

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 23/2023**

Precautionary Measure No. 253-14
Héctor Orlando Martínez Montaña and his family unit regarding Honduras
April 16, 2023
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Héctor Orlando Martínez Montaña and his family unit in Honduras. At the time of making the decision, the Commission observes that the beneficiary Héctor Martínez died on June 17, 2015. In addition, his relatives have reportedly been living abroad since 2015, and there is no available information regarding incidents that would have placed them at risk. Following the State's request, and upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these measures.

II. BACKGROUND INFORMATION

2. On May 18, 2015, the IACHR granted precautionary measures in favor of Héctor Orlando Martínez and his family unit, through Resolution 20/15. The request for precautionary measures alleged that the beneficiary was subjected to threats and harassment as a result of his work as a representative of the Workers' Union of the National Autonomous University of Honduras. Upon analyzing the allegations of fact and law, the Commission considered that the information showed, *prima facie*, that the beneficiary and his family were facing a situation of risk, in accordance with Article 25 of the IACHR Rules of Procedure. Therefore, the Commission requested that the State of Honduras: a) adopt the necessary measures to guarantee the life and personal integrity of Héctor Orlando Martínez and his family unit; b) take the necessary measures in order for union leader Héctor Orlando Martínez to carry out his activities as a human rights defender, without being subjected to acts of violence and harassment for the exercise of his functions; c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and d) report on the actions taken to investigate the alleged facts that led to the adoption of this precautionary measure so as to prevent such incidents from reoccurring.¹

3. The representation is exercised by Ana Franzen.

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

4. 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.

5. The State submitted observations on the following dates:

2015	June 22 and September 10, 2015
2016	February 8 and 11, 2016
2017	June 2 and 5, 2017

¹ IACHR. [Resolution 20/15](#). Precautionary Measure No. 253-14. Héctor Orlando Martínez and his family unit regarding Honduras. May 18, 2015. (Available only in Spanish)

2020	August 31, 2020
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6. The representation has submitted information on the following dates:

2015	June 18 and 25; July 17; as well as October 19 and 27, 2015
2016	March 18, June 30, July 1 and 13, 2016
2022	November 18, 2022

7. On June 18, 2015, the Commission forwarded the representation’s communication and requested the State’s observations. On July 28, 2015, the Commission forwarded the information submitted by the representation to the State and requested its observations. On December 28, 2015, the Commission forwarded the reports and requested information from both parties. On June 15, 2016, the Commission forwarded the State report and requested the representation’s observations. On July 22, 2017, the Commission forwarded information provided by the representation to the State and requested its observations. On May 8, 2017, the IACHR granted the State an extension to submit its observations. On June 25, 2017, the Commission forwarded the State report and requested the representation’s observations. On August 31, 2020, the State requested that the precautionary measures be lifted. On October 19, 2022, the Commission transferred the States’ request to lift to the representation and requested updated information in order to analyze keeping these precautionary measures in force.

A. Information provided by the State

8. On June 22, 2015, the State sent information regarding these precautionary measures. The Security Secretariat in the Security Office (*Despacho de Seguridad*) indicated that from September to December 2014, the matter of Mr. Héctor Martínez was on the agendas of the Inter-institutional Group on Human Rights (*Grupo Interinstitucional de Derechos Humanos, GTIDH*). The GTIDH visited the beneficiary on January 30, 2015 at his place of work and, contrary to the beneficiary’s reported statements, state officials reportedly did not suggest that he refrain from speaking with his representation or with the media. In this regard, it was indicated that the purpose of the visit was to provide the beneficiary with protection, and it was not expected that he “would consider this offer as measures of state control”.

9. Furthermore, it was alleged that the protection measures in his favor were not determined unilaterally, as can be seen in the implementation record of the precautionary protection measures, dated January 30, 2015, which was signed by the beneficiary. As a result, they requested the annulment of these minutes and, in order to ensure that the beneficiary’s point of view was heard, a new meeting was requested to be held with the presence of recognized human rights defenders in the country, who are individuals that Mr. Héctor Martínez trusts. The Public Prosecutor’s Office stated that various proceedings were carried out regarding the complaint filed by the beneficiary, in relation to his vehicle exploding on August 8, 2014.

10. On September 10, 2015, the State reported that, on June 25, 2015, the Central East Regional Delegate of the National Commissioner for Human Rights (*Centro Oriente del Comisionado Nacional de los Derechos Humanos, CONADEH*) requested that Héctor Martínez’s murder be investigated, in addition to the implementation of security measures in favor of Eva Marina Martínez Montaña and Mirella Morales Álvarez, respectively the beneficiary’s sister and wife. On June 30, 2015, the State reported that it attempted to communicate with the beneficiary’s next of kin via telephone and through SMS messages to their cell phones, however, they did not receive a response. The Human Rights Department of the Secretariat of Security decided to plan a trip to the city of La Lima,

department of Cortés, in order to meet with Mr. Héctor Martínez's widow. On September 4, 2015, state officials went to the residence where Mr. Héctor Martínez's sister allegedly resided. However, they were met with her nephew, who reportedly told them that Ms. Mirella Morales Álvarez was living abroad. Considering Mr. Héctor Martínez's death and that his next of kin are no longer in the country, the State argued that it has not been possible to implement the precautionary measures.

11. On February 8 and 11, 2016, the Public Prosecutor's Office sent information regarding the investigation into Mr. Héctor Martínez's death, carried out by the National Interagency Security Force (*Fuerza de Seguridad Interinstitucional Nacional*, FUSINA), as well as by the Technical Criminal Investigation Agency (*Agencia Técnica de Investigación Criminal*, ATIC), and by the Special Prosecutor's Office for Crimes against Life. As a result of the investigation, on June 19, 2015, the Public Prosecutor's Office filed charges against six persons for the crime of unlawful association, to the detriment of the internal security of the State; and against one person for the criminal possession of a commercial weapon, to the detriment of the internal State security.

12. On June 24, 2015, an initial hearing was held, and the Public Prosecutor's Office proceeded to expand the indictment to include the use of false documents and murder in the initial hearing. During the hearing, the judge ordered the indictment of six persons for the crime of unlawful association; one person for the crimes of use of false documents and murder to the detriment of Mr. Héctor Martínez; one person for the crime of illegal supply of commercial firearms; and one person for the crime of storing commercial firearms and ammunition for war weapons. The judge also decided to order the definitive dismissal against an individual for the crimes of illicit association and storing firearms for commercial use. Lastly, an arrest warrant was issued against one individual for the crime of murder against Mr. Héctor Martínez. It was also indicated that the defense filed appeals.

13. On June 2 and 5, 2017, it was reported that the Second Chamber of the Sentencing Court of National Territorial Jurisdiction in Criminal Matters (*Sala Segunda del Tribunal de Sentencias de Competencia Territorial Nacional en Materia Penal*) had communicated that the case TS/JN (20)-100-2016, in relation to the crime of murder of Mr. Héctor Martínez, entered the Court on November 11, 2016; the defendants were being held in preventive custody, which they were carrying out in the Criminal center of the city of Choluteca and which concluded on June 24, 2017. In addition, a hearing for the submission of evidence was scheduled for May 5, 2017, and an oral and public trial was scheduled for October 25, 26, and 27, 2017. It was indicated that the Public Prosecutor's Office is pending a request of extension of the pre-trial detention for the defendants.

14. On August 31, 2020, the State requested that the precautionary measures be lifted considering the representation's lack of updated information regarding the situation that places the proposed beneficiaries at risk.

B. Information provided by the representation

15. On June 18, 2015, the representation reported that on June 17, 2015, at 9:40 p.m., Mr. Héctor Martínez was murdered. It was indicated that Héctor Martínez was on his way home from work from the National Autonomous University of Honduras (UNAH) when he was attacked by two people on motorcycles who shot at his vehicle. It was also reported that the incident occurred after a human rights investigation commission arrived at the Centro Universitario del Litoral Pacífico (*Centro Universitario del Litoral Pacífico*, CURLP) to confirm the allegations made by the beneficiary due to his position as union leader.

16. On June 26, 2015, the representation indicated that the Association for Participative Citizenship (*ACI Participa*) sent a communication to state authorities on June 23, 2015. The

communication expressed their concern over the murder of Mr. Héctor Martínez, who had been receiving death threats for years. In this regard, it recalled the obligation of the Honduran government to guarantee an effective investigation into the beneficiary's murder, and requested that all necessary measures be adopted to guarantee the right to life and personal integrity of the beneficiary's family members, as well as the members of the CURLP Workers' Union.

17. On July 17, 2015, the representation stated that Ms. Mirella Morales Álvarez and Héctor José Martínez, wife and minor son of the beneficiary, had received several threatening phone calls. As a result, they had resorted to requesting support from *ACI Participa* in order to be able to leave the country. Both family members are currently in the United States, where they have applied for political asylum. On the other hand, the beneficiary's older children stayed in Honduras, considering that they did not have any knowledge of their father's work, and therefore did not feel they were in danger.

18. On October 19 and 27, 2015, the representation indicated that, despite repeated attempts to contact the National Commissioner for Human Rights (CONADEH) regarding the investigations into the murder of Mr. Héctor Martínez and allegations of abuses of authority and labor rights in relation to CURLP, it had not received adequate responses. On March 18, 2016, the representation once again claimed that it had no information on the matter, despite requests for information to the Attorney General, the regional prosecutor of Choluteca, and CONADEH. In addition to the above, the representation raised questions regarding the decision to not initiate legal proceedings against the intellectual authors of the crime who were named in the ATIC investigative files and denounced for acts of threats prior to Mr. Héctor Martínez's death. According to the representation, this decision was due to the alleged influence of CURLP members and the omission of state authorities.

19. On June 30 and July 1 and 13, 2016, the representation stated that the State of Honduras informed them that, on June 24, 2015, a formal indictment was issued against individuals responsible for crimes including the murder of Mr. Héctor Martínez. In addition, an arrest warrant was issued against a person who was currently a fugitive. The representation alleged that the persons being prosecuted were allegedly hired assassins, and that the state authorities had not adequately investigated who had given the order to murder Héctor Martínez.

20. On November 18, 2022, the representation sent a communication reiterating that Mr. Héctor Martínez's murder occurred four weeks after the IACHR had granted precautionary measures. It also indicated that his widow and his youngest son had gone into exile in the United States upon receiving threats. Their whereabouts are unknown to the representation, and his older children have never requested protection measures. On the other hand, the representation affirmed that the intellectual authors of Mr. Héctor Martínez's remain unpunished after almost seven years.

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

21. 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 this Article, the IACHR 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.

22. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter “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.² Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.³ 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.⁴ 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.

23. With respect to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that “[t]he decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) establishes that “[t]he 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 if new situations have arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

24. 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

² 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.

³ 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. (Available only in Spanish)

⁴ 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 (Available only in Spanish); 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. (Available only in Spanish)

requires a more rigorous evaluation⁵. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.⁶ 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.⁷

25. 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.⁸ By the same token, the representatives of the beneficiaries that want the measures to continue must present evidence of any reasons why.⁹ In this sense, the granting and keeping precautionary measures in force are of a precautionary or protective nature, and are therefore subject to compliance with the requirements established in Article 25 of the Rules of Procedure.

26. In this matter, the Commission observes that the precautionary measures were granted in 2015 in light of the available information which indicated that Mr. Héctor Martínez and his immediate family were at risk due to acts of violence, threats, and harassment as a result of the beneficiary's work as a union leader at the National Autonomous University of Honduras. In the light of the information available, the Commission will proceed to analyze whether the procedural requirements continue to be met, in the light of the request to lift submitted by the State of Honduras.

27. The Commission notes that on June 17, 2015, the beneficiary Héctor Martínez was murdered, which was notified by the representation on June 18, 2015. In this regard, on June 24, 2015, the IACHR issued a press release condemning the murder of the union leader and urging Honduras to adopt measures to clarify the circumstances in which this event occurred and, where appropriate, to identify and punish those responsible.¹⁰ The IACHR calls to mind that it is the State's obligation to proactively investigate acts of this nature and punish intellectual and material authors. In particular, the IACHR urged the State of Honduras to open lines of investigation that look into whether Héctor Orlando Martínez's murder was committed due to his work in human rights defense. It was included that the investigation should be undertaken with due diligence in an exhaustive, serious, and impartial manner. [...] On the other hand, the IACHR stated that it was essential that the State immediately and urgently adopt all necessary measures to guarantee the right to life, integrity, and safety of Héctor Orlando Martínez's next of kin, as stated in the precautionary measure that are still in force.¹¹

28. In July 2015, the representation indicated that the beneficiary's wife and minor child had applied for political asylum to the US. In addition, it mentioned that the beneficiary's older children did not require protective measures and are no longer in danger. This information was reiterated by the representation in November 2022.

29. In 2016 and 2017, the State presented information regarding the investigations into the death of Mr. Héctor Martínez. They indicated that, in the initial hearing, the Judiciary has determined a formal indictment against six individuals for various crimes, including the murder of the beneficiary, and that the persons charged are currently in pre-trial custody, and that there was an arrest warrant for one individual. It was indicated that the oral and public trial reportedly were to take place in October 2017, and that the case was being addressed by Second Chamber of the Court of Sentences of Territorial

⁵ I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional measures regarding Mexico. Order of the Court of February 7, 2017, para. 16 and 17. (Available only in Spanish)

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

¹⁰ IACHR. Press Release No. 33/19. 73/15. [The IACHR Condemns the Killing of a Union Leader in Honduras](#), July 10, 2015.

¹¹ *Ibid.*

Competence in Criminal Matters. The Commission acknowledges the progress made in the legal proceedings against those who are materially responsible for the murder of beneficiary Héctor Martínez.

30. On August 31, 2020, the State requested that the precautionary measures be lifted. Consequently, the request to lift was forwarded to the representation pursuant to Article 25.9 of the Rules of Procedure. In its response, the representation reiterated its concerns regarding the lack of due investigation into persons who were responsible for giving the order to murder the beneficiary in 2015, as well as the fact that some of his family members are living in the U.S., and the other family members do not wish to obtain protection measures. On that occasion, it did not present any information on new incidents of risk to any beneficiary currently in Honduras. In view of the foregoing, the Commission notes that it has no information on the situation of serious and urgent risk of experiencing irreparable harm to the rights of Mr. Martínez's next of kin since 2015, approximately eight years have passed without any information in this regard.

31. 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 significantly changed. In 2015, beneficiary Héctor Martínez was murdered, and in that same year, his family members left Honduras and requested asylum in another country. In this regard, as the Inter-American Court has pointed out, "the useful effect of provisional measures depends on the real possibility that they will be implemented [and that] there is a material impossibility for the State to comply with the provisional measures on territories where it lacks sovereignty".¹² The Commission therefore considers that, at this time, it is not possible to identify a situation that fulfills the requirements of Article 25 of the Rules of Procedure, since approximately eight years have passed without any receiving any new information regarding risk events against the beneficiaries. In view of the above, and taking into account the exceptional and temporary nature of precautionary measures,¹³ the Commission deems it appropriate to lift these measures.

32. Lastly, as noted by the Inter-American Court in various cases,¹⁴ the lifting of precautionary measures by no means implies that the State has effectively implemented the precautionary measures issued, nor does it imply that the State is exempt from its general obligations to protect, contained in Article 1.1. of the American Convention. In this context, the State must promote the necessary investigations to duly clarify the facts in relation to the murder of Mr. Héctor Martínez, followed by the consequences that may be determined.

V. DECISION

33. The Commission decides to lift the precautionary measures granted in favor of Héctor Orlando Martínez Montaña and his next of kin in Honduras.

¹² Matter of Luisiana Ríos et al. regarding Venezuela. Provisional Measures. Order of the Court of August 22, 2018, Considerandum 4. Although the Court has sometimes ordered to maintain provisional measures in relation to persons who have left the territory of the State concerned, it has indicated that it is appropriate for them to be "updated" once the beneficiaries return to the country in question (cf. Matter of Alvarado Reyes et al. regarding Mexico. Provisional Measures. Order of the Court of June 23, 2015, Considerandum 33). That is not the situation in this case and the representatives have not indicated that Mr. Revilla Soto and Mr. Revilla Zambrano have a specific intention to return to Colombia in the near future, but they have only referred to the mere possibility that this could happen in the future (supra Considerandum 9.d). I/A Court H.R. Case Revilla Soto Vs. Venezuela. Request for Provisional Measures not granted. Order of the Inter-American Court of Human Rights of February 8, 2023.

¹³ I/A Court H.R., [Matter of Adrián Meléndez Quijano et al.](#) Provisional Measures regarding El Salvador. Judgment of the Court of August 21, 2013, para. 22, and [Matter Galdá Álvarez et al.](#) Provisional Measures regarding Honduras. Resolution of the Inter-American Court of Human Rights of November 23, 2016, para. 24. (Available only in Spanish)

¹⁴ See in this regard: I/A Court H.R. [Case of Velasquez Rodríguez](#). Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, Considering clause 3 (Available only in Spanish); I/A Court H.R. Court. [Matter of Giraldo Cardona and et al.](#) Provisional measures regarding Colombia. Order of the Inter-American Court of Human Rights of January 28, 2015, Considerandum 40. (Available only in Spanish)

34. The Commission recalls that lifting 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.

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

36. Approved on April 16, 2023, by Margarete May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Joel Hernández García; Julissa Mantilla Falcón; Edgar Stuardo Ralón Orellana; and Carlos Bernal Pulido, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary