



INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RESOLUTION TO LIFT PRECAUTIONARY MEASURES 80/2022

Precautionary Measure No. 29-16
Margarita Marín Yan *et al.* regarding Mexico¹
December 28, 2022
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos, as well as Carola Marín, Tomás Mendoza, and their respective families, in Mexico. At the time of making the decision, the Commission assessed the actions taken by the State during the implementation and the change in circumstances that led to the granting, such as having found the whereabouts of the disappeared persons, whose corpses were found. Similarly, the Commission identifies the lack of specific facts that would be sufficient to identify, at present, an imminent risk to the detriment of the remaining beneficiaries. Following the State's request to have the measures lifted, the IACHR requested comments from the representatives, who have provided comments aimed at the friendly settlement process, which it is not appropriate to evaluate through the precautionary measures mechanism. Upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these measures.

II. BACKGROUND INFORMATION

2. On April 15, 2016, the IACHR decided to request the adoption of precautionary measures to protect the life and personal integrity of David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos, as well as Carola Marín, Tomás Mendoza, and their respective families in Mexico. According to the request for precautionary measures, David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos were at serious risk, given that their whereabouts or fate remained unknown since July 21, 2015, when they disappeared after being detained by police authorities in the city of Ahome de los Mochis, state of Sinaloa. For their part, Carola Marín and Tomás Mendoza, relatives of those three persons, as well as their families, were subjected to acts of intimidation due to the complaints filed about the disappearance of their relatives. Upon analyzing the submissions of fact and law, the Commission considered that the information provided showed, in principle, that the beneficiaries were in a serious and urgent situation. Consequently, in accordance with Article 25 of the Rules of Procedure of the IACHR, the Commission requested that Mexico adopt the necessary measures to determine the situation and whereabouts of David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos, with the purpose of protecting their lives and personal integrity; adopt the necessary measures to guarantee the life and personal integrity of Carola Marín and Tomás Mendoza, as well as that of their respective families, in the framework of their search and complaint activities regarding the alleged disappearance of their relatives; consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and report on the actions taken to investigate the facts that led to the adoption of this precautionary measure.²

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

¹ 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.

² IACHR. [Matter of Margarita Marín Yan et al. regarding Mexico \(PM-29-16\)](#). Resolution 24/2016. April 15, 2016.

a. Regarding the procedure throughout the time the measures were in force

3. During the time the precautionary measures were in force, the Commission followed-up on the subject matter of these precautionary measures by requesting information from the parties. The representatives sent communications on the following dates:

2016	April 19 and 22; May 13, 20 and 23; June 14, 27 and 30; October 21; November 28
2017	July 13, 14, 24 and 27; August 3; and November 14.
2018	June 8.
2019	January 10; March 21; September 5
2020	January 10; July 13; October 23; November 4, 14, 20 and 30.
2021	January 7; March 2 and 16.
2022	April 5, August 18, and December 27.

4. For its part, the State has submitted reports and observations on the following dates:

2016	May 19; June 13; July 28; and December 27.
2017	May 25; July 5 and 11; October 10 and 11.
2018	February 23.
2019	August 15.
2022	July 22 (request to lift precautionary measures)

5. The Commission forwarded those reports between the parties and requested relevant information on May 27, June 16, November 9, 2016; January 23, September 6, and October 11, 2017; January 5, 2018; August 14, 2019; April 8, 2020; and August 11, 2022. In particular, by means of the request for information of August 2022, the Commission transferred to the representatives the State's request to have the measures lifted, for the purpose of receiving their observations. As indicated, the representatives provided a response on August 18, 2022.

6. Representation is exercised by the organization "I(DH)EAS *Litigio Estratégico en Derechos Humanos A.C.*" (*Idheas*) and directly by the relatives who are beneficiaries.³ The precautionary measures are linked to petition 78-2016, at the stage of friendly settlement procedure.

b. Information provided by the State

7. In its report of May 19, 2016, the State reported that on April 22, 2016, it called the representatives to a meeting with authorities concerning search and investigation and to review family safety. In turn, on April 15, 2016, the Court of First Instance of Control and Criminal Procedure of the Northern Region issued an arrest warrant against three people for their alleged responsibility in the forced disappearance of David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos, which was turned over to the Public Prosecutor's Office on April 18, 2016. Additionally, it was indicated that as protection measures in favor of Carola Marín and her family, a contact was established with authorities of the Attorney General's Office of the State of Sinaloa (*Procuraduría General de Justicia del Estado de Sinaloa, PGJES*) and an emergency contact with the nearest station of the Federal Police (PF).

8. In a report dated June 13, 2016, it was indicated that the Federal Police met with Ms. Carola Marín to grant her telephone numbers for her safety. It was noted that on May 12, 2016, the PGJES was asked to

³ The relatives who are beneficiaries are "Carola Marín, Tomás Mendoza, and their respective families," relatives of the disappeared persons, who are also beneficiaries and have sent communications to the Commission in the context of these proceedings.

request support from the PF in the execution of the pending arrest warrants and, on April 23, 2016, the execution of the arrest warrants was reassigned to the Specialized Unit on Apprehensions of Sinaloa (UEAS) and 33 requests for cooperation were issued: to the 31 federal entities, the General Directorate of Police Affairs, Interpol, and the Federal Police in Sinaloa. It was reported that on May 24, 2016, a new working meeting was held between authorities and the representatives, agreeing to send reports to prison authorities of five neighboring states to search for their relatives⁴ and request collaboration with the Executive Commission for Victim Care (CEAV) to support the beneficiaries. On June 7, 2016, a new follow-up meeting was held at the Undersecretary of Human Rights (SDH) of the Ministry of the Interior (SEGOB), which was accompanied by the CEAV, the latter indicating that it had provided pantry support and scholarships to the family.

9. In the State's report of July 28, 2016, it was indicated that the Director General of the Coordination of International Cooperation of the Office of the Attorney General of the Republic (PGR) reported that: i) the Head of Bureau of Investigation 27 has maintained contact with the victims to inform them about the status of the investigation and the actions of locating and completing the arrest warrants; ii) in May 2016, authorization was requested to access federal prison No. 8 of Guasave, in search of the missing persons; iii) on June 3, 2016, the PGJES was requested to report on the work plan of the search group; iv) the Secretariat of the Navy (SEMAR) and the Secretariat of National Defense (SEDENA) were requested to designate elements to carry out search actions; v) SEMAR reported that it will carry out necessary coordination; SEDENA denied the request; vi) in May 2016, the necessary steps were requested to establish a reward to those who provide information on the missing beneficiaries; vii) the PGR and the PF were asked to support the search efforts; viii) the Evaluation Committee did not respond on the request for security measures for the beneficiary family, despite a reminder; and ix) in May 2016, a criminal context analysis was requested in the area. It was further reported that, at the request of Ms. Carola Marín, visits had been made to various prisons in Sinaloa in order to visually search for her missing relatives.⁵ Similarly, on June 20, 2016, a search plan was adopted by the "ZEUS group" in four Sinaloa unions. The states of Sonora and Baja California reported that they have no records of missing persons in their detention centers. The PGJES carried out random swallows at the homes of the beneficiary family members.

10. On December 27, 2016, the State reported the following: i) that SEGOB maintains contact with the beneficiary relatives and their representation; ii) two federal detention centers denied the entry of the beneficiary and authorities, so a photographic record of the inmates was requested; after receiving the photographs, the beneficiary Carola Marín Yan reported that the photos were not clear; iii) the PGJES was asked for the research work plan, to collaborate with them; iv) SEMAR has not reported the names of the elements that would collaborate in the search group; v) it was noted that fingerprint comparison procedures have been carried out with the respective system, linkage network and geolocation of telephones and search of the vehicle of the victims; vi) two elements of the PF to review the file were presented, pending a report; vii) the delegation of the PGR of Sinaloa was requested to search for the vehicle where the missing beneficiaries were moving; viii) on August 31 and September 1, 2016, statements were collected from municipal police who were on duty on the day of the events; ix) a telephone analysis report has been made; x) reports have been requested from various Sinaloa authorities; and xi) a reward for information has been approved.

⁴ Sonora, Durango, Nayarit, Baja California and Baja California Sur.

⁵ On May 9, 2016, in Ejido Goros II Los Mochis with 1776 people; on May 16, 2016, in Capomos, Angosturas, where there are 61 inmates; on May 24, 2016, in Ejido El Castillo, Mazatlán, with 1882 inmates; on May 31, 2016, in Bachihualato, Culiacán, with 2926 inmates

11. On the other hand, it was indicated that the Federal Ministerial Police denied having elements to provide protection to the family, but that the Federal Police, after carrying out a risk assessment, determined a protection detail consisting of "contact support and immediate reaction in case of emergency through a command of the state and federal police, close to their area of residence." It was also indicated that, following the PGJES request to the Attorney General's Office (PGR) for the execution of the arrest warrants on the three police officers, on June 8, 2016, the request was sent to the 32 administrative units of the PF. After receiving information that the beneficiaries saw the police officers in a district court and at the police station, information was requested from the Secretariat of Public Security of Sinaloa on their employment situation, which indicated that they are "suspended from their services for the purpose of exercising their right of defense."

12. The State presented a report on May 25, 2017, reporting on proceedings for the completion of the arrest warrants by the state prosecutor's office, requesting collaboration from federal authorities and neighboring states, issuance of a red card at INTERPOL, support to the United States Embassy in case the accused sought to enter the country, among others. It was also reported that the Attorney General's Office (PGR) had carried out actions to locate the victims' vehicle, that biological samples had been collected from relatives for comparison in the corpse database and that a relative had been registered in the National Registry of Victims, and that food, education and health support had been provided by the Government.

13. On July 5, 2017, the State indicated that on May 17, 2017, a working meeting was held with Carola Marín, agreeing to convene a new meeting with investigation authorities and implement security measures. At the new meeting of June 13, 2017, with staff of the PGR and the PGJES, among others, the following was discussed: i) agreement was reached to combine a comprehensive search plan of the PGJES and the PGR, with the support of federal and state authorities; ii) since two months ago a security element was granted that is outside the beneficiary's home, it was agreed to carry out a new risk analysis, the emergency contact details were updated and a telephone with balance was granted; and iii) scholarships have been provided and the beneficiary Tomás Mendoza will be supported to find work.

14. In a report dated July 11, 2017, the State indicated that: a) the search for missing persons has continued, in accordance with the Homologated Protocol for Searching for Missing Persons; ii) the proceedings to seek to complete the pending arrest warrants have continued with surveillance of relatives and follow-up in different homes and inspection in public security of Ahome; iii) there are no records of missing persons; iv) searches were carried out in prisons in neighboring states during June 2017, with the presence of Carola Marín Yan; v) on June 22, 2017, a meeting was held with various authorities, where it was agreed to carry out a genetic profile comparison of the relatives of the missing persons; vi) it was agreed to search for the missing persons and the vehicle in which they traveled in hospitals, rehabilitation centers, police headquarters, municipal unions, and junk and old iron businesses; as well as to collect information on the findings in clandestine graves on June 21 from 2015 onwards.

15. By report of October 10, 2017, it was indicated that: i) on July 18, 2017, genetic profiles were compared with the records of the FGJES, without finding genetic correspondence with the profiles of unidentified persons; ii) on August 2, a search was carried out for the missing persons and the car in which they traveled in scrapyards and hospitals in Ahome, Sinaloa; iii) on April 26, 2017, the interview of the hierarchical superior of the police officers with pending arrest warrant, Gerardo Amarillas, was carried out and two other interviews were received in May 2017. In addition, it was reported that the family has been supported with financial support for payment of services and a CEAV plan for comprehensive care that includes relocation was developed, with a follow-up meeting on August 11, 2017. On September 8, 2017, the beneficiaries were transferred to Merida, Yucatan, with lodging and food at the expense of the

State, where they receive medical care at the Regional Hospital of high specialty of Yucatan; it would be sought that they can resume their life project. In addition, an additional quota was opened for children at school so that they could be accepted extemporaneously.

16. By report of February 23, 2018, it was noted that on February 2, 2018, a consultation meeting was held with the family and representatives and authorities of the SEGOB and the FGJES, where the family was heard about the alleged lack of action in the search for their relatives and fulfillment of the arrest warrants, as well as the challenges to access the supports of the CEAV. The Undersecretary of the SEGOB promised to hold a new meeting with other authorities to promote a detailed Search Plan, inter-institutional cooperation to execute the arrest warrants and urge the CEAV to comply with its obligations. On the other hand, it was indicated that investigations were initiated for the threats received by Carola Marín and, since she gave her statement on January 2, 2017, she was assigned protection until they were transferred to Mérida on August 8, 2017.

17. By report of August 15, 2019, the State reported that on August 8, 2018, the FGJES located 5 corpses in the Crane Margin Right ejido in Higuera de Zaragoza, Ahome, Sinaloa, one of which corresponded genetically to the beneficiary Alfredo Díaz Marín Bustos, according to the samples taken from his relatives; different experts were carried out to corroborate the above. Subsequently, on October 24 and 25, 2018, new procedures were carried out in the Right Bank Crane Ejido, two new corpses were found, identifying that they corresponded to David Mendoza Marín and Margarita Marín Yan. The bodies were handed over to their relatives on January 28, 2019, and the CEAV managed the funeral expenses. In connection with the repeated firing into the air during the wake of the three persons who had been disappeared in Zapopan, Jalisco (see *infra* para. 28), it was indicated that protection was requested from the Federal Police on January 29 and 30, 2018, swallows and emergency number of the Gendarmerie and a patrol accompanied the funeral procession without reporting any incident.

18. On the other hand, the State reported that it has managed multiple supports to the beneficiaries, providing approximately \$1,296,007.60 pesos for 500 housing measures in Yucatan, \$105,359.36 pesos for monthly food and \$730,541.24 pesos for transfers. It was also reported on the medical care that has been provided to the beneficiary family members between October 2016 and October 2018, as well as the measures in the field of education and that have been sought to get them employment. It was also indicated that on June 4, 2019, a consultation meeting was held with Carola Marín and her representative, where it was agreed that information would be requested from the Federal Police on the context and technical analysis for the fulfillment of the arrest warrants.

19. In its report of July 22, 2022, the State indicated that the FGJES sent a report with the proceedings carried out between 2015 and 2018 and that work has been carried out for the execution of the arrest warrants, without being able to locate any of the three people. On the other hand, they indicated that on April 23, 2022, they granted a panic button to Carola Marín to provide accompaniment and security, which has not been activated nor has any risk issue been reported. In addition, it was noted that they continue to be provided with monthly food support. The State indicated that the disappeared persons were already located in 2018 and their remains delivered in 2019 and that the petition presented by *Idheas* in the friendly settlement stage is being carried out, for which a memorandum of understanding was signed in May 2022 for the search for a friendly settlement. Consequently, the State requests the lifting of these precautionary measures.

c. Information provided by the representatives

20. By communication of April 19, 2016, the beneficiary relatives reported that the State called them to a meeting with authorities for April 22, 2016. On April 22, they sent a list of high-level Mexican authorities, asking the IACtHR to notify them of the precautionary measures and they sent a communication from the United Nations of April 22, 2016, notifying them that the Committee on Enforced Disappearances of the United Nations (UN-CED) decided to request the Mexican State to adopt measures to protect the missing beneficiaries, in relation to three urgent actions filed,⁶ as well as their relatives also beneficiaries, Tomás Mendoza Bosques and Carola Marín Jan and their families, due to the threats received.⁷ In addition, the beneficiary relatives sent generic communications on the processing and confidentiality of their communications on April 22 and 24 and May 2, 2016. On May 20, they forwarded photographs of those they consider to be the police officers responsible and indicated that they are fugitives; and, on May 23, 2016, they forwarded four journalistic notes on the events, indicating that the IACtHR and the UN-CED adopted decisions on the disappearance.

21. Representation exercised by *Idheas* reported on June 14, 2016, that on March 5, 2016, an arrest warrant was requested, but was denied by the Judge; the Public Prosecutor appealed the decision and the Review Chamber ordered on April 15, 2016, that the arrest warrant be issued. It was reported that the orders were entrusted by the head of the PGJES on April 18, 2016, to the Director of the Ministerial and Municipal Police of Sinaloa, superior chief of the accused police. It was indicated that on April 20, 2016, the defendants filed an *amparo*, provisionally granted afterwards and, on the same day, they were authorized to take vacation by their superior. On April 22, 2016, in a meeting to follow up on the precautionary measures, the Prosecutor of Sinaloa reported that he had the three police officers located and that the arrest warrants would be executed at any time. On the same day, after the meeting, the beneficiary Carola Marín observed the three police officers carrying out surveillance in the command and, even though in the first days of May she requested that the arrest warrant be enforced, they replied that they could not be found because they were on vacation.

22. Likewise, the representatives indicated that on May 24, 2016, a new conciliation meeting was held, where the possibility of creating a specialized group of the PGR, Federal Police, Navy, and Army to advance in the search for the disappeared persons was agreed, but that it was not carried out. On June 7, 2016, a new meeting was held with the head of the SDH-SEGOB, where it is indicated that the line of the authorities was to seek communication with the Secretariat of Public Security to follow up on the search for the disappeared persons and the capture of the police and grant money to Ms. Marín Yan to cover arrears. It was noted that at the time of the report, the police continued on vacation. The representatives consider that, in view of the irregularities in the execution of the arrest warrants and in the granting of vacations to the accused, the Director of the Sinaloa Ministerial Police should be removed from any action. In addition, it was indicated that no search action has been taken.

23. In relation to the safety of beneficiary relatives, it was indicated that it is not clear what the emergency contact consists of, and no inspections or daily surveillance have been implemented in their homes. In addition, it was indicated that Mr. Tomás Mendoza Bosques received threats by telephone on April 14 and 15, 2016 -without providing details-, but that the PGJES did not initiate an investigation or lift his appearance. It was indicated that only the State Human Rights Commission took his testimony, but did not take further action. For her part, it was reported that Ms. Carola Marín Yan began receiving a call

⁶ AU 157/2015 regarding David Mendoza Marín, AU 158/2015 regarding Margarita Marín Yan and AU 159-2015 regarding Alfredo Alias Marín Bustos.

⁷ Communication of April 22, 2016, with reference G/SO CED-UA MEX (115-116-117) CE/APP/mbe 157-158-159/2015, signed by Ibrahim Salama, Director of the Division of Human Rights Treaties.

on her cell phone every third day from a private number, where she was warned to refrain from continuing to look for her family member or to attempt on her life.

24. The beneficiary Tomas Mendoza sent a communication on June 27, 2016, informing that the authorities have not supported them and that he saw one of the accused police officers present “on June 1, 2016, to the Court to sign an *amparo*” and no one arrested him. From the District Court’s record, it appears that the police officer withdrew from the amparo filed against the arrest warrant. The beneficiary added that the agreed search team has not been formed. On June 30, 2016, Idheas reiterated that the police officer with the arrest warrant went to court without being arrested, as well as that they have requested reports about it and support from federal authorities to execute the arrests.

25. On October 21, 2016, a communication from the UN-FRC was sent in the framework of the urgent actions issued, where they are reiterated, and specific information is requested from the State⁸. In their communication of November 29, 2016, the beneficiary relatives requested that their case be taken “with more strength and dedication.” On July 13, 2017, they indicated that they have not received medicines and care from specialists who have requested the CEAV, sending them to hospitals for free, without the required equipment or medicines, as well as that they have requested that they be moved to Mexico City due to the insecurity in Sinaloa, with no response. On July 24 and 27, 2017, a communication was sent to the CEAV, on support to the family in matters of health, education, accommodation, transportation and security. On August 3, 2017, a new communication was sent from the UN-FRC, where they follow up on urgent actions on search and investigation, precautionary measures and protection and support to family members⁹.

26. The Idheas representation sent observations on November 14, 2017, indicating that in the agreements to the meeting of June 22, 2017, it was not possible to compromise the participation of SEDENA and SEMAR in the search activities, and that there was no participation of the beneficiaries. It was also indicated that the relatives are not aware of the way in which the comparison of genetic profiles was carried out; and that the thorough search in hospitals, rehabilitation centers, police headquarters, municipal unions and junk and old iron businesses has not begun diligently and is limited to searching the databases for the names of missing persons. In addition, it was indicated that after the transfer of the beneficiaries outside Ahome, they have lost communication with the FGJES. On the other hand, he said that they had not been provided with information on progress in the completion of the pending arrest warrants, despite the fact that the relatives had reportedly given information to the FGJES of the school attended by the daughter of one of the police officers with an arrest warrant. In turn, it was alleged that for the threats received (unspecified), they had to move to another state of the country and no investigation was initiated for the threats received by Carola Marín. After the displacement, it was confirmed that accommodation, services and food support are received, but that food is basic and does not cover the needs of the 9 family members. In this regard, they added that they have not received the comprehensive care plan of the CEAV, and that medical care is slow and deficient. In a different communication dated November 14, 2017, the beneficiary relatives provided a photograph of a police daughter with an arrest warrant (taken from social networks) and indicated that the authorities informed them that they do not have elements to follow the girl and locate her mother. They alleged that, for that reason, and for not arresting the policeman when he went to court, the authorities do not want to complete the arrests.

⁸ Communication dated October 21, 2016, with reference G/SO CED-UA MEX (115-116-117) CE/APP/mbe 157-158-159/2015, signed by Ibrahim Salama, Director of the Division of Human Rights Treaties

⁹ Communication of August 2, 2017, with reference G/SO CED-UA MEX (115-116-117) CE/EGR/ys 157-158-159/2015, signed by Ibrahim Salama, head of the Human Rights Treaties Branch.

27. On January 10, 2019, Idheas reported that, by proceeding of August 8, 2018, a skeletal body identified as Alfredo Elías Marín Bustos was found. Subsequently, by diligence of October 24 and 25, 2018, two bodies were found in a skeletal state, identified as corresponding to David Mendoza Marín and Margarita Marín Yan. The experts reportedly established as the cause of death "severe head trauma secondary to wounds caused by a projectile fired by a firearm" with a post-mortem period of 2 to 5 years.

28. By communication of March 21, 2019, they reported that the bodies of the three people were handed over to their families on January 28, 2019, who were veiled in Zapopán, Jalisco. Several shots were reportedly fired into the air during the wake, forcing the suspension of the wake. It was added that, despite the fact that the transfer of the bodies from Los Mochis to Jalisco was guarded by the Federal Ministerial Police, the request to guard the wake and burial was denied. Shots were fired two minutes after the police left the scene. It was pointed out that, although Carola Marín immediately managed to communicate with a SEGOB official, she told her that she was "going to check" but did not call her back or answer her calls.

29. In its communication of September 5, 2019, the representation exercised by Idheas indicated that the pit where the remains of the missing beneficiaries were found was not located by the FGJES, but by the Collective "Trackers for Peace", who informed the Prosecutor's Office of the location in July 2018, and it was until August 2018 that the remains were processed and in October that the identification was given. It was also indicated that it was at the insistence of the relatives that they managed to locate the bodies of David Mendoza Marín and Margarita Marín Yan. On the other hand, they indicated that the medical care to the beneficiaries has not been effective, without receiving support needed for medicines and glasses and that, in addition, they have received medical consultations, but not required treatments (unspecified). It was also noted that there has been insufficient support to enable children to continue their studies and that no employment opportunities were created in Mérida. In this sense, due to the difficulty of being able to take root in Mérida without support networks and in the absence of payment for the housing services that generated them to be asked to vacate the place, the family has requested a change of residence in other cities, without succeeding. Consequently, since August 2019 they decided to move to Manzanillo, Colima, where they would have support networks.

30. Additionally, the representation reported that on January 29 and 30, 2018, following the events that occurred during the funeral ceremony of the beneficiaries, the protection indicated by the State was not provided either to the place of the wake or to the funeral procession, refusing by the relatives that the personnel referred to by the State has presented. In addition, they indicate that they were also not provided with an emergency number. In connection with the above, it was noted that there is no record of any investigation into the shooting during the funeral events.

31. In a communication dated January 20, 2020, the beneficiary Tomas Mendoza indicated that he received a death threat by telephone, without remembering the date, but that he already reported it to the Prosecutor's Office and that he asked that the security of the municipal police be removed, due to the relationship with the facts. He indicated that they moved to Puerto Vallarta, Jalisco and that, on January 8, 2020, they were stopped by the police, who asked them for the papers of the car and, when they told him that they did not have them and could go for them to their home, they would have taken a mocking and threatening tone against them, trying to take the van. He noted that, although it was because of the documents, when he returned they had already taken the van. CEAV supported him with efforts to recover it, but they did not succeed for fines and required payments. On July 13, 2020, the beneficiaries indicated that on July 4, 2020, they moved from Tepic, Nayarit to Tijuana, B.C., without receiving requested security, referring that they noticed that a vehicle with dark glass followed them from Culiacán to Hermosillo. They added that the granted phone has more than 15 days without service. In Tijuana they would live with a

relative and would not have access to government support. They request that the IACtHR support them with visa procedures for the United States of America. On November 4, 2020, assistance was again requested to obtain a “humanitarian visa”, as well as reparation and compensation from the Mexican government.

32. During 2020 and 2021, the representation sent communications related to the friendly settlement procedure of the petition presented. On April 5, 2022, the beneficiary family sent a communication indicating that they have received “new threats” (without details) as a result of new arrest warrants and that they are afraid that the government will harm their grandchildren who are already youth. They reiterate their applications for visas or political asylum. On August 19, 2022, they indicated that they were waiting for the signing of the friendly settlement agreement. Finally, on December 27, 2022, they provided a communication indicating that they had a consultation meeting on November 28, 2022 related to the friendly settlement procedure, where they were told that they would receive some payment, but that later they were told that they had no resources and they were not given a new date; in turn, they reported that two of the municipal police officers were captured with arrest warrants and they are requesting support for visas to go to the United States, because they are afraid of the captured police officers, who found out that their “relatives and friends [are] threatening them” and they want that the State give them the money to leave the country.

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

33. 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 IACtHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission’s Rules of Procedure. In accordance with this Article, the IACtHR grants precautionary measures in urgent and serious 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.

34. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.¹⁰ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.¹¹ To do this, the IACtHR 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

¹⁰ See in this regard: I/A Court H.R. Request for Provisional Measures submitted by the IACtHR 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. Available at: https://www.corteidh.or.cr/docs/medidas/ngobe_se_01.pdf

¹¹ 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. [Case 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.

not adopted.¹² 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. They aim to safeguard the rights at risk until the petition pending before the inter-American system 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 (*effet utile*) 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.

35. With regard 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) 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 whether the serious and urgent situation and the possible irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider if new situations have arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

36. 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.¹³ In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.¹⁴ The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.¹⁵

37. As a preliminary point, the Commission recalls that the mechanism of precautionary measures is only called to analyze issues related to the requirements of seriousness, urgency, and irreparable harm established in Article 25 of the IAC_HR Rules of Procedure. In this regard, the Commission takes note of the request of the beneficiary family by communications of April 13 and November 20, 2020, and December 27, 2022, regarding support for visa applications, as well as the consistent allegations regarding the responsibility of police officers, their superiors, and the connection with the progress in criminal proceedings and completion of arrest warrants. However, the Commission recalls that the analysis of the compatibility of such processes in light of the American Convention exceeds the procedure at hand. Those

¹² 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 Instituto Penal Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6.

¹³ I/A Court H.R. [Case of Fernández Ortega et al. Provisional measures regarding Mexico. Decision of 7 February 2017](#), Considerandums 16 and 17.

¹⁴ *Ibid.*

¹⁵ *Ibid.*

allegations referring to the petition or specifically to the procedure of friendly settlements is better suited to be analyzed through the petition and case system, therefore they will not be the subject of this procedure.

38. The Commission notes that these precautionary measures have two aspects: one to protect the life and integrity of the three persons who were missing, that is, David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos; and another, for the protection of their families, from threats and harassment received.

39. In this way, on the first point, the Commission notes that in August and October 2018 the corpses of David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos were found, on which the respective expert tests were carried out to verify their identity, and their remains were delivered to their family on January 28, 2019 (see *supra* paras. 17, 27 and 28). The Commission regrets the death of the three beneficiaries and expresses its condolences to their families. At the same time, the Commission understands that it is not disputed between the parties that the bodies identified refer to the three persons who at the time were missing when these precautionary measures were granted in 2016.

40. In this regard, the Commission notes that the measures granted in favor of the three persons who were disappeared on July 21, 2015, David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos, have been rendered null and void, as their corpses have been located. This is because international protection to protect their life and integrity is unnecessary after their death has been confirmed, losing the subject matter of protection. Without prejudice to paragraph 37, the Commission reminds the State of its obligation to undertake the necessary actions and investigations to find the truth about the disappearance, and punish those responsible. This obligation remains in force regardless of these precautionary measures. In this sense, the Commission takes note of the information reported by the representation on December 27, 2022, according to which two of the police officers with arrest warrants have been captured, and positively acknowledges this progress.

41. On the other hand, the IACtHR observes that Ms. Carola Marín Yan and Mr. Tomás Mendoza, as well as their families, have played an important role in the search for justice for the disappearance and death of their relatives, which has caused them situations of risk against them and has forced them to move from the city where they resided. Likewise, in the face of the challenges after their relocation, they have had to move on two subsequent occasions. According to the records of the file, the beneficiary family has gone from living in the state of Sinaloa, moving to Mérida with state support, then to Manzanillo, Colima and Puerto Vallarta, Jalisco, as well as more recently, to Tijuana, Baja California. In this regard, the Commission notes with concern that the beneficiary family has had to move forcibly after the disappearance of its relatives and notes as positive the support and disbursements of the State from different bodies, which have been useful to pay for the restoration of the family's life project after the acts of violence.

42. The Commission also notes that the State has reported that it has implemented emergency numbers with the Federal Police and contacts with SEGOB, as well as, on occasion, patrols and surveillance in the family's home, together with the extraction of their town mentioned in the previous paragraph, as measures aimed at protecting their life and integrity. In turn, the Commission takes note of the consultation meetings that have been held between state authorities and the beneficiaries and their representation. Although the representation has alleged challenges in the implementation of the precautionary measures, the Commission identifies that the conciliation meetings have been useful to keep the family informed and advance in the follow-up of the pending issues, in compliance with both these precautionary measures and the urgent actions issued by the UN-FRC.

43. In this regard, the Commission notes that, throughout the duration of these measures, the applicants have reported on various events. In this regard, the Commission considers the following:

- i. In principle, although threats have been received by Carola Marín Yan and Tomás Mendoza at different times, the Commission does not have detailed information on them, which does not allow them to be properly assessed in the light of Article 25 of the Rules of Procedure.
- ii. The Commission observes that, at the time of the surveillance of their relatives on January 29 and 30, 2019 in Zapopan, Jalisco, after their location without life, repeated bullets were reported that interrupted the wake, not counting on protection despite having requested it. According to the representation, the events took place immediately after the removal of the escort provided for the transfer. Regarding these events, and following the transfer of information, the Commission notes that they were controversial by the State, which indicated that a patrol accompanied the event and there were no incidents. In any case, the Commission notes that, subsequently, in June 2019, when a conciliation meeting was held between the parties, the available information would indicate that such a situation would not have been addressed, focusing on other aspects.
- iii. The Commission notes that, during 2020, it was reported that: in January, Mr. Tomás Mendoza received threats without remembering the date; the police questioned the beneficiaries on one occasion that they did not have the papers of the vehicle with them, withdrawing the same; and in July, they identified a vehicle following them during their transfer from Tepic, Nayarit, to Tijuana, B.C. In this regard, the Commission emphasizes that it does not have more information or details about these facts to be able to assess them in the light of the procedural requirements. In any case, subsequently, and in the last two years or so, the Commission has not received specific information on the occurrence of risk events against beneficiaries.

44. In this order of ideas, by communication of April 5, 2022, the representation indicated that threats have taken place; however, there is not enough information to identify the precise circumstances in which they occurred. In addition to the above, on August 2, 2022, the Commission requested the representation to provide details of time, manner, and place regarding threatening events that have reportedly transpired, without receiving information on threatening situations. On the other hand, in their communication dated December 27, 2022, the representation informed that they were afraid of the capture of two police officers, whose relatives and friends allegedly threaten them, without providing further details or information. Under these conditions, the Commission does not identify that an imminent risk persists in the matter at hand, given the long term without concrete information on threatening events against the beneficiaries Carola Marín Yan and Tomás Mendoza, and their families.

45. The Commission notes that the State requested the lifting of these precautionary measures on July 22, 2022. Under the terms of Article 25(9) of the Rules of Procedure, the request to have the measures lifted was forwarded to the representation on August 2, 2022, requesting updated information and their observations on such a request. To date, although communications concerning the friendly settlement procedure have been received, no information has been sent in the procedure at hand in response to the State's last report.

46. In this sense, and considering the analysis previously carried out, and in response to the State's request to have the measures lifted, the Commission considers that it is not possible to identify any

situation that would support compliance with the requirements of Article 25 of the Rules of Procedure at present. In view of the above, and taking into account the exceptional and temporary nature of precautionary measures,¹⁶ the Commission deems it appropriate to lift these measures.

47. Lastly, 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 to respect and guarantee the rights recognized therein, including the life and personal integrity of the persons identified in the matter at hand.

V. DECISION

48. The Commission decides to lift the precautionary measures granted in favor of David Mendoza Marín, Margarita Marín Yan, and Alfredo Elías Marín Bustos, as well as Carola Marín, Tomás Mendoza, and their respective families, in Mexico.

49. The Commission recalls that the lifting of these measures does not prevent the representatives from filing a new request for precautionary measures should they consider that there is a situation that meets the requirements established in Article 25 of the Rules of Procedure.

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

51. Approved on December 28, 2022, by Julissa Mantilla Falcón, President; Edgar Stuardo Ralón Orellana, First Vice-President; Margarette May Macaulay, Second Vice-President; Esmeralda Arosemena de Troitiño; Roberta Clarke; and Carlos Bernal Pulido, members of the IACtHR.

Jorge Meza Flores
Assistant Executive Secretary

¹⁶ 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