

INFORMATIONAL BOOKLET

# Precautionary Measures

This booklet is intended as a guide for precautionary measure applicants. The information provided within does not bind the IACHR and does not guarantee the granting of a precautionary measure.

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## 01 What is a precautionary measure?

A precautionary measure is a protection mechanism of the Inter-American Commission on Human Rights (IACHR), through which a State is requested to protect one or more persons facing a serious and urgent situation that presents a risk of irreparable harm to their rights.

The overall aspects and scope of the precautionary measure mechanism are outlined in Article 25 of the IACHR's Rules of Procedure.

The nature and purpose of the precautionary measures granted by the IACHR are different from those available in national jurisdictions.

Precautionary measures have two functions: a protective and a precautionary function. Both functions are related to the protection of the fundamental rights described in the Rules of Procedure of the inter-American system. Through the protective function, precautionary measures seek to avoid irreparable harm and preserve the exercise of human rights. Through the precautionary function, the measures aim to preserve rights at risk of potential harm while the inter-American system resolves a petition under review. Their object and purpose are to ensure the integrity and effectiveness of a decision on the merits. Therefore, they aim to avoid any harm to the claimed rights, as this could render the final decision moot or diminish its practical effects (*effet utile*).

## 02 What is the difference between a precautionary measure and a petition or case filed with the IACHR?

A precautionary measure seeks to protect persons or groups of persons facing a serious and urgent situation that presents a risk of irreparable harm to their rights. In contrast, a petition or case examines potential human rights violations in specific situations or due to certain acts attributable to a State, in ac-

cordance with the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, and other applicable instruments. A request for a precautionary measure and a petition or case may be processed simultaneously, but they have different purposes.

Precautionary measure	Petition or Case
<p>Seeks to protect specific person(s) in a situation of serious and urgent risk of irreparable harm.</p>	<p>Establishes violations of human rights protected under the American Convention on Human Rights, or other applicable instruments, and attributable to the State concerned.</p>
<p>Does not constitute a prejudgment of any violation of the rights protected under the American Convention on Human Rights or other applicable instruments.</p>	<p>Establishes the international responsibility of a State.</p>
<p>Does not require exhaustion of domestic remedies to file a request. However the Commission takes into account whether the situation presenting a risk has been reported to the relevant authorities, or the reasons why this has not been possible.</p>	<p>As a rule, domestic remedies should be exhausted before filing a petition. However, under certain circumstances, a person may be exempted from exhausting domestic remedies if due justification is provided.</p>
<p>Does not determine reparation measures.</p>	<p>Where a human rights violation is found, reparation measures may be recommended.</p>
<p>Does not examine the merits of the situation, as the facts do not need to be fully proven. However, the situation must be duly explained and credible enough to identify a serious risk.</p>	<p>Reaches conclusions on the merits, which require the relevant means of proof.</p>

### 03 In which situations is it not suitable to grant a precautionary measure?

According to the IACHR's precedents, the precautionary measures mechanism is not suitable for requests related to any of the following issues or claims:

- i) alleged lack of due process and legal protection in the framework of criminal or civil proceedings (in accordance with Articles 8 and 25 of the American Convention on Human Rights and Article XVIII of the American Declaration);
- ii) determination of the compatibility, in abstract terms, of a regulation with the American Convention or other applicable instruments;
- iii) payment of pecuniary compensations, which include civil, mercantile and pension proceedings;
- iv) allegedly unjustified dismissals of personnel of private or public companies not elected by popular vote, payment of salaries, determinations on promotions and vacations;

v) commercial or civil attachment of property and evictions which represent no additional situations of risk other than impacts on the right to private property;

vi) requests for resources or financial support;

vii) strictly administrative proceedings, including the issuance of certificates, expediting proceedings and declaratory resolutions. For more information, please see Resolution 3/2018 on "Strengthening of the processing of requests for precautionary measures."

In this regard, there is a wide range of claims for which the Commission has deemed it unsuitable to grant precautionary measures. When a petition has been filed concurrently with a precautionary measures request, the IACHR has opted to examine the information provided through the Individual Petition System, given that these types of claims require a review of the merits and their compatibility with the American Convention or other applicable instruments.

## 04 Who can file a request for precautionary measures? Regarding which States may I file a precautionary measures request? Must the State concerned have ratified the American Convention on Human Rights?

Any person, group of persons or organization can file a request for precautionary measures involving any country in the region.

The State concerned does not have to have ratified the American Convention on Human Rights. The Inter-American Commission has the mandate to promote the observance and defense of human rights in all Member States of the Organization of American States (OAS), in accordance with Article 106 of its Charter. The

precautionary measures mechanism is further described in Article 25 of the IACHR's Rules of Procedure. For States that are not party to the American Convention, the IACHR refers to the American Declaration of the Rights and Duties of Man and other applicable instruments in the fulfillment of its mandate.

You are not required to be represented by a lawyer in any proceedings before the IACHR.

## 05 Can I file a request for precautionary measures involving a State of which I am not a citizen? Can I request precautionary measures if I am currently located outside the State concerned?

It is not necessary to be a citizen of the State concerned in order to request precautionary measures. However, the potential beneficiaries must be in the territory of the State concerned

or must intend to return in the event that protection measures are granted. This is because a State cannot implement measures in favor of persons who are not under its jurisdiction.

## 06 In whose favor can I file a request for precautionary measures?

A request can be filed in favor of a person or group of persons who are or may be at risk. The IACHR has requested protection for persons who have not been individually identified beforehand, but who are **determinable and identifiable**, for instance, by their geographical location or association with a certain group, town, community or organization.

Article 25(3) of the IACHR's Rules of Procedure states that "precautionary measures may protect persons or groups of persons, as long as the beneficiary or beneficiaries may be determined or determinable through their geographic location or membership in or association with a group, people, community or organization." In this sense, the Commission has granted mea-

asures for the protection of indigenous and peasant communities, members of civil society organizations, the media or trade unions, as well as persons deprived of their liberty both in prisons and in immigration detention centers, as long as the members are clearly identifiable.

The IACHR requires consent from the person(s) in whose favor the precautionary measure is requested. Otherwise, the absence of consent should be duly justified.

The person who is at serious and urgent risk of irreparable harm may request precautionary measures for themselves. In this case the applicant and the potential beneficiary will be the same person.

## 07 Do I have to pay any cost to file a precautionary measure request?

**No.** All services and procedures before the IACHR are free of charge. The IACHR does not authorize any person or entity to request or receive payments for any reason.

## 08 How do I file a precautionary measures request?

The IACHR recommends submitting requests for precautionary measures through its Virtual Portal. This is the most efficient method, as it facilitates the reception of documents in digital format for faster processing. Through this portal, the applicant will receive an automatic message confirming that the request and any attached documents were received.

In the event that applicants are unable to access the [Virtual Portal](#), requests may also be sent to the following email: [cidhdenuncias@oas.org](mailto:cidhdenuncias@oas.org). If the request is submitted by email, please include “Precautionary Measures” in the email’s subject line or in the heading of the text for faster identification.

Please note that there will be no acknowledgement of receipt for communications sent by email.

The size limit for emails sent to this inbox is 13 MB. Emails with larger files will not be received in official IACHR inboxes, and no further notification will be sent.

If neither of these channels is viable, requests are also accepted by postal mail to the following address: **1889 F Street, NW, 20006, Washington, DC, USA.**

In-person visits to the headquarters are neither necessary nor recommended in order to file a request for precautionary measures.

## 09 In what language should I file a request for precautionary measures?

**The request must be filed in the official language of the State concerned.** The OAS has four official languages:

- Spanish
- Portuguese
- English
- French

If the request is not in the official language of the State concerned, the IACHR may ask you to resubmit it in the official language. This may lead to delays in the processing of the request.

## 10 How do I know whether the IACHR received my request for precautionary measures?

When requests are sent through the Virtual Portal, you will receive an automatic message confirming receipt and the registration number of the request for precautionary measures.

The IACHR does not confirm receipt of requests submitted via email or postal mail. Acknowledge-

ment of receipt of these requests will be made when notifying the applicant of any decision.

The size limit for emails sent to this inbox is 13 MB. Emails with larger files will not be received in official IACHR inboxes and no further notification will be sent.

## 11 Why have I not received a response to additional emails sent after filing my request for precautionary measures?

Any email sent to [cidhdenuncias@oas.org](mailto:cidhdenuncias@oas.org) is processed by the Executive Secretariat of the IACHR. However, the Secretariat lacks the resources or means to acknowledge receipt of every communication at the time they are received. If you require a record of having submit-

ted a communication to the IACHR, please use the [Virtual Portal](#).

The size limit for emails sent to this inbox is 13 MB. Emails with larger files will not be received in official IACHR inboxes and no further notification will be sent.

## 12 How long will it take to process my request for precautionary measures? When will I obtain an answer?

The IACHR cannot establish a specific time frame for the final decision on a request. The response time varies depending on each case, its development, the volume of requests received, and their level of complexity.

Given the large number of requests received each year, the IACHR analyzes each situation based on its seriousness and urgency and prioritizes those that are likely to be granted in accordance

with its Rules of Procedure and set precedents. These include situations involving threats against the rights to life and personal integrity, health, cases of deportations, extraditions, the potential application of the death penalty (while there is a petition pending before the IACHR), disappearances, detention conditions, among other similar matters. Special consideration is given to whether the risk of irreparable harm will materialize soon or in the immediate future.

The situations in which the IACHR has granted precautionary measures can be accessed on the IACHR's website. Some examples of factors influencing response time include:

- Whether the information initially provided is sufficient to establish the urgency of the alleged situation or whether additional information from the applicant is needed to clarify some aspects of the request.
- Whether the information provided on the situation is up to date.
- The response time of the applicant and/or the State to letters sent by the IACHR.
- The complexity of the situation or amount of information presented.
- Other equally urgent situations that may be pending resolution by the IACHR.

### 13 What is the difference between an applicant and a potential beneficiary?

The applicant is the person who files or submits the request for precautionary measures before the IACHR and who subscribes to or signs the request.

The potential beneficiary is the person for whom protection is requested. If the precautionary measure is granted, he or she will be referred to as the "beneficiary."

Also see: [18. Can I send confidential information or request that the IACHR keep certain information confidential?](#)

Any person facing a situation of serious and urgent risk of irreparable harm and who is not able to be represented or assisted by a third party may file a precautionary measure request for themselves. In this case, the applicant and the potential beneficiary of the measure would be the same person.

## 14 What kind of information should I include in my request for precautionary measures?

The elements that should be included in a request for precautionary measures are described in Article 25 of the IACHR's [Rules of Procedure](#).

The request should include a detailed, individualized and concise report (no more than five pages). To facilitate an analysis of the specific situation, the information provided should include specific details of time (dates), manner, place and, if possible, the perpetrators of the sources of risk (for instance, a State officer or a civilian).

Applicants should specify whether the alleged situation was reported to the domestic authorities, or otherwise justify why this has not been possible. Disclose any response obtained, including administrative or judicial decisions, preferably providing a copy of the principal resolutions.

To facilitate prompt assessment, applicants are encouraged to inform whether they resorted to competent authorities at the domestic level to request protection measures (for example, the police, the prosecutor's office, the ombudsman's office, or any other entity), and to submit any response obtained, preferably providing a copy of the decisions.

Please note that it is not necessary to submit lengthy or extensive information for the request to be granted. In fact, the IACHR has granted precautionary measures based on relatively brief reports.

If more information is required, the IACHR will send the applicants a letter requesting additional information.

Given that the precautionary measures mechanism does not require legal representation, the description of events does not need to include any legal arguments or formal documents as those required at the domestic level.

Wherever possible, applicants should attach supporting documents to their request, especially when it involves lack of access to medical treatment or health issues, or potential violations of the right to family life or freedom of expression. Additionally, applicants can attach photographs of threats received, pamphlets, phone or computer screenshots, video or audio recordings, among others. This information will permit the IACHR to analyze the allegations made by the applicants in greater detail.

A form with information about the elements to consider when filing a request for precautionary measures is available on the Virtual Portal.

The following are hypothetical examples based on frequent requests and serve merely as a guide for users who wish to fill out the precautionary measures form. These examples do not guarantee that a request will be granted.

**Inadequate Examples**

**Adequate Examples**

“I am at risk, I fear for my life, I am being followed and the police won’t help me.”

“I am at risk and fear for my life. I am being followed and the police won’t help me. At the end of February this year, I started receiving threats on my cell phone and through letters sent to my workplace from the criminal group XXX/ Mr. or Ms. XXX. They’ve warned me that if I don’t stop defending my community XXX, they are going to kill me and my family. I reported this to the police on [date]. I haven’t received any protection measures despite having requested them. They told me that they are still investigating but no progress has been made.

“I am detained in inhuman and degrading conditions. I am being subjected to mistreatment.”

“I am detained in inhuman and degrading conditions. I am being subjected to mistreatment. I have been held in a very small cell for five months. The cell is intended for six people, but there are many more in here (around 15). There are no windows or access to sunlight, we only have two mattresses, and the floor is extremely dirty since there are no toilets inside the cell. When the guards arrive, they start to attack or insult us, and the food they serve us sometimes appears rotten. The last time the guards came and beat us was [date]. One of the persons injured has not received medical treatment. We are not allowed to have contact with our lawyers or family members.”

“I have a health problem. I’m experiencing pain in my stomach, but ever since I was detained, I haven’t received any medicine, even though I requested it from the physicians many times.”

“I have a health problem. I’m experiencing pain in my stomach, but ever since I was detained, I haven’t received any medicine, even though I requested it from the physicians many times.

I don’t know exactly what my illness is but for many days I have had unbearable pain and it’s hard to sleep, which didn’t used to happen to me before being detained. They gave me pills at the nurse’s office last week, but I don’t think they are helping. When I went back, they told me to wait and later said they had nothing left to give me for now. I also noticed some type of lump in my abdomen, but they didn’t check anything.”

## 15 Do I need to prove my allegations? How can I do so?

The precautionary measures mechanism does not require that the facts be fully proven. However, they must be credible and properly explained. In this sense, the information must be sufficiently detailed and substantiated so that the IACHR may determine whether the potential beneficiaries are at serious risk. In legal terminology, this standard of review is known as *prima facie* and it is an essential component of the precautionary measures mechanism. If the account is too vague or ambiguous, the Commission will likely require additional information from the applicant.

Applicants can send supporting documents so that their account is more credible and detailed. However, through this mechanism, the Commission does not apply any admission requirements or procedural rules as would a domestic court of law. For instance, the Commission will not exclude any document from the file if it does not meet certain criteria or does not comply with some of the formal procedures stipulated in national laws.

## 16 Should I exhaust domestic remedies before filing a request for precautionary measures? Should I resort first to the police, the prosecutor's office or a similar authority?

Unlike the IACHR's petition and case system, Article 25 of the IACHR's Rules of Procedure does not require applicants to exhaust domestic remedies in order to request precautionary measures.

However, to determine whether the potential beneficiaries are in a situation of serious and urgent risk, the IACHR will consider any actions taken to obtain protection from national authorities, as well as the responses obtained. Please note that intervention by the IACHR is fundamentally auxiliary or complementary to the duty of the States to protect the people who are in their territory or under their jurisdiction.

The IACHR takes into account the protection measures granted by the State and if they are

suitable and effective to mitigate the risk alleged in the request. "Suitability" means that the protection measures implemented, by their very nature, are appropriate to mitigate the risk. "Effectiveness" means that the measures in fact produce this result.

If no protection measures have been granted despite complaints, or if they are not suitable or effective and the risk persists or worsens, this could require the IACHR's intervention through precautionary measures. When examining a situation, the IACHR considers, for instance, if the potential beneficiary was granted security escorts who do not regularly do their job, are negligent in their performance or do not accompany the potential beneficiary where they

should. Another example is if a vehicle granted for protection is defective and, due to shortcomings in the security detail, incidents of risk or harm continue to occur, among others.

Furthermore, because each State has its own national bodies or institutions to process complaints on events of risk and/or requests for the implementation of protection measures, the IACHR will not specify which body or institution should be

resorted to and will not examine whether domestic remedies were duly exhausted. If applicants are unable to apply for protection through domestic authorities, they should include this information in their request to the IACHR, specifying the reasons why they could not do so. For instance, the IACHR often receives requests from persons who express their fear of resorting to certain institutions for different reasons, such as the fear of retaliation by their alleged attackers.

## 17 Will the State know that I filed a request for precautionary measures with the IACHR?

Prior to granting a precautionary measure, the IACHR will request information from the State concerned, except when the immediacy of the harm admits no delay, in accordance with Article 25 of the IACHR's [Rules of Procedure](#). The IACHR will make the case file available to the State in the event it requires information on the situation described in the request or decides to grant the precautionary measure. (see: [21. What are the criteria used by the IACHR to grant a request?](#))

However, if after initial review the IACHR concludes that the request does not meet the requirements and decides to deny precautionary measures, it will not request information from the State concerned. The State will not have access to the case files, and the situation will not be made known. (see: [26. In what situations does the IACHR decide to request information from the State?](#) and [24. What are the stages of the precautionary measures procedure?](#))

## 18 Can I send confidential information or request that the IACHR keep certain information confidential?

If the IACHR decides to grant precautionary measures, or to request information from the State on the situation alleged in the request, all documentation in the file will be made available to the State. If for any reason applicants

wish to bring information only to the attention of the IACHR and not the State, it is important to note that this information cannot be used to justify or substantiate the granting of a precautionary measure.

The only information from the precautionary measures request that can be kept completely confidential is the applicant's identity. If the applicant and the potential beneficiary are the same person, or if their relationship could reveal the identity of the former, the request should be drafted so as to not reveal their identity. For example, if the applicant is the potential beneficiary's mother but she does not want her identity to be known, she should write: "Mr. X received threats" instead of "my son received threats." If the applicant and the potential beneficiary are the same person, the text should be written in the third person: "Ms. XX received threats," in-

stead of "I received threats." Please note that the IACHR will not edit any text, so it is advised to take precautions.

As for the identity of the beneficiaries who are granted a precautionary measure, the IACHR may keep their identity confidential in public documents, including precautionary measures resolutions, by using initials or pseudonyms. However, the IACHR must disclose the identity of the beneficiaries of a precautionary measure granted to the State concerned, as the State must be able to identify the persons who require protection.

## 19 Who decides whether to grant my request for precautionary measures?

The decision on whether to grant a request for precautionary measures rests exclusively with the IACHR. Commissioners will not participate in the debate or deliberation of a situation which concerns the country of which they are citizens, in accordance with Article 17(2) of the IACHR's [Rules of Procedure](#).

The members of the IACHR also decide if a precautionary measure previously granted should be modified, extended or lifted.

The IACHR's Executive Secretariat receives and processes all requests for precautionary measures. The legal team in charge of this area is the Precautionary and Provisional Measures Section. Nevertheless, all decisions regarding precautionary measures are made by the Commission itself.

## 20 What is a precautionary measures resolution?

The IACHR issues a resolution every time it decides to grant, modify, extend or lift a precautionary measure. This has been the practice since August 1, 2013, when the current Rules of Procedure entered into force.

A resolution includes a summary of the facts and arguments made by each of the parties, as well as the legal basis, the identification of the beneficiaries, and the final recommendations of the IACHR to the State.

The Commission may also issue resolutions to follow up on precautionary measures in force, in accordance with [Resolution 2/2020](#).

The IACHR does not issue resolutions when it decides that a request for precautionary measures does not meet the procedural requirements (that is, when the request is dismissed or denied). In such cases, the applicant will only receive a notification informing them of the decision. If a request is rejected or closed, the Commission will not provide an individualized explanation or justification either in written form, over the phone or in person.

## 21 What are the criteria used by the IACHR to grant a request?

The IACHR assesses requests according to the requirements established in Article 25 of its [Rules of Procedure](#) and the precedents applicable to each situation.

The requirements for a precautionary measure to be granted consist of situations that are **serious, urgent**, and that present a risk of harm that is **irreparable in nature**.

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.”

A “protected right” refers to all the rights recognized in the [American Convention on Human Rights](#), the [American Declaration](#), or in any other applicable international treaty or instrument.

The IACHR has granted precautionary measures to protect, for instance, the rights to life, personal integrity, health, freedom of expression, identity and family life.

The “eventual effect of a pending decision in a case or petition before the organs of the inter-American System” refers to the fact that, in addition to directly requesting the protection

of the rights of a person, the IACHR may also request that a State adopt measures or refrain from taking actions that may prevent or hinder the effects of a potential decision in a petition or case. The latter is known in the strictest sense as the “precautionary” dimension. In addition to protecting the right(s) at issue, it aims to preserve a legal situation. For example, this is the case of deportations to a country of destination that poses an immediate risk to the person being deported. In this situation, the IACHR may issue precautionary measures while a concurrent petition alleging violations of due process in the deportation decision is under review by the inter-American System<sup>1</sup>; The IACHR may also issue precautionary measures when the application of the death penalty poses an immediate risk and the concurrent petition claims violations of due process in the proceedings<sup>2</sup>.

“Serious impact” implies that an action or omission will necessarily affect the scope or content of the right(s) at issue. For example, if a person is at risk of death due to threats made against him or her, the right to life will be ultimately and seriously impacted. Similarly, if a person is deprived of liberty and does not receive medical care to treat an illness, his or her rights to personal integrity, health or even life could be affected.

The “**urgency of the situation**” is determined by information suggesting that the risk or threat is imminent and could materialize, and that the situation therefore requires preventive or protective action. The IACHR will assess the possibility and probability that the harm may occur in the near future by analyzing the existence of cycles of threats or attacks, the literal nature of the threats received and, in particular contexts, as-

sessments by the corresponding specialists (for example, medical certificates), among others.

Regarding the **requirement of irreparable harm**, it is important to note that the precautionary measures mechanism has evolved since its creation. The understanding of what constitutes an irreparable situation has depended on a variety of factors and legal interpretations under the respective historical contexts, both within the IACHR and the Inter-American Court of Human Rights. In fact, both institutions maintain an ongoing dialogue, thus reflecting the effects of their decisions on each other. At present, the IACHR grants precautionary measures for the protection of the rights to life, personal integrity, health, identity, family life, political rights and freedom of expression, among others.

The IACHR analyzes both the information contained in the request, within the applicable context, and any public information.

The IACHR takes a differentiated approach regarding groups that are in a special situation of vulnerability, which means adopting a gender, diversity and intercultural perspective, among others. For example, in Resolution 13/19, PM 150-19, Concepción Palacios Maternity Hospital regarding Venezuela, the IACHR noted a differentiated impact in the beneficiaries’ access to adequate and timely medical treatment because of their gender. Furthermore, in Resolution 93/20, PM 1100-20, Six migrant children and adolescents regarding Trinidad and Tobago, the IACHR analyzed the particular vulnerability of migrant children and emphasized the need to protect them considering the principle of the best interest of the child.

1. See, for instance: IACHR, Resolution No. 30/16, PM 297-16 - E.G.S. and A.E.S.G., United States, May 11, 2018 [Available in Spanish].

2. See, for instance: IACHR, Resolution No. 21/17, PM 250-17 - Lezmond Mitchell, United States, July 2, 2017.

## 22 In what situations is a precautionary measure not suitable?

If a request does not meet the requirements outlined in Article 25 of the Rules of Procedure, the IACHR will deny precautionary measures.

The specific role of the precautionary measures mechanism is to exclusively request that States adopt protective measures to preserve the rights of a person or the subject matter of a petition or case. In this sense, a person who resorts to the IACHR so that it may determine whether a State is internationally responsible for the violation of human rights recognized in the applicable international instruments should file a petition. (see: [02. What is the difference between a precautionary measure and a petition or case filed with the IACHR?](#)).

The IACHR issued [Resolution 3/2018 on “Strengthening of the processing of requests for precautionary measures”](#) which, among others, outlines the situations considered **unsuitable** for the precautionary measures mechanism:

- i) alleged lack of due process and legal protection in the framework of criminal or civil proceedings (in accordance with Articles 8 and 25 of the [American Convention on Human Rights](#) and Article XVIII of the [American Declaration](#));
- ii) determination of the compatibility, in abstract terms, of a regulation with the [American Convention](#) or other applicable instruments;
- iii) payment of pecuniary compensations, which include civil, mercantile and pension proceedings;

iv) allegedly unjustified dismissals of personnel of private or public companies not elected by popular vote, payment of salaries, determinations on promotions and vacations;

v) commercial or civil attachment of property and evictions which represent no additional situations of risk other than impacts on the right to private property;

vi) requests for resources or financial support; and

vii) strictly administrative proceedings, including the issuance of certificates, expediting proceedings and declaratory resolutions.

The IACHR cannot grant a precautionary measure if the request’s intention is to determine that the State committed a violation of a right or to demand reparation. For example, a request for precautionary measures will most likely be denied if it seeks the release of a potential beneficiary who has been arbitrarily deprived of his or her liberty, or if it seeks the reinstatement of a potential beneficiary to his or her former position after being dismissed from their company, along with the corresponding financial gains. This is because the Commission would inevitably have to examine the merits of the case at hand to reach its decision, which cannot be pursued in the framework of a precautionary measure, but rather **through a petition or case**. However, if the potential beneficiary is being attacked or has health-related problems

while in prison, or if they are being threatened for reporting their company, the IACHR may take these factors into account in a request for precautionary measures. A decision to deny precautionary measures in no way affects the result of a petition or case. Similarly, filing a request for precautionary measures does not imply that the concurrent petition or case will

be processed more expeditiously or that it will have a greater probability of success. Regarding the petition and case system, the Rules of Procedure only contemplate speeding up the review of a petition if the related precautionary measures have been granted, in accordance with Article 29(2)(a)(iv).

## 23 What happens if my request is not granted? Can I appeal or send additional information?

The decision of the IACHR not to grant a precautionary measure is final and cannot be appealed before the IACHR or the Inter-American Court of Human Rights.

Should new events take place, a new request for precautionary measure may be filed. Please note that the IACHR may reiterate the decision not to grant precautionary measures if the new request lacks different and substantial information, and it will not review the request at issue again. The new request may be processed if new elements to be assessed are identified.

The IACHR may decide not to grant a precautionary measure and follow up on the alleged situation through its monitoring functions, for example, through a request for information from the State.

In this case, the decision not to grant the precautionary measure will be communicated to the parties and the applicants will no longer be formally notified of any actions taken by the IACHR.

Additionally, the decision not to grant a request for precautionary measures does not imply that the IACHR is not addressing the issue. The IACHR has 11 thematic Rapporteurships and two Special Rapporteurships. The Precautionary and Provisional Measures Section frequently works together with them, as well as with the special monitoring mechanisms, including MESENI and MESEVE, and the Rapid and Integrated Response Coordination Units (SACROIs). In this sense, the precautionary measures mechanism is one of many mechanisms available to the IACHR to fulfill its mandate.

## Step by step of the procedural stages of a Precautionary Measure



## 24 What are the stages of the precautionary measures' procedure?

Article 25 of the Rules of Procedure states that the IACHR shall issue public resolutions when it decides to grant, lift or modify the subject matter of a precautionary measure in force. Therefore, for practical purposes, the IACHR's Executive Secretariat organizes the requests in the [Virtual Portal](#) into three procedural stages, as follows:

- i) **Measures in initial review:** These consist of requests being analyzed for the first time and those in which additional information has been requested from the applicant. At this stage, the request has not been brought to the attention of the State, The State is not asked to provide information on the matter.
- ii) **Measures under request for information from the State:** Requests at this stage have been brought to the attention of the State and information has been requested in accordance

with Article 25(5) of the Rules of Procedure. The IACHR may require information from the State for the first time or may subsequently request additional information from both parties.

- iii) **Measures in force:** These consist of requests in which the Commission has deemed the procedural requirements met and has granted precautionary measures. At this stage, the Commission oversees the implementation of such measures.

Through the Virtual Portal, users will be able to check if their request has been **deactivated** (see: [27. What happens if I do not respond to a request for information from the IACHR about my request for precautionary measures?](#) y [28. What does it mean that a request for precautionary measures was deactivated? When is a request for precautionary measures deactivated?](#)).

## 25 What are the steps in the stages “Measures in initial review” and “Request for information from the State”?

**A. Initial review:** During initial review, an analysis is conducted on whether the request meets the requirements established in Article 25 of the IACHR's Rules of Procedure. All new requests received by the IACHR begin at this stage.

The requests remain at this stage even when the IACHR decides to request additional information from the applicant to clarify or complement any information relevant to the request.

If the IACHR requests information from an applicant through a written communication, the lack of response to that communication within the specified time frame will result in no further processing of the request for precautionary measures. This means that the matter will be deactivated without prior notification.

(see: [27. What happens if I do not respond to a request for information from the IACHR about my request for precautionary measures?](#)).

At this stage, the State is not made aware of the request for precautionary measures and it does not have access to the case file.

If the request has not yet been definitively resolved and remains at this stage, the applicant must submit updated information regarding the request at least once every 6 months from their last communication so that the request may continue to be processed. Otherwise, the file will be deactivated and the applicant notified. (see: [28. What does it mean that a request for precautionary measures was deactivated? When is a request for precautionary measures deactivated?](#)).

This stage ends with the Commission's decision to either grant precautionary measures, request information from the State or deny the applicant's request.

**B. Request for information from the State:**  
This stage begins when the IACHR requires

information from the State on the request filed. During this stage, the IACHR may require information from the State for the first time or may subsequently request additional information from both parties. Information may also be exchanged between the State and the applicant.

If the Commission requests information from an applicant through a written communication, the lack of response to that communication within the specified time frame will result in no further processing of the request for precautionary measures. This means that the matter will be deactivated without prior notification.

(see: [27. What happens if I do not respond to a request for information from the IACHR about my request for precautionary measures?](#)).

At this stage, there is still no final decision from the IACHR. This stage ends with the Commission's decision to grant or deny the request for precautionary measures.

## 26 In what situations does the IACHR decide to request information from the State?

Requests for precautionary measures first go through a review stage but, in order to be granted, they must first be brought to the attention of the State.

In accordance with Article 25 of the IACHR's Rules of Procedure, the Commission as a rule will request information from the State before granting a precautionary measure. However, "where the immediacy of the alleged harm admits no delay," the IACHR may directly grant a precautionary measure without previously requesting information from the State. If prior information is not requested from the State and a precautionary measure is granted directly, the

Rules of Procedure state that the IACHR must review the appropriateness of keeping the measure in force during its next period of sessions.

Throughout the process, the Commission may carry out one or more requests for information in order to have a better understanding of the situation at hand. Furthermore, given that each request is analyzed based on the current risk, applicants must keep the information in the files duly updated.

Nonetheless, if the IACHR finds that the procedural requirements are not met during the "initial review" stage, it may deny the request without requiring information from the State.

## 27 What happens if I do not respond to a request for information from the IACHR about my request for precautionary measures?

If the Commission requests information from an applicant through a written communication, the lack of response to that communication within the specified time frame will result in no further processing of the request for precautionary measures. This means that the matter will be deactivated without prior notification.

In this case, applicants will only be able to find out if their request has been deactivated through the [Virtual Portal](#).

Moreover, failure to update the information for more than six months in a file not yet brought

to the attention of the State will also result in deactivation in accordance with [Resolution 3/2018](#). If this occurs, the Commission will notify the applicant that their request has been deactivated.

For this reason, it is particularly important that applicants make every effort to reply to any communication from the IACHR within the established period. If unable to do so, applicants can always ask for a time extension and explain the reasons why they are not able to submit the information on time. For more information, please see [Resolution 3/2018](#).

## 28 What does it mean that a request for precautionary measures was deactivated? When is a request for precautionary measures deactivated?

A deactivated precautionary measure means that the request will not be processed any further. A request for precautionary measures is deactivated in two cases:

- Due to the lack of response by the applicant to a communication from the IACHR within the established time frame.

In this scenario, the IACHR will not notify the applicants that the request has been deactivated.

Applicants will only be able to find out that their request has been deactivated through the [Virtual Portal](#). For this reason, it is

particularly important that applicants make every effort to reply to any communication from the IACHR within the established period. If unable to do so, applicants can always ask for a time extension and explain the reasons why they are not able to submit the information on time.

- Due to the lack of updated information for a period longer than six months and before the request has been forwarded to the State. In this sense, it is important for applicants to periodically send updated information on the alleged situation. If a request is deactivated under these circumstances, the IACHR will notify the applicants.

The Commission does not deactivate requests for precautionary measures due to a lack of response from the State concerned.

To learn more about the deactivation process, please refer to [Resolution 3/2018 “Strengthening of the processing of requests for precautionary measures”](#).

## 29 What happens when the IACHR grants precautionary measures?

When the IACHR decides that a request for precautionary measures meets the requirements established in Article 25 of its [Rules of Procedure](#), these measures are granted in order to prevent irreparable harm. (see: [21. What are the criteria used by the IACHR to grant a request?](#))

The IACHR notifies the corresponding resolution to the parties and issues a press release on its [website](#).

During this stage, the IACHR oversees the implementation of the precautionary measure (see: [32. What are the existing mechanisms to monitor the implementation of a precautionary measure in force?](#)) and may decide on whether the measure should be extended or lifted (on the lifting of precautionary measures, see: [35. Are the precautionary measures granted subject to a term or specific time?](#)).

While a precautionary measure is in force, the IACHR may decide to modify, extend or lift it, and may even request provisional measures to the Inter-American Court of Human Rights in

accordance with its Rules of Procedure (see: [33. In what situations may the IACHR request provisional measures to the Inter-American Court of Human Rights?](#)).

A precautionary measure in force may be extended to new persons or groups who share the risk that led to the granting of the precautionary measure, provided that their situation meets the procedural requirements of seriousness, urgency and risk of irreparable harm. In this sense, when a request for extension of precautionary measures is filed, the IACHR analyzes the situation’s “factual connection” with the measures previously granted.

In turn, a precautionary measure may be modified when there are changes in the situation of risk, in the subject of protection, or in the requests made by the IACHR to the State, among others. Modifications consist of including or excluding the rights protected under the precautionary measure and can occur, for example, when a situation changes to the extent that different rights are now at risk of irreparable harm.

## 30 What protection measures does the IACHR recommend?

The recommendations that the IACHR issues in its resolutions to grant or extend precautionary measures are embedded in States' duty of protection. They are implemented in accordance with Article 25 of the Rules of Procedure during serious and urgent situations to prevent any risk of irreparable harm to persons or the subject matter of a petition or case pending before the inter-American system. These recommendations aim to mitigate the risk that led to the granting of the precautionary measures, and generally include these elements:

- 1. Immediate measures to protect the rights at risk:** Immediate protection measures are aimed at safeguarding the rights of the beneficiaries and preventing the occurrence of an imminent risk of irreparable harm. In this type of recommendation, the IACHR may request, for example, the adoption of measures to protect life and integrity; access to adequate medical treatment or the performance of the necessary diagnoses; the abstention from deporting or extraditing persons who are at a serious and urgent risk; the abstention from applying the death penalty when there is an ongoing case with alleged due process violations; to guarantee the exercise of journalistic work or the defense of human rights, without acts of intimidation, persecution, threats, or other acts of violence against the beneficiaries in the exercise of their work, among other measures.
- 2. Measures to be adopted upon agreement with the beneficiaries and their representatives in order to ensure that they participate in the planning and implementation of the measures:** IACHR's recommendations must be implemented by the State based on the principle of consensus in order to ensure that they are suitable and effective in protecting the rights at risk. This means that, on the one hand, the measures implemented, by their very nature, must be appropriate to mitigate the risk, while on the other, they must in fact produce this result.
- 3. Measures to avoid the emergence of new situations of risk:** These measures are requested by the IACHR to prevent further incidents that may put the beneficiaries at risk through the mitigation of the sources of risk. Some examples include launching a diligent investigation that would enable authorities to identify and punish those responsible for the threats, aggressions, or harassment; or mitigating the sources of contamination that may be causing a serious impact on health, life or personal integrity.

The measures required through a resolution are decided by the IACHR based on each situation. They are usually broad in scope because it is the State's duty to determine how the measures should be implemented according to the principle of consultation with the beneficiaries and their representatives.

### 31 If a precautionary measure is granted, who oversees the implementation of the protection measures? Can the IACHR itself implement the measures?

When the IACHR grants a precautionary measure, it requests that the State concerned adopt protection measures and implement them through its national authorities.

By its own mandate and nature, the IACHR does not offer security details, escorts, etc. However, it ensures that the State concerned fully and adequately implements the relevant protection measures (see next: [32. What are the existing mechanisms to monitor the implementation of a precautionary measure in force?](#)).

### 32 What are the existing mechanisms to monitor the implementation of a precautionary measure in force?

In a resolution granting precautionary measures, the State is required to provide a report on the steps taken to coordinate and implement the relevant protection measures. Upon presenting this report, the IACHR forwards it to the beneficiaries' representatives for them to submit their observations.

Based on the information provided by the parties, the IACHR may ask specific questions to either address the development of the situation, particularly new risk factors, taking into account any agreement between the parties at the national level, or to identify and overcome obstacles in the implementation of the measures. In addition, the IACHR may subsequently request information from the parties as necessary.

Although the Commission periodically requests information from the State on the implementation of the precautionary measures, it is especially important that the beneficiaries and their representatives provide, at their own initiative, updated information if there is any new event of risk or situation that requires follow-up in the framework of the precautionary measure.

Similarly, and regardless of the requests for information made by the IACHR, it is important for States to send the information they consider relevant regarding the precautionary measures in force so the IACHR may consider the actions it has taken.

The IACHR may adopt other appropriate follow-up measures to monitor the implementation of precautionary measures. These measures may include timetables for implementation, hearings, working meetings, bilateral meetings, and visits for follow-up and review.

The IACHR may also issue follow-up resolutions on the precautionary measures granted as appropriate. (See: [Resolution 2/2020 “Strengthening the Monitoring of Precautionary Measures in Force”](#)).

The IACHR always adopts a differentiated approach and gender perspective regarding groups in particularly vulnerable situations, and considers the risk that persons belonging to these groups may face in specific contexts.

Throughout the processing of a precautionary measure in force, requests to extend the measures to other persons or groups of persons can be made when their situation shares a factual connection with the events that initially prompted the granting of the measures. Requests to modify the subject matter of a precautionary measure may also be made if there are any developments in the situation of risk (see: [24. What are the stages of the precautionary measures procedure? iii. Measures in force](#)). The lifting of precautionary measures may be requested when the measures have been rendered moot or when the situation no longer meets the requirements of seriousness, urgency, and risk of irreparable harm. (see: [35. Are the precautionary measures granted subject to a term or specific time?](#)).

Additionally, while the precautionary measures are in force, the beneficiaries’ representatives may request that the IACHR file a request for provisional measures before the Inter-American Court of Human Rights. These requests are

studied by the Commission in accordance with the provisions of Article 76 of the IACHR’s [Rules of Procedure](#) and Article 63(2) of the [American Convention](#) (see: [33. In what situations may the IACHR request provisional measures to the Inter-American Court of Human Rights?](#)).

When monitoring the implementation of precautionary measures, the IACHR considers:

- Whether the State has adopted immediate measures to protect the rights of the beneficiaries, for instance, by adopting a security detail, facilitating access to adequate medical treatment, among others;
- Whether the measures adopted are suitable and effective. This means that the protection measures, by their very nature, are appropriate to prevent the risk from materializing and are in fact producing the intended result;
- Whether the measures are being implemented in accordance with the principle of consultation with the representatives and beneficiaries, and the challenges in their implementation are overcome; and,
- Whether measures have been taken to prevent new risk events, for instance, through diligent investigations that would allow the authorities to identify and punish those responsible for the incidents.

For more information on the monitoring of precautionary measures in force, see [Resolution 2/2020 “Strengthening of the Monitoring of Precautionary Measures in Force”](#) and [General Guidelines on the Follow-up of Recommendations and Decisions of the Inter-American Commission on Human Rights](#).

### 33 In what situations may the IACHR request provisional measures to the Inter-American Court of Human Rights?

In accordance with Article 76 of its Rules of Procedure, the Inter-American Commission on Human Rights may request provisional measures before the Inter-American Court of Human Rights in extremely serious and urgent situations in which precautionary measures are necessary to avoid irreparable harm. This Article also defines the criteria to request provisional measures:

- a. the State concerned has not implemented the precautionary measures granted by the IACHR;
- b. the precautionary measures have not been effective;

- c. a case under the jurisdiction of the Court is related to a precautionary measure; or
- d. when the IACHR considers it appropriate for the efficacy of the requested measures, to which end it shall provide its reasons.

In the event that the Inter-American Court dismisses a request for provisional measures, the IACHR will not analyze a new request for precautionary measures unless there are new facts to justify the request. This means that if the Court decides to dismiss a request for provisional measures, the precautionary measures will no longer remain in force.

### 34 How does the IACHR decide when to hold a working meeting or a hearing to monitor compliance with a precautionary measure?

Working meetings or hearings are convened at the request of a party or *ex officio* by the IACHR regarding precautionary measures in force. When deciding which meetings or hearings to convene, the IACHR assesses each situation according to the variety of contexts and sources of risk faced by the beneficiaries, as well as the responses of the State during the implementation of the measure.

Working meetings are held privately and, therefore, offer confidentiality and greater possibilities for direct dialogue between the parties and the IACHR. Working meetings may have different purposes depending on each matter, but they generally seek to guarantee that the precautionary measures are effective, and to analyze any measures taken to protect the beneficiaries.

Working meetings are held taking into consideration:

- 1) Whether the precautionary measures were granted recently;
- 2) Whether their implementation poses sustained challenges over time;
- 3) The willingness of the State to implement the precautionary measure;
- 4) Whether the beneficiaries are facing an ongoing risk or the risk has increased;
- 5) Whether other working meetings were held recently.

Commissioners participate directly in the working meetings, which may be held at the IACHR headquarters or at a different location. Meetings can also be held virtually depending on the technical and IT resources available. For more information on the working meetings held each year, please refer to the corresponding [Annual Reports](#) of the IACHR.

Hearings are open to the public and are convened at the decision of the IACHR based on such aspects as the specific contexts, the importance of giving visibility to certain subjects, strengthening coordination efforts with other mechanisms, among others.

### 35 Are the precautionary measures granted subject to a term or specific time?

Article 25(7) of the Rules of Procedure specifically states that the IACHR may determine the term in which the precautionary measures will remain in force at the time of issuing the corresponding resolution, although this has not been the standard practice to date. Nonetheless, precautionary measures are inherently temporary in nature. The IACHR regularly evaluates the precautionary measures in force at its own initiative or at the request of a party. In the given case that the requirements of Article 25 of the [Rules of Procedure](#) are no longer met or, in other words, when the existence of a serious and urgent risk of irreparable harm is no longer substantiated, the IACHR will proceed to lift the precautionary measure.

In the event that a State requests that the IACHR lift the precautionary measures in force, this request will be forwarded to the representatives and the IACHR will afterward analyze the information provided by both parties. The Commission considers aspects such as:

- The existence or persistence of the situation presenting a risk;
- Whether the situation has changed throughout the implementation of the precautionary measure;
- The effectiveness of the measures adopted by the State;

- Risk mitigation;
- Whether the beneficiaries still reside or are located in the State concerned;
- The representatives' failure to respond to the requests for information, which would prevent the IACHR from obtaining the information needed to keep the precautionary measures in force.

The decision to lift a precautionary measure does not prevent the IACHR from reviewing a new request for precautionary measures concerning the same persons who were once beneficiaries if they are at risk because of new events that have taken place.

It is worth noting that, regardless of any decision to lift precautionary measures, the State maintains its general obligations to protect the people under its jurisdiction in accordance with the applicable international instruments.