

# **Strengthening of the Monitoring of Precautionary Measures in Force**

RESOLUTION 2/2020



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**RESOLUTION No. 2/2020**

**STRENGTHENING OF THE MONITORING OF PRECAUTIONARY MEASURES IN FORCE**

(April 15<sup>th</sup>, 2020)

**THE INTER-AMERICAN COMMISSION ON HUMAN RIGHTS**

1. **Reaffirming** that, in accordance with Articles 106 of the Charter of the Organization of American States; 41.b of the American Convention on Human Rights; 18.b of the Statute of the Inter-American Commission on Human Rights; XIII of the Inter-American Convention on Forced Disappearance of Persons; and article 25 of its Rules of Procedure, the Inter-American Commission on Human Rights (“IACHR” or “Commission”) may, on its own initiative or at the request of a party, request that a State adopt precautionary measures;
2. **Reiterating** that precautionary measures concern serious and urgent situations that present a risk of irreparable harm to persons or to the subject matter of a pending petition or case before the organs of the Inter-American System;
3. **Emphasizing** that the analysis of precautionary measures is based only on those allegations that exclusively relate to the elements of seriousness, urgency and risk of irreparable harm, set forth in Article 25 of the Rules of Procedure of the IACHR, which can be resolved without entering into determinations on merits since this is better suited to the analysis of an individual petition or case, and without exceeding the strictly precautionary nature of the mechanism;
4. **Considering** that precautionary measures are, by definition, temporary in nature;
5. **Recalling** that Article 25.7 of the Rules of Procedure of the IACHR establishes that decisions to grant, extend, modify and lift precautionary measures shall be adopted through reasoned resolutions;
6. **Further noting** that Article 25.8 of the Rules of Procedure of the IACHR states that the granting of precautionary measures and their adoption by the State shall not constitute a prejudgment on the violation of any right protected in the American Convention on Human Rights or other applicable instruments;
7. **Recalling** that Article 25.9 of the Rules of Procedure of the IACHR 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;
8. **Considering** that, at any time, the State may file a duly grounded petition for the Commission to lift the precautionary measures in force and that, in those cases, prior to taking a decision on such a request, the IACHR shall request observations from the beneficiaries;
9. **Further considering** that Article 25.11 of the Rules of Procedure of the IACHR establishes that the Commission may lift or review a precautionary measure when the beneficiaries or their representatives unjustifiably fail to provide a satisfactory response to the Commission on the requirements presented by the State for their implementation;

10. **Recalling** that Article 25.10 of the Rules of Procedure provides that the Commission shall take appropriate follow-up measures, such as requesting relevant information from the interested parties on any matter related to the granting, observance and maintenance of precautionary measures. These measures may include, as appropriate, timetables for implementation, hearings, working meetings, and visits for follow-up and review;
11. **Emphasizing** that States must respect and guarantee the rights of individuals, irrespective of decisions to lift precautionary measures taken in the framework of the periodic evaluation of matters;
12. **Further emphasizing** the relevance of making visible, on the Commission's part, the actions taken by the States in the framework of the implementation of the precautionary measures in force, as well as taking measures to promote their implementation;
13. **Considering** that the lack of updated information on the situation of the beneficiaries prevents the Commission from having the necessary elements to assess whether the risk remains in accordance with Article 25 of the Rules of Procedure;
14. **Reaffirming** that it is essential that, on the one hand, the State reports on how it is implementing the precautionary measures granted, including the assessments it considers relevant and, on the other hand, that the representatives provide their observations in a timely manner, as well as an update on the situation of risk in question, as appropriate;
15. **Recalling** that the parties may present the information they consider relevant at any time so that the IACHR may have additional elements to assess the situation of the beneficiaries;
16. **Emphasizing** that the effectiveness of precautionary measures as a fundamental protection mechanism of the Inter-American Human Rights System is based on the effective implementation of such measures by the States, and on the accompaniment that the IACHR can provide in this process with the aim of mitigating and eliminating the factors that put the beneficiaries at risk.

**Resolves to:**

1. **ESTABLISH** that, following the deadline set in each granting resolution, the Commission may request *periodic reports* from the States regarding compliance with the resolution.

Notwithstanding the abovementioned, the Commission may also request information from the parties at any time on the basis of the facts brought to the Commission's attention;

2. **CONSIDER**, under the protection of Article 25.10 of the Rules of Procedure, the possibility of adopting *follow-up resolutions* with regard to precautionary measures in force, as part of the Commission's actions aimed at the effective implementation of those measures.<sup>1</sup>

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<sup>1</sup> See: [Resolution 2/06](#) "On Guantanamo Bay Precautionary Measures", July 28, 2006; and [Resolution 2/11](#) "Regarding the Situation of the Detainees at Guantanamo Bay, United States (MC 259-02)", July 22, 2011. Post Regulatory Reform, see: [Resolution 42/16](#) (in Spanish) "On PM-409-14 Students of Raúl Isidro Burgos Rural School", Mexico, July 29, 2016, by which the Commission reiterated the precautionary measures and implemented a special follow-up mechanism; and [Resolution 54/18](#) (in Spanish) "On PM-309-18 Javier Ortega Reyes, Paúl Rivas Bravo and Efraín Segarra Abril", Ecuador, July 17, 2018, by which it was decided to continue deploying the Special Follow-up Team (ESE by its Spanish acronym) under the terms of its Work Plan.

a. The criteria that the Commission will take into account in order to issue a follow-up resolution shall include, among others, persisting factors of risk, the lack of response from the State, or the identification of challenges in implementation that merit a decision by the Commission.

b. When issuing follow-up resolutions, as appropriate, the Commission shall assess the measures adopted by the State to mitigate or end the risk factors identified in the matter.

c. In cases where follow-up resolutions are not issued, the Commission will continue to monitor each situation by requesting information from the parties periodically or establishing other monitoring methods within the context of the precautionary measures in force, such as those included in this resolution;

3. **CARRY OUT** *on-site visits*, with prior consent by the State, in order to, *inter alia*, enable stronger ties with the beneficiaries' representatives and State authorities, to learn firsthand about the implementation status of the measures and to assess the current risk.

Following the visits, the Commission shall adopt the pertinent actions within the framework of the precautionary measures in force, whether it be, for example, the lifting of precautionary measures, the issuance of follow-up resolutions or other types of decisions;

4. **CONVENE** *working meetings* either virtually or in person, ex officio or at the request of the beneficiaries' representatives or the States, and without these necessarily taking place during ordinary or extraordinary periods of sessions. In any case, the Commission will analyze the information available from the monitoring framework and will decide on the appropriate moment to convene such meetings;

In the case of *bilateral meetings* between the Commission and one of the parties, the information provided within these meetings will only be considered in the decisions when it is submitted in writing within the corresponding precautionary measure file, so that the other party may also be informed of the matter.

5. **PROMOTE** *public hearings* during periods of sessions, either at its own initiative or at the request of either party;

6. **ANALYZE** the portfolio of precautionary measures in force, in order to propose *resolutions to lift* the matters that are inactive, that have become moot and in which the Commission no longer identifies the risk factors that call for such measures to remain in force.

a. 'Inactive matters' are those in which no procedural activity is identified for a prolonged period of time, and matters that 'become moot' are those in which the subject matter of protection of the precautionary measure is not present at the time of assessment, for example, upon the death of the beneficiary(ies);

b. In the terms of Article 25.7 of the Rules of Procedure of the IACHR, decisions to lift precautionary measures are adopted by the Commission and issued by means of reasoned resolutions based on an analysis of the requirements, in light of the available information provided by the parties during the proceedings.

c. Under the terms of Article 25.9 of the Rules of Procedure of the IACHR, the States may submit requests to lift precautionary measures at any time.

7. **REAFFIRM** the Commission's commitment to continue accompanying the parties in the implementation of the precautionary measures in force, particularly by assessing the actions taken by the States in order to protect the rights of the beneficiaries, as well as the observations provided by the beneficiaries' representatives. These measures, implemented jointly, will thus enable the Commission to properly focus on matters that meet the procedural requirements.

The Commission will also continue to guarantee an analysis of each situation, taking into account contexts regarding the country, gender-based perspective and relevant differentiated approaches to groups in vulnerable situations, as well as developing the tools provided for in the specific program of the Strategic Plan 2017-2021.

8. **INSTRUCT** its Executive Secretariat to take the necessary measures to implement this resolution and to include any relevant information in its Annual Report.

Approved on the 15th day of the month of April, 2020 by: Joel Hernández García, President; Antonia Urrejola Noguera, First Vice President; Flávia Piovesan, Second Vice President; Esmeralda Arosemena de Troitiño; Julissa Mantilla Falcón; and Edgar Stuardo Ralón Orellana, members of the IACHR.