

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 84/2020**

Precautionary Measure No. 374-13
Gustavo Francisco Petro Urrego regarding Colombia
November 4, 2020
Original: Spanish

I. BACKGROUND INFORMATION

1. On March 18, 2014, the Inter-American Commission on Human Rights (IACHR) requested the adoption of precautionary measures in favor of Gustavo Francisco Petro Urrego, Governing Mayor of Bogotá, D.C., Colombia. The request for precautionary measures had been filed in the context of the individual petition P-1742-13, in which the allegations include violations to the rights of personal integrity (Article 5), to judicial guarantees (Article 8), to political rights (Article 23), to the right to equality before the law (Article 24) and to legal protection (Article 25 of the American Convention on Human Rights). In particular, the applicants requested that “with the purpose of preventing irreparable harm to persons or to the subject matter of the petition, the actions of the Office of the Inspector General against Gustavo Petro be suspended.”

2. Having analyzed the submissions of fact and law filed by the parties, the Commission considered that the information submitted showed *prima facie* that the political rights of Mr. Gustavo Francisco Petro Urrego, popularly elected as Governing Mayor of Bogotá D.C. and currently in office, are in a serious and urgent situation, since the consolidation of the effects of the resolution that removes him from office and disqualifies him for the exercise of his political rights could render the potential decision on petition P-1742-13 ineffective. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requested that Colombia immediately suspend the effects of the decision dated December 9, 2013, issued and ratified by the Office of the Inspector General on January 13, 2014, in order to guarantee Mr. Gustavo Francisco Petro Urrego the exercise of his political rights and that he can fulfill the term for which he was elected as Mayor of Bogotá D.C. on October 20, 2011, until the IACHR has ruled on the individual petition P-1742-13.¹

II. SUMMARY OF THE INFORMATION PROVIDED DURING THE TIME THE PRECAUTIONARY MEASURES WERE IN FORCE

3. After the present precautionary measures were granted, the Commission followed-up on the situation by means of requests of information to the parties. At that time, the representatives requested these precautionary measures be extended. However, the Commission decided not to extend them, which was notified to the parties through a communication dated August 24, 2017. The Commission also informed about a work meeting held between the parties in March 2017. The last communications both from the representatives and from the State are from March 2018.

4. Initially, the State noted that, due to the firm belief of preserving the constitutional order, it would refrain from accepting the request for precautionary measures, without downplaying the provision expressed before the Commission to continue addressing the concerns arising on the subject, as well as Colombia’s commitment with the Inter-American System for the Protection of Human Rights.

¹ IACHR, PM 374/13 - Gustavo Francisco Petro Urrego, Colombia, March 18, 2014. Available at: <https://www.oas.org/en/iachr/decisions/pdf/2014/MC374-13-En.pdf>

Subsequently, the State mentioned that the precautionary measures sought for the State to suspend the sanctions issued by the Office of the Inspector General which, at that time, prevented Mr. Gustavo Francisco Petro Urrego from completing the term for which he had been elected as Mayor of Bogotá D.C., which became effective after the judgment rendered by the Superior Court of Bogotá in April 2014, which judgment ordered the restoration of the former mayor. The subsequent statement from the Council of State set forth a precautionary measure to provisionally suspend the sanctions stipulated by the Disciplinary Panel of the Office of the Inspector General of the Nation.

5. For its part, the most recent information of the representative focused on allegations regarding risk events and threats against Mr. Gustavo Francisco Petro Urrego, which in turn referred to PM-303-02, currently in force and in favor of Mr. Petro. In this sense, the State reported that said allegations exceed the scope of the present measures.

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

6. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with human rights obligations established in the Charter of the Organization of the American States and, in the case of Member States that have not yet ratified the American Convention, in the Declaration of the Rights and Duties of Man. These general oversight functions are set forth in Article 18 of the Statute of the Commission, while the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the IACHR. Pursuant to this article, the Commission grants precautionary measures in serious and urgent situations, and when these measures are necessary to prevent an irreparable harm.

7. The Inter-American Commission and the Inter-American Court on Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving legal situations that are under the consideration of the IACHR. For the purpose of making a decision, according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a) "serious situation" refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American System;
- b) "urgent situation" is determined from the information provided and 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.

8. In regard to the abovementioned, Article 25(7) of the Commission's Rules of Procedure stipulates that "the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions." In addition, Article 25(9) provides 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 must assess whether the situation of seriousness and urgency and the possible materialization of an irreparable harm that gave rise to the adoption of precautionary measures continue to exist. Furthermore, it shall consider whether

there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.

9. As a preliminary matter, the Commission recalls that the present precautionary measures are related to P-1742-13. At that time, the Commission considered that the information provided showed *prima facie* that the political rights of Mr. Gustavo Francisco Petro Urrego, popularly elected as Governing Mayor of Bogotá D.C. and currently in office, are allegedly in a serious and urgent situation, since the consolidation of the effects of the resolution that removes him from office and disqualifies him as regards the exercise of his political rights could render the potential decision of petition P-1742-13 ineffective.

10. Subsequently, the Commission adopted Report on the Merits No. 130/17 dated October 25, 2017 in Case 13,004 regarding Gustavo Francisco Petro Urrego in Colombia.² Through the communication dated August 7, 2018, the IACHR submitted the case before the Inter-American Court of Human Rights, which was related with a series of violations to human rights committed in the context of the disciplinary process that ended with the removal from office of Gustavo Petro as Mayor of Bogotá, Colombia.³

11. On July 8, 2020, the Inter-American Court of Human Rights rendered a judgment declaring the violation of certain rights acknowledged in the American Convention.⁴ As regards political rights, the Inter-American Court stated, *inter alia*, the following:

“135. The Court concludes that the political rights of Mr. Petro were affected by the sanction of removal from office and disqualification imposed by the Office of the Inspector General on December 9, 2013, and which was confirmed on January 13, 2014. Although the Council of State rendered said sanction void, ordered the payment of salaries which ceased to be received, and the deletion of the sanctions imposed in the judgment dated November 15, 2017, the Court determines that said decision has not comprehensively remedied the unlawful act implied by the violation of the right to exercise a popularly elected office such as that of Mr. Petro, since his term was interrupted during more than one month while he was removed from office as a consequence of the decision of the Office of the Inspector General, which also meant an impairment to the political rights of his voters and of the democratic principle, and the rules that allowed the application of said sanctions have not been modified”.

12. Consequently, and taking into consideration that the facts that motivated these precautionary measures have already been analyzed by the Commission in 2017 in the context of the related petition, and also that said facts have been the subject matter of a statement by the Inter-American Court at the moment of rendering a judgment in 2020, the Commission considers that the present precautionary measures now lack subject matter. Moreover, it is observed that the beneficiary no longer holds office as Mayor in Bogotá and is now senator in the Senate of the Republic of Colombia since July 2018.⁵ In turn, and considering said change in circumstances, the Commission does not identify information that allows for an indication that the regulatory requirements are in force at this date as regards the political rights of the beneficiary in the context of the present proceeding. In this sense, the Commission considers it appropriate to lift the present precautionary measures

² IACHR, Cas 13,004, Gustavo Petro Urrego, Colombia, October 25, 2017. Available at: <http://portal.oas.org/en/iachr/decisions/court/2018/13044FondoEn.pdf>

³ IACHR, Case 13,004, Note of remission dated August 7, 2018. Available at: <http://www.oas.org/es/cidh/decisiones/corte/2018/13044NdeRes.pdf>

⁴ I/A Court H.R. Case Petro Urrego v. Colombia. Preliminary Exceptions, Merits, Reparations and Costs. Judgment dated July 8, 2020. C Series No. 406. Available (in Spanish) at: https://www.corteidh.or.cr/docs/casos/articulos/seriec_406_esp.pdf

⁵ CV, Gustavo Francisco Petro Urrego, Senator, Senate of the Republic. Available (in Spanish) at: <https://www.funcionpublica.gov.co/web/sigep/hdv/-/directorio/M2735809-0925-4/view>

13. Finally, the Commission observes that those other facts alleged about risk events and threats regarding Gustavo Francisco Petro Urrego are analyzed in the context of PM-303-02-CO, currently in force.

IV. DECISION

14. The Commission hereby decides to lift the present precautionary measures in the terms indicated.

15. The Commission requests that the Executive Secretariat of the IACHR notify the present resolution to the State of Colombia and the representatives

16. Approved on November 4, 2020 by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice-President; Esmeralda Arosemena de Troitiño; and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary