

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 83/2020**

Precautionary Measure No. 1132-19

Mary Elizabeth Carrasco and Juan Alipaz Aparicio regarding Bolivia

November 4, 2020

Original: Spanish

I. BACKGROUND INFORMATION

1. On January 8, 2020, the IACHR decided to grant precautionary measures in favor of Ms. Mary Elizabeth Carrasco Condarco, her nuclear family, and Mr. Juan Alipaz Aparicio in Bolivia. The request alleged that the identified persons were at risk due to their participation in the process known as the “Porvenir Massacre”. Having analyzed the submissions of fact and law submitted, the Commission considered that the information provided by the parties shows *prima facie* that the beneficiaries were in a serious and urgent situation, since their rights to life and personal integrity were at serious risk. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requested that Bolivia: a) adopt the measures necessary to guarantee the life and personal integrity of Mary Elizabeth Carrasco Condarco and Juan Alipaz Aparicio, as well as of the nuclear family of Ms. Carrasco Condarco. In particular, the State must ensure that the rights of the beneficiaries are respected in accordance with the standards established under international human rights law, with regard to hazardous acts attributable to third parties; b) consult upon the measures to be adopted with the beneficiaries and their representatives; and c) report on the actions taken to investigate the alleged facts that gave rise to the adoption of these precautionary measures and thus prevent their reoccurrence¹.

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

2. After the measures were granted, the State sent reports on January 31, February 26, June 3, and October 5, 2020. For their part, the representatives provided information on January 23 and 31, March 3 and September 24, 2020. In its response, the State urged that the present precautionary measures be lifted, which was referred to the representatives, who had the opportunity to observe said request in terms of Article 25 of the Rules of Procedure. On October 5, 2020, the State reiterated its request to lift the precautionary measures.

A. Information provided by the representatives

3. The representatives reported that the State sent an invitation to hold a conciliation meeting on January 23, 2020. However, they reported that since the representatives were in Buenos Aires, Argentina, and consequently, they requested that the meeting were to be held via videoconference. The State allegedly declared that it was not possible due to the confidential nature of the meeting, and mentioned the possibility that the meeting may be recorded. The representatives requested that the Commission follow-up on the situation, and expressed that there is distrust with the State, and reported that no appropriate facilities were granted. The representatives indicated that they do not accept any measures whatsoever involving State agents –neither military nor police– with safety, patrol or custodial duties in connection with the beneficiaries, their homes or offices, and emphasized that they

¹ IACHR, Resolution 1/20, PM 1132/19 - Mary Elizabeth Carrasco and Juan Alipaz Aparicio, Bolivia, January 8, 2020. Available (in Spanish) at: <http://www.oas.org/es/cidh/decisiones/pdf/2020/1-20MC1132-19-BO.pdf>

do not want police or personal custody, nor security at their offices or home, and neither do they want a change in their identities or transfers to shelters. In general terms, the representatives reiterated that the beneficiaries were not attending said meeting without the legal advice of the representatives, since otherwise their right of defense would be infringed.

4. Nevertheless, the representatives requested information about the measures offered to comply with the investigation of the threats received, and the measures against public stigmatization by state authorities. Specifically, the representatives stressed that the State mentioned the possibility that the beneficiaries request their inclusion in the Complainants and Witness Protection System. With regard to this, the representatives reported that, though the beneficiaries could comply with the formal requirements to become part of the System, this was not adequate due to the legal profession exercised by them. The representatives objected that the State, while waiting for a response from the representatives as regards protection measures, made the necessary arrangements with the competent authorities for the enforcement of protection measures. In this sense, they questioned the fact that La Paz and Pando Police Commandos were recommended to activate patrol in the places of residence of the beneficiaries, thereby requesting that the Commission urge the State to end any patrol or guard activity entrusted to the police and to focus on implementing the measures the beneficiaries agree with.

5. The representatives challenged the compatibility of said law with the applicable international standards. Although the representatives reported that Section 7 of said Law allegedly specifies the measures that the State can order,² they challenged the fact that the police has a key role and that it seems the final decision as regards the measures to be implemented corresponds to the State. Further, the representatives mentioned that that same law forces the beneficiaries to behave adequately³, without explaining what is understood by said behavior. They added that Ms. Carrasco had requested in 2011 her entry to the Protection System, however, at that time the State decided she was not eligible.

6. The representatives noted the statements issued by the Ministry of Government,⁴ who questioned the measures granted in favor of the beneficiaries, since the request for grant of protection measures should be filed before said Ministry. Upon lack of complaint filings arising from the threats received by the beneficiaries, the representatives emphasized that the State should pursue the corresponding investigations. Moreover, they noted that Ms. Carrasco allegedly took possession of the Prosecution's investigation, reporting a situation qualified as "constant". More specifically, they reported that on February 19, 2020, she received a phone call at her cell phone from an unknown woman who said: "I had to leave the Ministry of Government to call you from a pay phone. I saw an arrest warrant against you about Leopoldo Fernández, hide because you will be detained".

7. Similarly, on September 15 and 16, 2020, the messages were allegedly sent to a colleague's cell phone, who works with the beneficiary Carrasco. The first one stated: "do not dare leave or do you want to disappear forever or your daughters we want you to feel what it is like to lose a kidney wrongly imprisoned you are thugs' lawyer such as yourself you should be at Mexico's Embassy as your lover people like you should be away like your daddy Evo do not complain" (*sic*). The following message reads as follows: "corrupt how easy it is to bribe judges, but we cannot buy consciences all you have is because

² Police custody at the person's address; use of technological systems that prevent the person's identity to become recognized; methods to distort the physical appearance or voice; temporary lodging in shelters aimed at the protection of victims and witnesses.

³ Section 21 of Law 448 of 2013 sets forth that "the protected person shall comply with the obligations which shall be conditioned to:: [...] Adequate behavior that preserves the efficacy of the protection measures, guaranteeing their own integrity and safety [...]"

⁴ Arturo Murillo, who challenged the IACHR's decision, claiming that "It is really astonishing. We have seen the IACHR, in this case for instance with Ms. Carrasco, who has led a legal process against the twisted, lying government, has imprisoned Leopoldo Fernández for 11 years, has used hatred and resentment, has not been professional, and now it appears that precautionary measures are requested in her favor, I hope measures are not requested for every criminal in this country"

you make people cry your two daughters will pay for everything you have done corrupt Condarco” (*sic*). The representatives reported that the facts were submitted to the Prosecutor’s Office, thereby requesting to establish the ownership of those cell phone numbers, as well as the list of incoming and outgoing calls, with specification that the context in the country, before the presidential elections, the beneficiary was to be exposed in an alleged greater risk.

B. Information provided by the State

8. The State upheld that the regulatory requirements are not met. In the same way, it reported that the representatives’ allegations lack legal support and basis, given their general and abstract allegations. The State considered that the Commission is reportedly using a “double standard” to analyze the requests for precautionary measures regarding Bolivia, considering that although objective information was provided, which proved the requirements were not met, the measures were finally granted. For the State, these precautionary measures completely distort their nature, since no reference is made, in the resolution granting the measures, to current facts that put the life and integrity of the persons identified at risk, but to events occurred in 2011 and messages or calls that were not proved⁵.

9. The State specified that the context and the elements that upheld the request for precautionary measures does not respond to the current Bolivian reality. After the political and social situation in Bolivia which gave rise to the presidential succession, peacemaking of the State and the call for transparent elections where set as key goals, a discussion table being set on November 23, 2019 composed of the ministries of the temporary government representing the State and the leaders of Pact of Unity, apart from advancing dialogues with several part of the population mediated by representatives of the Church, United Nations and the European Union, which resulted in the execution of the Pact of Unity on November 25, 109. The State emphasized the measures adopted, including at that time the agreement signed with the IACHR for the creation of an “Interdisciplinary Group of Independent Experts on Human Rights” (GIEI by its Spanish acronym).

10. In the present matter, after consulting several information platforms,⁶ the State reported that no complaint nor action was filed by the beneficiaries during October, November or December 2019 in connection with the alleged threats, harassment or acts of violence that they had experienced. The State also reported that no complaints have been filed by Ms. Carrasco in 2011 before the appropriate authorities, but it is only a press statement in which she alleged she would file said request,⁷ which constitutes “manipulation of information”. It was especially noted that no complaints from Ms. Carrasco regarding officers from the Ministry of Government exist, as neither do alleged arrests in the context of criminal proceedings against her. In this sense, they claimed that no evidence was provided of said allegations, nor how said event reportedly affects or puts the beneficiaries at risk. However, although no complaint from the beneficiaries exist, and after referral of the background information to the Specialized Unit of crimes against life of the Public Prosecutor’s Office, an investigation was initiated due to the alleged perpetration of the crime of threats, in which the beneficiaries appeared as victims.

⁵ The State reported that, in case the alleged fears based on phone calls or message are considered, granting measures to a person who, upon the imminent execution of a sentence, fears for their life and personal integrity upon entry to a penitentiary center should also be considered, as is the case of Mari Elena Blanco de Estenssoro, which was not handled by the Commission. Which was qualified by the State as a bias by the Commission.

⁶ Specialized Prosecutors of the Unit of Criminal Analysis, dependent on the Prosecutor’s Office in La Paz, Departmental Prosecution of Pando, Departmental Division of the Special Force against Crime.

⁷ Threats are claimed in Porvenir case, *La Razón*, July 9, 2011, available (in Spanish) at http://204.11.233.100/nacional/Denuncian-amenazas-caso-Porvenir_0_1427857209.html

11. According to the State, the way the processes in which they are involved can affect the rights to life and personal integrity of the beneficiaries or constitute a risk or threatening situation cannot be determined either. The State added that the beneficiaries participated in the hearing held to consider the amendment of precautionary measures in favor of the prosecuted in the case “Porvenir”, which took place on December 9, 2019, without their expressing the opposition to the amendment,⁸ nor disclosing the alleged existence of threats against their life, the victims, their families or witnesses. In addition, the decision rendered by the court to grant Leonardo Fernández his freedom took place in the context of a due legal process, and said judgment was not appealed by any of the parties within the legal term to do so. The same situation occurred with the “statement of objections”⁹ which was reportedly used to discredit her. In connection with the reported threats perpetrated by a Representative against Ms. Carrasco and by a judge against Juan Alipaz, lawyer, the State observed their lack of basis, as well as the fact that neither of them reported those facts with any competent authorities nor requested protection measures.

12. Notwithstanding the foregoing, the State remarked his willingness to provide the protection measures. After an invitation to a meeting in the Public Prosecutor’s Office on January 23, 2020, with the purpose of consulting upon protection measures, the representatives requested to participate via videoconference, which was challenged by that State insofar as it prefers attendance in person and without any electronic means due to its confidential nature. In order to advance on their implementation, the State proposed to the beneficiaries and their representatives to refer their implementation proposal, through the means considered appropriate, so that, upon receipt, the State would advance the necessary coordination with the corresponding authorities. However, to this date no response in this regards has been received from the representatives.

13. The State reported that there exists a so called Law for the Protection of Complainants and Witnesses that established the aimed at protecting, among others, individuals and their close family environment from suffering any retaliation due to the performance of a “protected activity”. To access said program, four stages¹⁰ must be completed, being the request and the consent of the person to be protected necessary. In exceptional cases and *ex officio*, only consent is necessary, since one of the principles that govern the proceeding is voluntariness. The State communicated to the representatives of the beneficiaries, on January 29, 2020, the disposition to activate the protection mechanism, indicating the need to file the request in which their express consent, free and voluntary, is expressed, in accordance with domestic law. Further, it was reported that the Legal Counsel of the General Police Command had recommended performing patrols to the personal residences of the beneficiaries through the General Bolivian Police Command and the La Paz and Pando Police Commands.

14. On February 4, 2020, the State expressed its concern arising from the attitude of the representatives, who reportedly did not respond to the request to send their implementation proposal.¹¹

⁸ In accordance with the State, the beneficiary Mary Carrasco stated the following in court: “it shall be included in the records that we as lawyers of the victims (...) as human rights institutions, have not made any challenges...”, “[if we have not challenged house arrest in 2013 because a trial on life cannot destroy another life, we will not do so now (...)].” “We do not oppose to an amendment of house arrest (...).”, “expressing to you that we will respect whatever you decide as regards Section 231 bis in its several paragraphs with the purpose of guaranteeing the conclusion of a proceeding related even with the other liberties enjoyed by other persons who haven been convicted where the court has ruled that a filing should be made every two weeks or every month and also has decided that a bond be submitted”. Juan Alipaz, for his part, allegedly stated that he subscribed the grounds declared by the Public Prosecutor’s Office and Ms. Carrasco.

⁹ Document summarizing the offenses and infringements in an administrative record of proceedings against the officer, who is communicated so that they can respond and defend themselves. The document ends ordering the filing of the process or expressing charges against the prosecuted.

¹⁰ i. Request of protection measures, ii. Consideration and issuance of the resolution for protection measures, iii. Compliance with the protection measures, iv. Follow-up and assessment of the protection measures.

¹¹ The State referred the requests in this sense to the representatives and beneficiaries on two occasions, January 23 and 29, 2020, respectively.

Through an email dated January 31, 2020, the representatives claimed that any communication be performed through the IACHR requesting that reports be submitted on the measures the State could apply in the context of the Witness and Complainant Protection System and reported that no measure implying state agents is accepted. For the State, said message was confusing and hinders the implementation of measures. The State requested that the representatives be coherent in their requirements.

15. The State equally stressed that up to that date the beneficiaries have continued performing their activities without any complications, which allegedly proved that the arguments used to request the measures were subjective and lacked legal and factual grounds. As an example of this, the State noted that since July 2020, Ms. Carrasco has advised the interim president of the National Federation of Bolivian Football in a large coverage case, in complete normalcy, as evidenced in several statements to the press,¹² which reportedly proves that the subjective arguments of the beneficiaries regards the possible impact to their rights have not materialized nor manifested in any manner whatsoever. The State claimed that more than eight months have passed since Leopoldo Fernández was released without any threat or act against the beneficiaries having been registered nor effected, which shows it is only an unfounded fear. It also added that the precautionary measures granted have lost their purpose, since the context that gave rise to the grant is no longer in force, none of the fears of the beneficiaries have materialized, and no specific or particular threat against the beneficiaries exist which merits that the precautionary measure continue in force.

16. Finally, the State claimed that the Inter-American System is being used as an instrument, by quoting certain facts to try and prove risk situations, such as the release of Leopoldo Fernández, substantiating the hostile environment, without ceasing to insist in the post-elections context, the risk of impunity and the alleged intimidation to persons devoted to the defense of human rights. Moreover, the State reported that Ms. Carrasco's true fear is not related to her role as defender, but to the possibility of being investigated for the alleged perpetration of illegal acts. Were this the case, the State noted that it would be advanced through the competent instances in the context of judicial independence. For the State, within the present matter there exists a political background due to the close relation of Ms. Carrasco's to Evo Morales' administration, and the management of the case "El Porvenir".

17. The State also stressed that the beneficiary was a lawyer for Mr. Alvaro García Linera, before he became vice-president, and subsequently took charge of irregularly carrying out¹³ processes of interest to the government of the Movement for Socialism (MAS), allegedly having a benefit in addition to State contracts without compliance with legal requirements. The State emphasized that the precautionary measures mechanism is not a tool to prevent the initiation or conduct of a criminal proceeding against the beneficiaries, since the nature of the mechanism is protection against any risk and not searching for impunity, as well as not being reason to grant precautionary measures or these may subsist.

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

¹² Articles before media outlets date July 29 and September 4, 2020.

¹³ On April 15, 2011, then-Senator Roger Pinto publicly presented a compact disc with two audios relating to a conversation held by Prosecutor Marcelo Soza with public servants of the Ministry of Government, to plan actions against judges of the Supreme Court of Justice, in relation to the well-known cases called "Terrorism" and "El Porvenir", which relate to several petitions that are processed before the IACHR. One of the audios purportedly reveals the participation of the lawyer Carrasco with other officials in which they spoke about the payment of a witness and the alleged coordination carried out to face said processes, which demonstrates an alleged manipulation of justice.

18. 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 and, in the case of the Member States that have not yet ratified the American Convention, the Declaration of the Rights and Duties of Man. These general oversight functions are established in Article 18 of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

19. The Inter-American Commission and the Inter-American Court on 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. Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are being considered by the IACHR. Regarding the process of decision making and, 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" 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.

20. With respect to the foregoing, Article 25.7 of the Commission's Rules of Procedure establishes that "the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions." Article 25.9 establishes that "the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force." In this regard, the Commission should evaluate if the serious and urgent situation and the possible generation of irreparable harm, that caused the adoption of the precautionary measures, persist. Moreover, the Commission should consider if new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

21. As a preliminary observation, the Commission recalls that in this proceeding it is not appropriate to determine violations of the rights recognized in the American Convention on Human Rights, such as violations of due process or personal liberty. By the Commission's own mandate, it is also not for the Commission to determine individual criminal responsibilities for the facts reported in these proceedings. Therefore, the analysis that the Commission carries out below is exclusively related to the requirements of gravity, urgency and risk of irreparable harm established in Article 25 of the Rules of Procedure, which may be resolved without entering into determinations of the merits of a petition or case.

22. Moreover, the Commission considers it necessary to state that the beneficiaries identified in the hereby are Mary Elizabeth Carrasco and Juan Alipaz Aparicio, as well as the nuclear family of Ms. Carrasco, since the precautionary measure granted is intended to take measures to protect her rights to life and personal integrity. Taking into account the available information, the Commission shall closely

examine whether the regulatory requirements continue to be complied with, in the light of the request for lift submitted by the State of Bolivia under Article 25 of the Rules of Procedure.

23. Furthermore, the Commission recalls that when a State requests the lifting of a precautionary measure, it must present evidence and arguments sufficient to support its request.¹⁴ Similarly, the representatives of the beneficiaries who want the measures to continue must present evidence of the reasons for their continuity.¹⁵ Although the assessment of the regulatory requirements when adopting precautionary measures is made from the *prima facie* standard, their maintenance requires a more rigorous evaluation.¹⁶ On the other hand, the evidentiary and argumentative burden increases over time and there is no imminent risk.¹⁷

24. In this matter, the Commission notes that the State was requested to take necessary measures to protect the rights to life and personal integrity of the beneficiaries. In this regards, it is appreciated that, following the granting, the State submitted information on the measures taken in order to implementing them. However, at the same time, it also questioned the factual framework on which the Commission ruled. In that regard, the representative submitted its comments on what was raised by the State, as well as its position on the matter. An analysis of the information on the implementation of these precautionary measures is then carried out in the light of Article 25 of the Rules of Procedure.

25. Firstly, it is not disputed for the Commission that the State has sought to implement these measures. This is demonstrated, *inter alia*, implies that beneficiaries and their representatives have been summoned to a conciliation meeting in January 2020. In this regard, it is hereby considered the State's reasons for not accepting the possibility of it being carried out via videoconference, the refusal of the beneficiaries to participate and the fact that the representatives were then in Argentina. In view of this background, and as an alternative, the State twice requested the representatives in January 2020 to submit to it a proposal for implementation, which allegedly not happened up to date. It was also indicated that alleged police patrolling measures were taken.

26. Secondly, the Commission notes that it is also not disputed that representatives has expressed its general refusal to adopt protective measures in accordance with Bolivia's domestic legislation - in particular those available under the Witness and Complainant Protection Program Law - as well as to involve police or military personnel. Similarly, it is not disputed that representation calls into question Bolivia's domestic Witness and Complainant Protection regulations. In this regard, and beyond the questions made, the Commission does not identify information to substantiate, or properly explain, the reasons why representatives considers that it is may not be appropriate for State actors to provide protection to beneficiaries, including by considering the Inter-American standards on the subject¹⁸, even more so where no concrete and recent facts have been submitted to the detriment of them, to indicate that police or military officers have been involved.

27. The Commission understands that the State proposal responds to the protective measures available in its domestic law, and to the extent that its proper implementation has not been possible, the Commission does not have elements to examine whether they are appropriate or effective. In any event, it has not been disputed that such an internal protection mechanism exists and that it depends on the

¹⁴ I / A Court HR. Provisional measures regarding Mexico. Resolution of February 7, 2017, para. 16 and 17. Disponible en: http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf

¹⁵ Ibid

¹⁶ Ibid

¹⁷ Ibid

¹⁸ IACHR, Second Report on the Situation of Human Rights Defenders in the Americas, para. 523.

will of the beneficiaries to be part of it. In addition, the Commission is allowed to indicate that it is not appropriate in these proceedings to analyze the compatibility of Bolivia's domestic legislation in the light of the American Convention or applicable international standards.

28. Thirdly, the Commission notes that the State has indicated that, although no complaints were recorded about the alleged facts, an investigation was initiated for the alleged crime of threats, in which the beneficiaries have been specified as victims. Said investigation shall follow due process in order to clarify the facts and, if pertinent, determine the responsibilities that are necessary, in order to protect, among others, their rights to life and personal integrity.

29. In light of the foregoing, and regardless of the questions made by the State, the Commission notes that the State has sought to implement these precautionary measures. In that line, since the Commission's request is subject to compliance with regulatory requirements¹⁹, and in the light of the State's application for lift, the Commission proceeds to analyze the validity of the regulatory requirements.

30. Firstly, while it is noted that the State has challenged the factual framework and indicated that Bolivia's current context would not be the same as at the end of 2019, the Commission considers it important to recall that, in the light of what is indicated by the Inter-American Court, beyond the dissimilar positions of the parties, it is appropriate to examine whether the situation of beneficiaries allows the validity of the requirements of seriousness, urgency and irreparable harm to be analyzed²⁰. In that regard, the Commission notes that the State has indicated that beneficiaries are developing their activities in full normality; even activities of great media exposure. After questioning the release of a person, for whom the applicants considered it to be their main source of risk, the Commission notes that no alleged direct threats were reported against beneficiaries over time, nor applications for protection have been purportedly filed during criminal proceedings internally concerning that situation.

31. Secondly, it is also noted that, from the information provided by the representatives, it is not possible to identify events that seriously endanger the rights to life and personal integrity of the beneficiaries.

32. Indeed, throughout the validity of the measure, the representatives' allegations have focused on negatively qualifying the State's actions, but without reporting concrete facts or indications that clearly suggest that there is a real intention and capacity to attempt against her. The only relatively recent elements were the two text messages, which were not sent to the beneficiary's cell phone, in which she was accused of corruption or criticized the exercise of her work as a defender. Despite the literal nature of its content, the Commission understands that the information available does not allow it to be argued that it may be effectively translated into an effective materialization of the announced harm. In addition to the fact that their authorship is unknown, there is no information on whether the alleged perpetrators have the necessary means to act or whether they are simply disqualifying messages, in a context other than that of a persecution, which does not exceed an intimidation against a third party. The information available also does not indicate that this is a sustained and continuous situation over time, or that it is intrinsically linked to the activities that beneficiaries carry out.

¹⁹ I / A Court HR. Matter of seventeen persons deprived of liberty regarding Nicaragua. Provisional Measures Resolution of the Inter-American Court of Human Rights of October 14, 2019, para. 16

²⁰ I / A Court HR. Case Coc Max and Others (Xaman Massacre) Vs. Guatemala. Provisional Measures Resolution of the Inter-American Court of Human Rights of February 6, 2019, para. 14

33. The Commission also notes that such facts have been reported, and have been investigated by the Bolivian Public Prosecutor's Office. Furthermore, it is noted that it has not been alleged that the State has refused to receive the complaint or continue, without proper motivation, with the corresponding investigations. In this regard, it is also recalled that the beneficiary has at her disposal protection measures, according to the domestic law of the country, which can be activated by her, as long as they depend on her will. In that regard, it is important to state that during the present proceedings it is not disputed that the State has sought to implement the precautionary measures, having offered security measures that depend on the consent of the beneficiaries, who have not activated them to date, according to the information available.

34. In any event, the Commission recalls that, in order to justify the validity of an injunction, all the requirements of Article 25 of the Rules of Procedure must continue to be met, warning that there is also no possible risk imminence or an urgent situation in this case. In this case, in particular, even more so when the State has referred extensively to various measures taken – or which it has sought to take – in favor of the beneficiaries, which have not been able to be implemented in their entirety because of their will.

35. Thirdly, the Commission notes that representation has focused on Mrs Carrasco's situation, without providing information from other beneficiaries. The Inter-American Court has indicated that the passage of a reasonable period of time without threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures²¹.

36. Fourthly, and in line with the foregoing, the Commission notes that the background in which the alleged facts actually occurred has changed substantially, as the relevant elections have already been held in the country and the beneficiaries continue to carry out their activities, without any risk event having materialized against them.

37. Fifth, the Commission notes that the most recent allegations of representation focus on questioning under-the-record issues that would require this Commission to identify violations or impacts on the right to due process or personal freedom in the light of the American Convention, including an analysis of the justice system's own motivations around investigations and judicial proceedings. Such claims go beyond the nature of the precautionary measures mechanism and require an analysis of any request or case. The Commission, in these proceedings, is not able to determine whether internal judiciary proceedings are arbitrary in the light of the representatives' arguments. In this regard, for example, in the matter *Adrián Meléndez Quijano regarding El Salvador*, the Court rejected requested provisional measures requiring that allegedly arbitrary criminal and administrative proceedings be suspended. The Court stated that "the adoption of the requested measures could involve an early incidental trial", since it would not be possible for the analysis of the situation presented not to constitute "a statement as to the substance"²².

38. In sum, in the light of the analysis previously carried out, and in the light of the request for the lifting of the State, the Commission does not have elements to suggest that the situation alleged at the time by the representation remains to date, or that it makes it possible to state reasons for compliance with the requirements laid down in Article 25 of the Rules of Procedure. Therefore, and considering that

²¹ I / A Court HR. Provisional measures regarding Mexico. Resolution of February 7, 2017, para. 16 and 17. Available (in Spanish) at: https://www.corteidh.or.cr/docs/medidas/febem_se_03_ing.pdf

²² I / A Court HR. Adrián Meléndez Quijano and others with regarding El Salvador. Provisional Measures Resolution of the Inter-American Court of Human Rights of November 26, 2007, Considerandum 10

exceptionality and temporality is a characteristic of precautionary measures²³, the Commission considers that it is appropriate to lift these precautionary measures.

IV. DECISION

39. The Commission decides to lift precautionary measures on behalf of Mary Elizabeth Carrasco and Juan Alipaz Aparicio, as well as Ms. Carrasco's nuclear family.

40. The Commission emphasizes that, regardless of the lifting of these measures, in accordance with Article 1.1 of the American Convention, it is the obligation of the State of Bolivia to respect and guarantee the rights recognized therein, including life and personal integrity of Mary Elizabeth Carrasco y Juan Alipaz Aparicio. The Commission highlights the importance of the work of human rights activists in the region, placing particular emphasis on the fact that acts of violence and other attacks against human rights activists not only affect the guarantees of all human beings, but also undermine the fundamental role they play in society and render all those for whom they work defenseless.

41. The Commission recalls that the lifting of these measures does not prevent the representatives from submitting a new request for precautionary measures if it considers that they are in a situation of risk that meets the requirements established in Article 25 of the Rules of Procedure.

42. The Commission requests that the Executive Secretariat of the IACHR notify the State of Bolivia and the applicants of the present resolution.

43. 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

²³ / A Court HR, Matter of Adrián Meléndez Quijano and others. Provisional Measures regarding El Salvador. Resolution of the Court as of August 21, 2013, para. 22, and matter Galdámez Álvarez et al. Provisional Measures regarding Honduras. Resolution of the Inter-American Court of Human Rights of July November 23, 2016, para. 24