 2012, the representation sent a report. On September 18, 2012, the Commission again requested updated information from the State.

4. On April 1, 2013, the Commission requested that the State provide updated information. On April 25, 2013, the State provided a report and requested that the precautionary measures be lifted. On May 15, 2013, the Commission sent the report to the representation and requested its observations. On June 5,

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<sup>1</sup> In accordance with Article 17(2)(a) of the IACHR Rules of Procedure, Commissioner Joel Hernández García, a Mexican national, did not participate in the debate and deliberation of this matter.

<sup>2</sup> IACHR. Precautionary Measures 2012. Available at <https://www.oas.org/es/cidh/decisiones/MC/cautelares.asp?Year=2012&Country=MEX>

2013, the Commission granted a time extension to the representation, which presented their response on June 10, 2013. On June 14, 2013, the Commission requested updated information from the parties. On June 20, 2013, the representation provided additional information. On June 28, 2013, the Commission reiterated its request for information to the State. On August 1, 2013, the State provided a report whereby it requested the lifting of the precautionary measures. On August 9, 2013, the Commission requested that the parties submit updated information. On August 22, 2013, the representation presented additional information. The Commission held a working meeting on October 30, 2013. On November 8, 2013, the State presented additional information.

5. On March 7, 2014, the Commission asked the representation to provide updated information on the beneficiary's situation. On April 24, 2014, the representation presented a report. On September 22, 2014, the Commission forwarded the information to the State and requested updated information on the beneficiary's situation. On November 11, 2014, the State submitted a report and requested that the precautionary measures be lifted. On April 21, 2015, the Commission forwarded the State's response to the representation. On June 3, 2015, the representation presented a report. On September 22, 2015, the Commission requested additional information from the representation. On October 20, 2015, the representation contacted the Commission. On October 29, 2015, the Commission asked the representation for specific information on the beneficiary. On December 10, 2015, the representation provided the information. On December 17, 2015, the Commission forwarded it to the State and requested that it provide updated information.

6. On October 18, 2016, the State submitted a report and requested that the precautionary measures be lifted. On May 1, 2017, the Commission asked the representation for its observations. The Commission received no response from it. On July 27, 2021, the Commission requested that the representation provide updated information on the beneficiary's situation so that "the IACHR can assess the relevance of keeping the precautionary measures in force." The representation did not submit a detailed and specific response to the request made by the IACHR, it only requested that a new email to the representation be included in this matter.

#### **A. Information provided by the State**

7. The State considered that it had complied with what was indicated by the IACHR. On June 6, 2012, the State reported as follows:

- (i) On July 18, 2011, the Public Ministry of the state of Chiapas initiated Administrative Act 326/IN95-T1/2011 for the possible criminal acts reported in the request for precautionary measures.
- (ii) It was ordered that the Regional Commander of the Specialized Police undertake the investigation into the facts and the search and location of the beneficiary, girl "X."
- (iii) It was requested that a peaceful solution be sought for the release of the girl.
- (iv) On July 21, 2011, testimony was obtained from the mother of girl "X."
- (v) On July 26, 2021, according to the beneficiary's mother, testimony was taken from the two persons proposed as witnesses.
- (vi) On December 10, 2011, the beneficiary's mother stated that she had seen her, and therefore, the pertinent actions were taken to verify that the information was real.
- (vii) On December 27, 2011, Administrative Act 326/IN95-T1/2011 was upgraded to the rank of Preliminary Inquiry 240/IN95-T1/2011 for the crime of deprivation of liberty and those resulting in injury to the beneficiary.
- (viii) The Secretary of Security and Citizen Protection stated that on the day of the events no officer was in the area.

- (ix) Flyers with the physical characteristics of girl "X" were pasted and distributed.
- (x) On February 4, 2012, Messrs. P.J.P. and M.P.H. testified before the Public Ministry stating that girl "X" was not missing, that it was most likely that she was with her maternal grandparents, and that the disappearance is something the girl's parents made up to harm the *ejido* authorities.
- (xi) Mr. A.G.S. indicated that on February 4, 2012, he had seen girl "X" with a girl of approximately 18 years of age, S.S.G., boarding the bus line "*Volcán del Tercer Milenio*."
- (xii) On April 17, 2012, the names of the officers stationed in the area were requested so that they testify on the potential illegal deprivation of liberty of girl "X." It was also ordered that interviews be carried out with the drivers of the bus line "*Volcán del Tercer Milenio*" to identify the driver of the bus that S.S. and the girl with the characteristics of girl "X" boarded.
- (xiii) On April 17, 2012, it was ordered that the officers be instructed so that actions to locate girl "X" would be carried out at each military or police checkpoint.  
The Ejido Commissariat stated that the family of girl "X" has had problems with the authorities of the Ejido due to a land problem, given that the land where they live is of common use for the Ejido and they believe that the authorities are going to evict them.

8. Regarding the situation of displacement, the State indicated that the information had not been taken into account because it was not included in the request for precautionary measures. Similarly, in the investigation into the whereabouts of girl "X," there are no sufficient indications to conclude that organized violence groups participated.

9. On April 25, 2013, the State furnished a report stating that the investigation carried out had enabled it to conclude that the girl was never missing and that she was under her parents' care all this time. On March 20, 2013, an inspection was carried out at the school of girl "X," which revealed that girl "X" was studying the sixth grade in a regular way and that she has lived with her parents in her maternal grandparents' house for about four years. It was reported that the beneficiary's mother was summoned on April 9 and 11, 2013, to notify her of the findings, but she did not appear on either occasion. As she did not appear, the beneficiary's father was notified, but he did not want to receive the information either. Because of the findings, the State decided not to undertake any criminal action derived from Preliminary Inquiry 240/IN95-T1/2011, given that the crime of forced disappearance was never established.

10. On August 1, 2013, the State submitted a report whereby it reiterated that it had been proven that girl "X" was never missing. It was stated that they took photos of the girl they found on March 20, 2013, and that by means of a physiognomy and forensic photography expert report dated March 22, 2013, it was concluded that it was girl "X." On November 8, 2013, the State presented a report stating that the father of girl "X" went to collect her report card, and therefore, they requested that the girl's father appear to testify on his daughter's disappearance. On November 11, 2014, the State sent a report in which it asserts that it has a recording in which the girl's father went to claim the final grades for her school year, that the said report card is sufficient to conclude that the girl was not missing because it is not possible for the Mexican State to deliver a final report card if the girl did not attend classes the year in question. They also state that on July 2, 2014, Preliminary Inquiry Previa 240/IN95-T1/2011 was placed in final file. The last meeting was held in June 2014 to notify the beneficiary's mother of the closure of the investigation.

11. The State reported that the mother of girl "X" and the representation were duly notified of "the issuance of the authorization agreement for the non-exercise of the criminal action within the corresponding investigation," that they did not bring any action against the aforementioned determination within the legal term available to them, and that consequently, it was sent to final file on July 2, 2014. The ruling was duly supported by diligence and records that work within the investigation,

such as inspection of the place, directly from forensic physiognomy, records of studies issued by official educational authorities, statements, among others. The State indicated that as a result of the investigation launched into the alleged facts, the investigating authority did not consider it feasible for the girl to be physically present. This, given that the beneficiary's safety had been weighed because it was likely to generate conflict with the indigenous community to which she belongs.

## **B. Information provided by the representation**

12. On August 15, 2012, the representation provided a report stating that the authorities were confusing girl "X" with her sister who is in the custody of her parents. They reported that it is true that there is an investigation to find the whereabouts of girl "X," but they criticize the lack of speed given that the events occurred in 2011 and the whereabouts of girl "X" are still unknown. The representation also reported that the family of girl "X" is part of seven families displaced in the context of an "armed conflict" in 1997.

13. On June 10, 2013, the representation presented a report affirming that they had interviewed the principal of the school of girl "X" and he had indicated that the girl is indeed enrolled in the institution; however, her teacher reports that the girl had been absent approximately 20 days before June 5, 2013, that is, when the visit to the school took place. The representation indicated that the information provided by the State does not imply that the girl has never disappeared, nor that she is in the custody of her parents, because they continue to argue that the girl is missing. On June 20, 2013, the representation reported that the beneficiary's parents did not recognize the photo that the State presented as if it were girl "X" and that the girl is not in their custody since July 17, 2011. On August 22, 2013, the representation considered that the testimonies of the school principal and the girl's teacher are not sufficient to conclude that the crime of illegal deprivation of liberty was never established. Regarding the photograph, the family considered that the State may be confusing girl "X" with her sister who is a year younger and studied at the same school. They stated that on May 2, 2013, an appeal for review was filed due to the decision not to exercise criminal action derived from Preliminary Inquiry 240/IN95-T1/2011. On July 2, 2013, the Office of the Special Prosecutor for Legal Regulations revoked the decision not to exercise criminal action because they considered that the decision was unfounded.

14. On June 3, 2015, the representation indicated that although the video descriptions mention the girl's father, they considered that his presence at the school does not prove that girl "X" was with her father or in his custody. On October 20, 2015, the representation told the Commission that it was having problems communicating with the beneficiary's family. On December 10, 2015, the representation reported that girl "X" is still missing, and that from the "close up" of the girl who appears on the 2012-2013 report card that is purportedly visible in the video, it is not possible to identify girl "X." Lastly, between 2014 and 2015, the representation initially indicated that in 2014 the parents went to carry out activities in the school's education committee, where a gift was given to the students after signing a document. The parents reportedly indicated that the name of girl "X" was written on a large box. Subsequently, the representation indicated that girl "X" was not attending the mentioned school.

## **IV. ANALYSIS OF THE REQUIREMENTS OF URGENCY, SERIOUSNESS, AND IRREPARABLE HARM**

15. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in the Charter of the Organization of American States, and in the case of the Member States that have not yet ratified the American Convention, the Declaration of the Rights and Duties of Man. These general oversight functions are established in Article

18 of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with this Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

16. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that the precautionary and provisional measures have a double nature, both precautionary and protective. Regarding their protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are under consideration by the IACHR. In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a) “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b) “urgent situation” refers to risk of 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.

17. With respect to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that “decisions granting, extending, modifying, or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) establishes that “the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures still persist. Moreover, the Commission should consider if new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

18. In analyzing the matter at hand, the Commission recalls that while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation.<sup>3</sup> In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.<sup>4</sup> The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures.<sup>5</sup> By the same token, the Commission recalls that when a State requests the lifting of a precautionary measure, it must present sufficient evidence and arguments to support its request.<sup>6</sup> The representatives of the beneficiaries that want the measures to remain in force must present evidence of any reasons for this end.<sup>7</sup>

19. Considering the foregoing, the Commission recalls that the precautionary measures were granted in 2012 in light of the available information, which indicated that the whereabouts of beneficiary “X,” who was allegedly missing since July 17, 2011, were unknown (see *supra* para. 2). In this sense, these precautionary measures focused solely on the situation of beneficiary “X.” Therefore, the Commission will

<sup>3</sup> I/A Court H.R., Provisional Measures regarding Mexico, Order of February 7, 2017, paras. 16 and 17. Available [in Spanish] at [http://www.corteidh.or.cr/docs/medidas/fernandez\\_se\\_08.pdf](http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf)

<sup>4</sup> Ibid.

<sup>5</sup> Ibid.

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

not consider the allegations referring to the situation of displacement of various families, who are not beneficiaries in the proceeding at hand (see *supra* para. 19). Although they are not beneficiaries, the Commission recalls that the State maintains its international obligations established in the American Convention in their favor, regardless of the granting of precautionary measures in their favor.

20. Upon having granted the precautionary measures in 2012, the Commission notes that approximately nine years have gone by since they have been in force. The Commission observes that during that period the State responded to the requests for information made and reported on the actions taken in the framework of the investigation launched to find the whereabouts of girl “X” and determine those responsible (see *supra* para. 7). The Commission values the detailed information provided by the State over time. The Commission underscores that the State indicated that, as a result of the investigations carried out, the following determinations were made by the competent entities of the country’s judiciary:

- No sufficient elements were found to conclude that the girl was missing.
- The girl was at all times under the care of her parents.
- After an inspection of the girl’s school in 2013, it was found that she was enrolled in sixth grade.
- In 2013, it was found that the girl lived with her parents in her maternal grandparents’ house, for the last four years.
- A video was reported in which the father went to the school for his daughter’s report card, which showed that she attended the school in a period of time in which she was allegedly missing.
- Despite having summoned the mother and father in 2013, they purportedly did not attend or did not want to receive information on the results of the investigation.
- Upon notifying the representation that the investigation was to be filed, no appeal was lodged within the legal term and the investigation was sent to “definitive file” in 2014 (see *supra* paras. 7-11).

21. Such elements are relevant for the purposes of analyzing whether this matter should remain in force, particularly in the face of the State’s request to lift the measures, which has been reiterated four times between 2013 and 2016 (see *supra* paras. 4-6). Upon requesting that the representation provide its observations on what was reported by the State and on the request to lift the measures (see *supra* paras. 4-6), the Commission observes that the representation questioned the investigations and indicated, in a general way, that girl “X” continued to be missing. However, the Commission notes certain inconsistencies in the allegations presented by the representation. Thus, the Commission observes that the representation reported that: (i) in 2013, the principal of the school of girl “X” indicated that the girl was enrolled for that year, that is, two years into her alleged disappearance (see *supra* para. 13); (ii) an appeal for review was filed in 2013 regarding the investigation into the disappearance of girl “X” (see *supra* para. 13), but no additional information or elements were brought after being notified of the “final file” of the matter; and (iii) although they generally questioned certain scopes of the video in which the father attends to collect a report card of girl “X,” no elements are furnished to explain why, between 2014 and 2015, contradictory elements were provided. For instance, they initially indicated that the parents had attended the school and there was a box with the name of girl “X” for the delivery of gifts; however, they later indicated in a general way that girl “X” was not attending the aforementioned school, without providing further details (see *supra* para. 14). Even though the Commission once again requested information from the representation in 2021, and informed the latter that it would analyze whether these precautionary measures should remain in force, it is noted that no response or additional information was provided to be analyzed under the terms of Article 25 of the Rules of Procedure (see *supra* para. 6), while the last communication with relevant information from the representation dates from 2015, this is, approximately six years ago (see *supra* para. 5). Similarly, Article 25, subparagraph 11 of the Rules of Procedure sets forth that the Commission may lift or review a precautionary measure when the

beneficiaries or their representatives unjustifiably fail to provide the Commission with a satisfactory response to the requests made by the State for its implementation.

22. Given the above situation and the assessments made based on the information provided by the parties, the Commission notes that the factual framework has changed significantly. At the time of making this determination, the Commission recalls that, in the lifting resolutions in the matters of *Luis Alberto Sabando Veliz regarding Ecuador* in 2021<sup>8</sup> and *José Fernando Choto Choto et al. regarding El Salvador* in 2021,<sup>9</sup> it followed what was indicated by the Inter-American Court in the order to lift the *Matter of Almonte Herrera in the Dominican Republic* of 2015.<sup>10</sup> In this regard, both the Commission and the Inter-American Court have indicated, when analyzing whether international protection measures in favor of disappeared persons should remain in force, that such measures have an exceptional nature and refer to a specific temporary situation so that, by their own nature, cannot be perpetuated indefinitely in time, while the allegations about challenges to open investigations should be assessed in a petition or case, should the regulatory prerequisites for it be given.

23. Based on the foregoing, the Commission values that, upon granting the precautionary measures, the State launched an investigation that determined that girl “X” was not missing, a situation that led to the granting of the precautionary measures in 2012. In the same way, in this procedure, the information presented by the representation is not sufficient to disprove the information reported by the State. In any case, given that in this procedure the information is analyzed under a *prima facie* standard and in consideration of the principle of subsidiarity and complementarity of the inter-American system, the representation may make the questions on the merits that it deems pertinent at the domestic level, and eventually before the inter-American system. In the event that the representation considers that girl “X” continues to be missing, and taking into account that approximately 10 years have elapsed since the alleged disappearance in 2011, the Commission considers that it would be appropriate to assess the actions adopted by the State within the framework of the petition and case system, and not in the precautionary measures mechanism.

24. Based on the analysis carried out, and in view of the State’s repeated request to lift the measures, the Commission understands that the factual circumstances that motivated the granting of these precautionary measures have changed significantly. Thus, the Commission considers that, according to the information available, at present, there is no situation that would support compliance with the requirements of Article 25 of the Rules of Procedure. In view of the above, and taking into account the exceptional and temporary nature of precautionary measures,<sup>11</sup> the Commission deems it appropriate to lift these precautionary measures.

## **V. DECISION**

25. The Commission decides to lift the precautionary measures granted in favor of the girl “X,” in Mexico.

<sup>8</sup> IACHR, Matter of Luis Alberto Sabando Veliz regarding Ecuador. Resolution to lift precautionary measures 2/2021. Precautionary Measure No. 1002-04. Available [in Spanish] at [https://www.oas.org/es/cidh/decisiones/mc/2021/res\\_2-21\\_mc\\_1002-04\\_ec\\_es.pdf](https://www.oas.org/es/cidh/decisiones/mc/2021/res_2-21_mc_1002-04_ec_es.pdf)

<sup>9</sup> IACHR, Matter of José Fernando Choto Choto *et al.* regarding El Salvador. Resolution to lift precautionary measures 13/2021. Precautionary Measure No. 240-15. Available [in Spanish] at [https://www.oas.org/es/cidh/decisiones/pdf/2021/res\\_13-2021\\_mc-240-15\\_es\\_1.pdf](https://www.oas.org/es/cidh/decisiones/pdf/2021/res_13-2021_mc-240-15_es_1.pdf)

<sup>10</sup> I/A Court H.R., Matter of Juan Almonte Herrera *et al.* Provisional measures regarding the Dominican Republic. Order of the Court of November 13, 2015. Available [in Spanish] at [https://www.corteidh.or.cr/docs/medidas/almonte\\_se\\_04.pdf](https://www.corteidh.or.cr/docs/medidas/almonte_se_04.pdf)

<sup>11</sup> I/A Court H.R., Matter of Adrián Meléndez Quijano *et al.* Provisional Measures regarding El Salvador. Order of the Court of August 21, 2013, para. 22, and Matter of Galdámez Álvarez *et al.* Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of November 23, 2016, para. 24

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26. The Commission emphasizes that regardless of the lifting of these measures, in accordance with Article 1(1) of the American Convention, it is the obligation of the State of Mexico to respect and guarantee the rights recognized therein, including the life and personal integrity of girl “X.”

27. The Commission instructs its Executive Secretariat to notify this resolution to the State of Mexico and to the representation.

28. Approved on November 15, 2021, by Antonia Urrejola Noguera, President; Julissa Mantilla Falcón, First Vice-President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay; and Esmeralda Arosemena de Troitiño; members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary