
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 6/2020**

Precautionary Measure No. 254-10
Leiderman Ortiz Berrio regarding Colombia¹
February 3, 2022
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Leiderman Ortiz Berrio in Colombia. At the time of making the decision, the Commission evaluated the actions taken by the State during implementation as well as the observations of the beneficiary' representation. Upon having forwarded several times information between the parties, the representation stopped providing information since 2015. Following the State's request to have the measures lifted in 2021, the representation responded and agreed with the State, considering that the beneficiary died for reasons related to COVID-19. Upon not identifying compliance with the procedural requirements, the IACHR decided to lift these measures.

II. BACKGROUND INFORMATION

2. On August 20, 2010, the IACHR granted precautionary measures for Leiderman Ortiz Berrio, in Colombia. The representation is Luis Felipe Viveros Montoya, from the Human Rights Legal Center. The request alleged that journalist Leiderman Ortiz Berrio was the victim of a series of attacks, presumably for carrying out journalistic reports on illegal gangs. An attack was reported on May 20, 2010, with the explosion of a grenade in his house in the municipality of Caucasia, department of Antioquia, in Colombia. Upon analyzing the submissions of fact and law, the Commission decided to adopt precautionary measures. In this regard, it requested that the State of Colombia: a) adopt the necessary measures to safeguard the life and personal integrity of Leiderman Ortiz Berrio; b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and c) report on the actions taken to prevent the occurrence of new acts of violence or intimidation against the beneficiary.²

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 this resolution through the request for information from the parties. On September 7 and 30, 2010, the representation presented a report. On October 21, 2010, the Commission forwarded the information to the State for its observations. On December 3, 2010, the representation presented a report. On June 13, 2011, the State presented a report. On June 30, 2011, the Commission asked the parties to submit updated information. On July 19, 2011, the State submitted a response. On January 5, 2012, the Commission forwarded the State's response to the representation. On October 2, 2012, the representation presented a report. On October 24, 2012, the Commission forwarded the information to the State. On October 31, 2013, the Commission asked the State to present updated information. On October 4, 2014, the representation presented a report. On November 14, 2014, the Commission forwarded the information provided by the representative to the State. On

¹ Pursuant to Article 17(2) of the IACHR Rules of Procedure, Commissioner Carlos Bernal Pulido, a Colombian national, did not participate in the debate and deliberation of this matter.

² IACHR. Precautionary measures 2010. Available at <https://www.oas.org/es/CIDH/decisiones/MC/cautelares.asp?Year=2010&Country=COL>

December 1, 2014, the State presented a report. On March 4, 2015, the representation presented a report. On April 2, 2015, the Commission forwarded information. On April 28, 2015, the State submitted a response. On January 4, 2016, the Commission forwarded the State's response to the representation. On November 1, 2016, the State sent a report. On March 28, 2017, the Commission forwarded the State's response to the representation. On November 30 and December 7, 2021, the State requested that the precautionary measures be lifted. On January 12, 2022, the Commission asked the representative for his observations. On January 19, 2022, the representation presented a report.

A. Information provided by the State

4. On June 13, 2011, the State reported that two investigations were being carried out regarding the alleged facts, one into the alleged crime of terrorism and the other one for the crime of threats. On July 19, 2011, the State stated that: (i) protection measures were adopted through the Program for the Protection of Journalists of the Ministry of the Interior and Justice, consisting of: a regular vehicle, two security escort units, three bulletproof vests, weapons, and three Avantel communication devices; (ii) since 2010, the Police assigned the oldest non-commissioned officer of the Caucasia Police Station as Police Godfather, in order to maintain constant communication between the beneficiary and the institution; (iii) since May 25, 2010, a security front was established in the neighborhood of Mr. Ortiz Berrío with 21 members, in addition, police reviews are carried out in the sector of the beneficiary's home; (iv) training was provided on the subject of precautionary measures to the personnel in charge of the beneficiary's security; (v) the beneficiary expressed his gratitude to the National Police for their accompaniment, stressing the work that the commanders have carried out to protect him; and (vi) the Office of the Attorney General of the Nation conducted three inquiries at the investigation stage for the alleged crimes of threats and terrorism.

5. On December 1, 2014, the State reported that: (i) the risk assessments are carried out by a specialized group that prepares a technical study, and issues a recommendation to the Committee for Risk Assessment and Recommendation of Measures (CERREM), which shows that a serious and exhaustive process is carried out to assess the risk; (ii) a consultation meeting was held on January 30, 2014, in which the representation stated their intention to participate in a CERREM meeting to learn how risk assessments are carried out. In this sense, it was reported that the representation was invited to the CERREM session on September 25; (iii) at the meeting of January 30, 2014, the National Protection Unit (UNP) undertook to carry out the necessary procedures to repair the surveillance camera installed outside the beneficiary's home; (iv) on October 20 and November 24, 2014, CERREM sessions were held in which it was recommended to grant another man to the beneficiary's protection detail. In this sense, the protection detail was made up of three security escorts, an armored vehicle, a communication device, and a bulletproof vest; (v) the National Police carried out preventive police rounds and reviews of the beneficiary's home and place of work. In addition, the beneficiary was given emergency numbers so that he can communicate with the Coordination Office of Human Rights in the event of any emergency; and (vi) the investigation into the crime of terrorism was at the investigation stage. The other investigation, into the crime of threats, was filed. It was indicated that there were three other investigations at the evidence taking stage.

6. On April 28, 2015, the State upheld that: (i) it was reported that due to Circular letter 001 of May 30, 2013 and Circular letter 004 of July 2013, access to the security escort recommendation made by the beneficiaries was prohibited; (ii) the beneficiary had protection measures consisting of three protection men, a bulletproof vest, a communication device, and an armored vehicle (approved by CERREM on September 25, 2014); and (iii) the National Police handed out self-protection cards, helped journalists to fill out registration forms for the protection and prevention program, undertook activities to clarify the threats made against journalists, and carried out police rounds of the beneficiary's workplace and home.

7. On November 1, 2016, the State reported that: (i) it had 9 investigations into the crime of threats; (ii) on July 21, 2016, a follow-up meeting was held with the beneficiary. At that meeting, the beneficiary reported that on July 13, 2016, unknown men traveling on a motorcycle knocked on his door, and that “an informant” had told him that 150 million pesos had been offered to assassinate him. At the same meeting, the UNP reported that the beneficiary had an armored vehicle, escorted with equipment and armor, and a video intercom at his residence; (iii) the UNP undertook to maintain the video intercom in the beneficiary’s residence and conduct a risk assessment on the beneficiary to determine whether his security detail needed to be reinforced; (iv) a statement was issued on September 1, 2016, in which the National Police was asked to create spaces for communication with the beneficiary. It was agreed with the beneficiary to carry out inspections and police rounds at his home, and a police officer was established as a liaison in favor of the beneficiary; and (v) the necessary actions allegedly continued in order to clarify the facts alleged against the beneficiary.

8. Finally, on November 30 and December 7, 2021, the State requested that the precautionary measures be lifted. The State reported the beneficiary’s death due to complications derived from COVID-19.

B. Information provided by the representation

9. On September 7, 2010, the representation reported that: (i) on August 8, 2010, the National Police captured several paramilitaries accused of belonging to the “Los Paisas” gang, including Abraham David Lozano Vides. They reported that when Mr. Lozano contacted the patrolman who provides protection services to the beneficiary, to inform him that he received an order from alias “Sebastián” –head of the “Los Paisas” gang– to assassinate the beneficiary. Mr. Lozano reported that the day before his capture he was a few meters from Leiderman to shoot him, but he was unable to do so due to the police presence; (ii) the existence of a wave of violence in the municipality of Cauca; and (iii) on September 2, 2010, a consultation meeting was held, and the State undertook to arrange a security detail in favor of the beneficiary. Additionally, it undertook to send a circular letter to inform the police force of the municipality of Cauca of the scope of the precautionary measures in favor of the beneficiary and to carry out a broadcast program to raise awareness of freedom of the press.

10. On September 30, 2010, the representation stated that: (i) CERREM carried out a risk assessment, considering it “extraordinary.” On September 9, 2010, it determined to assign a security detail in favor of the beneficiary consisting of an ordinary vehicle and two security escorts. It was indicated that this security detail was not implemented due to delays in hiring; and (ii) on September 10, 2010, they reportedly requested to be able to participate in the CERREM meetings as special guests. On December 3, 2010, the representation informed that: (i) the security detail has not been implemented; (ii) on September 28, 2010, the Colombian Federation of Journalists requested that a consultation meeting be held; (iii) the meeting was held on November 25, 2010. The beneficiary reported that he did not have trusted security escorts to propose and, in this sense, stated that he accepted the security escorts proposed by the protection program as long as these protection escorts were not from the “risk region,” that is, the lower Cauca region and the department of Córdoba; (iv) on November 29, 2010, the beneficiary indicated, based on an email, that a “Lieutenant Parra” allegedly collaborates with illegal groups and reportedly requested the murder of Mr. Ortiz Berrio. It was alleged that “Lieutenant Parra” was in charge of the Cauca Police Station, to which the two patrolmen who provided transitory security to the beneficiary were linked; (v) on December 1, 2010, the beneficiary informed the Colonel of the suspicions against the lieutenant, who promised to initiate the corresponding disciplinary investigation; and (vi) on December 2, 2010, “Lieutenant Parra” reprimanded the beneficiary’s protection escorts about the content of the mail, stating that it was not true.

11. On October 2, 2012, the representative stated that on September 27, 2012, he received a phone call informing him that the illegal group “Urabeños” had ordered to assassinate the beneficiary. In this sense, the beneficiary requested that an armored vehicle be provided for his security detail. On October 4, 2014, the representation reported that the criminal organization “Los Rastrojos” circulated a pamphlet in which it notified “a pistol plan” against various social leaders in the country, among whom the beneficiary is mentioned as the agitational journalist from Caucasia. The way in which risk assessments are carried out internally was questioned. On March 4, 2015, the representation denounced that the UNP contractor, SEVICOL, was not complying with its obligations. The beneficiary contacted the UNP on February 10, 2015, to report three assassination attempts against him, two grenade attempts, and five threats. The beneficiary reported that he has three security escort units, armor at his home, an armored vehicle, a cell phone, and a bulletproof vest.

12. Finally, on January 19, 2022, the representation confirmed the death of the beneficiary of the precautionary measures, and in this sense, they agreed with the lifting of the precautionary measures. Similarly, the representation indicated that they could eventually file a new request for precautionary measures in favor of the beneficiary’s family if the risk is reactivated.

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

13. The precautionary measures mechanism is part of the Commission’s function of overseeing 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 established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission’s Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

14. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a dual nature, protective and precautionary.³ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.⁴ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.⁵ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. The precautionary nature aims at safeguarding the rights at risk until the petition pending before the inter-American system

³ See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional Measures, Order of July 6, 2009, considerandum 16.

⁴ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

⁵ See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6 [only in Spanish].

is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

15. With respect to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that “the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth 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 if the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider whether new situations have subsequently arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

16. Similarly, 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.⁶ In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.⁷ 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.⁸

17. In the instant matter, the Commission recalls that the precautionary measures were granted in 2010 in favor of Leiderman Ortiz Berrio, who was allegedly the victim of a series of attacks, presumably for carrying out journalistic reports on illegal gangs. During the Commission’s follow-up, the State submitted reports, responding to the Commission’s request. Thus, the Commission observes that the State referred to the following measures:

- (i) The adoption of security measures in favor of the beneficiary consisting of an armored vehicle, security escorts with weapons and armor, and a video intercom at the residence of the beneficiary, as well as carrying out inspections and police patrols at the beneficiary’s home (see *supra* para. 7).
- (ii) The holding of coordination meetings between the state authorities, the representation, and the beneficiary, on September 2, 2010 (see *supra* para. 9), on November 25, 2010 (see *supra* para. 10), on January 30, 2014 (see *supra* para. 5), and on July 21, 2016 (see *supra* para. 7).

⁶ 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

⁷ *Ibid.*

⁸ *Ibid.*

- (iii) The existence of various investigations in which the beneficiary is registered as a victim, investigations that have the purpose of clarifying the acts of threat against the beneficiary (see *supra* para. 7).

18. The Commission notes that, over time, the representation confirmed the implementation of certain protection measures. In the same way, it warned about certain events that it considered threatening. However, the Commission observes that the representation stopped submitting information until March 2015. Even though the Commission requested information on April 2, 2015, January 4, 2016, and March 28, 2017, the representation did not send a response in a period of approximately 7 years. Following the State's request on November 30 and December 7, 2021, whereby it requested the lifting of these precautionary measures, the representation responded on January 19, 2022, and indicated that they agreed with the request considering the beneficiary's death for reasons related to COVID-19. Given that the parties agree on the lifting of these precautionary measures, as well as in view of the beneficiary's death, the Commission considers that it does not have assessment elements to identify a situation presenting a risk in the terms of Article 25 of its Rules of Procedure.

19. Regarding the beneficiary's family, the Commission notes that, while the precautionary measures were in force, the parties focused on the situation of Mr. Leiderman Ortiz Berrio and no recent elements of individualized assessment were provided regarding members of his family. In this sense, the Commission also does not have assessment elements in the terms of Article 25 of its Rules of Procedure.

20. In this vein, taking into account the agreement to lift the precautionary measures and given the beneficiary's death, the Commission understands that the factual circumstances that called for the granting of these precautionary measures have changed significantly. In view of the above and taking into account the exceptional and temporary nature of precautionary measures,⁹ the Commission deems it appropriate to lift these measures.

V. DECISION

21. The Commission decides to lift the precautionary measures granted in favor of Leiderman Ortiz Berrio, in Colombia.

22. The Commission recalls that the lifting of these measures does not prevent the representation from filing a new request for precautionary measures in case they consider that there exists a situation that meets the requirements established in Article 25 of the Rules of Procedure. In this sense, if it is considered that Mr. Ortiz's family is in a situation provided for in Article 25, the representation may file a request for precautionary measures, which will be analyzed in the terms of Article 25 of the Rules of Procedure.

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

24. Approved on February 3, 2022, by Julissa Mantilla Falcón, President; Margarette May Macaulay, First Vice-President; Esmeralda Arosemena de Troitiño, Second Vice-President; Joel Hernández García; Edgar Stuardo Ralón Orellana; and Roberta Clarke, members of the IACHR.

⁹ 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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