
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 88/2021**

Precautionary Measures No. 405-09 and 112-16
Berta Isabel Cáceres, her nuclear family, members of COPINH, *et al.* regarding
Honduras
November 15, 2021
(Follow-up)
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to issue this follow-up resolution on precautionary measures pursuant to Article 25 of its Rules of Procedure. The IACHR takes into consideration that both the beneficiaries' representation and the State requested support to guarantee the effective implementation of these precautionary measures. In this sense, in the resolution the IACHR values the progress made in the implementation of the precautionary measures; identifies challenges that arose throughout the time that these have been in force; addresses questions from the parties; develops the scope of these precautionary measures; and puts itself at the disposal of the parties to continue with their implementation.

II. BACKGROUND INFORMATION

2. On June 29, 2009, the IACHR granted precautionary measures to Berta Isabel Cáceres in Honduras within the framework of PM-196-09.¹ At that time, under the procedure of PM 196-09-HO, it addressed a set of situations arising as a result of the *coup d'état* in Honduras since June 28, 2009.² In the case of Ms. Cáceres, according to the information received, military forces surrounded the home of Berta Cáceres, a member of the Civic Council of Popular and Indigenous Organizations of Honduras (COPINH). The IACHR requested that the necessary measures be adopted to safeguard her life and personal integrity. On July 31, 2013, the IACHR notified the parties that it would continue to follow-up on the situation of Ms. Cáceres under registry PM-405-09.

3. Following beneficiary Berta Cáceres's murder, on March 5, 2016, the IACHR issued Resolution 8/2016 whereby it granted precautionary measures in favor of (1) "the members of the COPINH organization," who were determinable in the terms of Article 25(6)(b) of the IACHR Rules of Procedure; (2) "the members of Berta Cáceres's nuclear family," who were also determinable under the terms of Article 25(6)(b) of the IACHR Rules of Procedure; and (3) Gustavo Castro, who was fully identified.³ Upon identifying compliance with the requirements of Article 25 of its Rules of Procedure, the IACHR requested that the State:

- a) adopt the necessary measures to guarantee the life and personal integrity of the members of COPINH, the relatives of Berta Cáceres, and Gustavo Castro. Taking into consideration the information provided that indicates that Mr. Gustavo Castro has decided to leave the country to

¹ IACHR, *Precautionary Measures in favor of Berta Cáceres*.

² IACHR, *Annual Report 2009*. Chapter 3.

³ IACHR, *Resolution 8/2016, PM No. 112-16, Matter of members of COPINH and relatives of Berta Cáceres regarding Honduras*, March 5, 2016, paragraph 15

safeguard his safety, the IACHR considers it necessary that the State take all the necessary measures to ensure his safety throughout the process to prepare and complete his departure;

- b) adopt the necessary measures so that COPINH members can carry out their activities as human rights defenders, without being subjected to acts of violence, threats, and harassment;
- c) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
- d) report on the actions taken to investigate the alleged events that led to the adoption of these precautionary measures, so as to prevent such events from reoccurring.

4. On March 23, 2016, the IACHR issued Resolution 16/2016 whereby it decided to extend the precautionary measures in favor of (1) Víctor Fernández, (2) Arnold Guifarro, (3) Carlos Jiménez, (4) Mr. A, (5) Ms. B, and (6) Ms. C,⁴ who according to the representation were part of the legal team in beneficiary Berta Cáceres's murder case. Upon identifying compliance with the requirements of Article 25 of its Rules of Procedure, the IACHR requested that the State:

- a) adopt the necessary measures to preserve the life and personal integrity of Mr. Víctor Fernández, Mr. Arnold Guifarro, Mr. Carlos Jiménez, Mr. A, Ms. B, and Ms. C;
- b) adopt the necessary measures so that Mr. Víctor Fernández, Mr. Arnold Guifarro, Mr. Carlos Jiménez, Mr. A, Ms. B, and Ms. C can carry out their activities as human rights defenders, without being subjected to acts of violence and harassment in the exercise of their functions;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- d) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

5. In response to the representation's request that provisional measures be requested from the Inter-American Court, on August 31, 2021, the Commission notified the parties of its decision not to request such measures and resolved to continue to follow up on this matter under the terms of Article 25 of its Rules of Procedure.

6. Representation in these precautionary measures is exercised by COPINH, the Center for Justice and International Law (CEJIL), and the Committee of Relatives of Disappeared Detainees in Honduras (COFADEH).

III. SUMMARY OF INFORMATION PROVIDED BY THE PARTIES FOLLOWING THE GRANTING OF THE PRECAUTIONARY MEASURES

7. Next, the IACHR summarizes the information furnished by the parties in the framework of the mentioned registry numbers of precautionary measures.

A. PM-405-09 (Berta Isabel Cáceres)

⁴ IACHR, Resolution No. 112-16, PM No. 112-16, Extension of beneficiaries who are members of COPINH and relatives of Berta Cáceres regarding Honduras, March 23, 2016, paragraph 19

8. The IACHR continued to monitor the matter through requests for information from the parties,⁵ as well as calling working meetings, such as the one held on October 21, 2015, during the 156th Period of Sessions. As background information, the representation recalled that the Lenca indigenous people –organized in COPINH, led by the beneficiary– of the Río Blanco area in Honduras, possesses ancestral titles from the 17th and 19th centuries (among them, the so-called Cotic-Cange). The representation indicated that on April 1, 2013, a movement began to recover their right of possession and ownership of the lands near the Ulúa River. As indicated, they peacefully maintained the seizure of the access road to the construction site of the Agua Zarca hydroelectric dam (which was being built by the company Desarrollos Energéticos, S.A. - DESA), indicating that their territorial rights and rights to the environment were being affected.⁶ The representation reported on an emerging conflict as a result of the 20-year concession agreement that the National Congress granted for the implementation of the aforementioned project, despite the opposition of the community, and in breach of the provisions of Convention 169 of the International Labor Organization (ILO) on Indigenous and Tribal Peoples, which is said to be Law of the Republic in Honduras.

9. In 2013, the parties reported on the stage of certain criminal proceedings against the beneficiary. In 2014, the representation reported on the occurrence of events against the beneficiary.⁷ In 2015, the representation referred to events such as the following: a call from an unidentified person who warned her of the risk she was facing, advising her to be careful when traveling through the pass of Agua Caliente, municipality of San Pedro de Zacapa, department of Saint Barbara; a text message warning her of the risk of being captured by people close to hydroelectric projects; information indicating that a person had been hired to follow up and eventually kidnap her; individuals expressing their intention to kill her and to burn a vehicle owned by COPINH; vehicle tracking; a call from an informant who warned her that a 30,000 lempira disbursement had been made with the aim of hiring several people to carry out follow-ups and who warned her again of the risk of being eventually kidnapped.

10. In 2015, the State reported on the procedural stage of criminal cases that were being pursued against Ms. Berta Isabel Cáceres in the departments of Intibucá and Santa Barbara. Similarly, information was provided on the status of a complaint filed in 2010 against a police officer for the crime of illegal detention to the detriment of Ms. Cáceres. The State emphasized that the arrest of the accused was ordered, which was pending execution by the National Police. The State reported that the complaint for the crime of threats to the detriment of Berta Cáceres was also in the process of being investigated, where the Secretary of State in the Office of Security was asked to provide protection measures to guarantee her rights. With regard to the events that occurred in the Río Blanco area where the construction of a hydroelectric dam called Agua Zarca is intended, the Office of the Special Prosecutor allegedly initiated criminal actions against the officers who authorized the project without having consulted the Lenca community of the area and against the member of the army who killed the Lenca indigenous person Tomás García. In 2015, the State reported that a meeting to monitor precautionary

⁵ *Inter alia*, information was requested from the parties on September 21, 2013; October 8, 2013; November 5, 2013; November 26, 2013; July 17, 2015; August 7, 2015; October 13, 2015; and December 9, 2015

⁶ In other communications, the representation also indicated that COPINH and the Lenca communities also oppose the energy project that is being developed in another of the tributaries of the Ulúa River called Río Cangel, which runs through the municipalities of San Francisco de Opalaca and Intibucá. The project is reportedly being carried out by the Blue Energy company. On another note, COPINH has purportedly made other “territorial claims” in favor of the indigenous communities located in four municipalities affected by the development of the Tanguay hydroelectric project in the riverbed of the San Juan River, department of Lempira.

⁷ According to the representation, on October 6, 2014, while the beneficiary was returning from demonstrations in defense of the San Juan River, a mountain-type motorcycle without a license plate began to circle around the vehicle in which she was traveling. On December 30, 2014, around 2:00 p.m., several members of the Lenca community of Río Blanco, along with the beneficiary, were allegedly “claiming” the ownership of the ancestral lands of the Río Cangel area before the Blue Energy company facilities, when several armed guards came out to meet them. One of them allegedly pointed his shotgun directly at the beneficiary, who purportedly managed to dissuade him, taking out his phone with the intention of recording him.

measures was held at the COPINH facilities in the city of La Esperanza, Intibucá, on March 9, 2015, and August 31, 2015. The individual protection measures in favor of the beneficiary are reportedly the following: patrols, police liaison, legal liaison, telephone calls, security cameras delivered, police accompaniment when the beneficiary requests it.

11. In 2015, the representation indicated that the protection measures were not being properly implemented to address the urgency and seriousness of the attacks and threats made against the beneficiary. Similarly, they indicated that there is no effective investigation into the threats. On March 28, 2015, it was reported that while the beneficiary was heading towards the Agua Caliente community, around 10:00 a.m., she received a call from lawyer Martín Fernández, who indicated that he had received a call from an unknown man who asked whether he had contact with or knew the beneficiary. According to the representation, the unknown person said that he was a police intelligence officer in charge of protection measures for the human rights defender. Given these statements, the beneficiary inquired about her situation, and she was informed that the alleged officer was not in charge of precautionary measures. During the afternoon of that day, at approximately 6 p.m., the beneficiary reportedly received a call from the president of the Río Blanco Indigenous Council, who purportedly indicated that he had received information about an alleged plan to kill her, which concerned the process of land reclamation that is underway in the territories occupied by the DESA company. The representation reported that a COPINH member who had an “active role” in the framework of the land recovery process in the area of Somolagua, Santa Bárbara was assassinated on May 20, 2015. The representation indicated that all these events were reported to the Public Ministry and brought to the attention of the Human Rights Secretariat. In this regard, the beneficiary requested the presence of the institutions in charge of carrying out the investigations into the facts in the meetings to monitor her protection measures, in order to comprehensively address the causes that have generated the situations placing her at risk.

12. Lastly, it was reported that on March 3, 2016, at around 1:00 a.m., unknown persons broke into the beneficiary’s home, located in the El Líbano neighborhood, in La Esperanza, Intibucá, and took her life. At the scene was human rights defender Gustavo Castro Soto, who allegedly witnessed the events and was injured in the attack. According to the representation, the murder of Berta Cáceres occurred days after she had denounced the allegedly violent eviction of 50 families in La Jarcia, Guise, Intibucá. The representation reported that the authorities transferred the remains to Tegucigalpa to carry out forensic examinations. It was also reported that the security guard of the house where the beneficiary was murdered was detained.

B. PM-112-16 (Berta Cáceres’s nuclear family, members of COPINH, *et al.*)

13. Following the granting of the precautionary measures, the Commission continued to follow up on this matter by requesting information from the parties.⁸ Similarly, the Commission held working meetings between 2016 and 2019. In April and December 2016, two working meetings were held within the framework of the 157th and 159th Period of Sessions.⁹ On March 17, 2017, a working meeting was held during the 161st Period of Sessions and, subsequently, on May 18, 2017, another working meeting

⁸ The IACHR requested information from the parties on March 23, April 20, May 9, July 27, October 3, and November 14, 2016, February 15, March 13, May 17, July 6, August 10, and September 6, 2017, February 26, and July 31, 2018, November 27, 2019, and January 29, 2021.

⁹ IACHR, [Annual Report 2016, Chapter 1](#)

was held within the framework of an on-site visit by the Country Rapporteur Commissioner.¹⁰ On September 24, 2019, a working meeting was held during the 173rd Period of Sessions.¹¹

14. On December 6, 2018, the IACHR held a public hearing on the matter at hand within the framework of the 170th Period of Sessions.¹² At the hearing, the IACHR received information on the situation of the beneficiaries as well as on the stage of the internal proceedings aimed at clarifying the facts and determining liabilities for the murder of defender Berta Cáceres. The State reported on the court decision of November 29, 2018, which convicted seven persons of the murder of Berta Cáceres. Similarly, the State indicated that a senior executive of the DESA company is being prosecuted, accused of being mastermind of these crimes. The State indicated that investigative proceedings on the possible involvement of other masterminds in this case would continue. The State also indicated that the principle of publicity has been complied with, to the extent deemed relevant. On the other hand, the State reported on the protection measures that the beneficiaries allegedly have to date, which are said to be agreed with the beneficiaries. For their part, the organizations representing the beneficiaries of the precautionary measure stated that not all the persons involved in the murder have been investigated. In this context, the representatives also stressed that there have been irregularities such as the denial of access to evidence, impediments to the publicity of the process, denial of the participation of COPINH as a victim, and even the family and representatives have been excluded from the trial. The representation emphasized that the evidence purportedly shows that the seven convicted persons acted as part of a criminal structure linked to the DESA company. According to the representation, to date, the Public Ministry has not summoned the masterminds of the events to testify, even though it has had this information since, at least, May 2016. The representation and one of the beneficiaries who attended the hearing also raised questions about the protection measures in place. The representation also indicated that the company involved continues to carry out actions to dismantle COPINH, and therefore, it is essential to revoke the company's concession agreement and dismantle criminal networks to eradicate the risk factor for the beneficiaries.

i. Information provided by the State

15. The State reported that it has been taking the necessary steps to safeguard the rights of the beneficiaries. In particular, through reports dated November 2019, the State notes that although the deaths of Lesbia Yaneth Urquía, Nelson Noe García, Saul Madrid, Olvin García Mejía, Elvin Saul Madrid Gómez, and Olban Adonay Gómez are unfortunate events, these persons were not beneficiaries of the measures at hand, given that at the time the protection measures were agreed upon, they were not identified by the representation. Furthermore, the State considers that Ms. Salome Sánchez and Mr. Lucio Sánchez are not beneficiaries of these precautionary measures. For these reasons, the State requested that the representatives present a complete list of the persons they consider to be beneficiaries, in order to optimize protection measures.

16. Regarding the implementation of these measures, the State provided information on the protection measures granted in favor of the identified beneficiaries.¹³ According to the information provided, the beneficiaries who are part of Berta Cáceres's family¹⁴ are receiving as protection measures: vehicle patrols, a police liaison, security to facilities, security cameras, vehicle allocation,

¹⁰ IACHR, [Annual Report 2017, Chapter 2](#)

¹¹ IACHR, [Annual Report 2019, Chapter 2](#)

¹² Available at <https://www.youtube.com/watch?v=vwYv4fUzaos>

¹³ According to the information provided by official letter No. DGSP-345-19, dated December 5, 2019, and OFICIO-SEDS-DDHH-3039-2019 dated December 10, 2019.

¹⁴ 1) María Austra Bertha Flores López, 2) Gustavo Adolfo Cáceres Flores, 3) Olivia Marcela Zúñiga Cáceres, 4) Camilo Alejandro Espinoza Zúñiga, 5) Mery Hazel Flores, 6) Salvador Zúñiga, 7) Roberto Cáceres Flores, and 8) Bertha Isabel Zúñiga.

specific accompaniments, and security escorts. On the other hand, the State identified beneficiaries who are COPINH members and the legal team of Berta Cáceres's murder case,¹⁵ concerning whom the following protection measures have been implemented: police liaison, vehicle patrols 3 times a week. In the case of beneficiary Rosalina Domínguez Madrid, she is said to have specific accompaniments, in accordance with the agreement reached with the representation. Sotero Chavarría Funez¹⁶ and Liliam López were also identified as beneficiaries, who allegedly have protection measures as well. For its part, the State provided a report from the General Director of the Protection System which refers to the different activities carried out around the protection measures of each of the beneficiaries. Moreover, the list with all those who make up the "General Coordination of COPINH 2019-2021" was provided.¹⁷

17. Due to the foregoing, the State recalled that the measures were agreed upon by the representation and that they are being implemented to date. According to the State, the representation intends to claim inefficiency of the protection measures due to events that occurred to other persons who are not identified or accredited as Berta Cáceres's relatives or as members of COPINH, while it has not reported or requested the incorporation of these persons in the technical committees held to carry out the risk assessment and grant protection measures in this case.

18. Regarding the prosecution and conviction of those responsible for the death of Berta Cáceres, the State asserts that on December 2, 2019, the Supreme Court of Justice individualized the sentence against seven persons involved in the assassination of the environmentalist, also for the attempted homicide of Gustavo Castro. Concerning this matter, the Public Ministry denoted that, in respect to the masterminds, there was a public announcement on the arrest of Roberto David Castillo Mejía, who was accused of being mastermind. In particular, the State reported that it has been possible to capture and convict several of those involved and a person identified as a mastermind. Therefore, the State alleges that this case is being carried out with due diligence.

19. Concerning the alleged participation of police officers in the burning and destruction of cultivated fields, the Office of Security points out that they could not find any record of complaints against police officers. Therefore, the Office urges the representation to provide information about these purported complaints in order to perform the corresponding proceedings. Furthermore, the State emphasizes that the Protection Mechanism and the Office of Security agreed upon the protection measures with the beneficiaries and these measures are currently implemented.

20. In the same way, the State indicates that many of the representation's arguments date back to 2016 and 2017. Regarding recent facts, these were neither informed nor reported before the corresponding authorities for follow-up. Thus, the State considered that the deaths and complaints mentioned are from previous years and the most recent ones correspond to persons who are not part of this precautionary measure, except for the case of beneficiary Rosalina Domínguez, who has protection measures. The State alleged that the representation intends to support that the precautionary measure is rooted in the granting of the license to the Company DESA. However, according to the State, this statement is disproved due to the arrest and conviction of those responsible, as well as by the

¹⁵ 1) José Presentación Hernández, 2) Alejandro García, 3) Santos Israel Pérez, 4) María Martina Sánchez, 5) María Mercedes Velásquez, 6) Clemencia Hernández Manueles, 7) Roberto Bautista Pérez, 8) Jesús García Pérez, 9) Jesús Manueles Hernández, 10) Humberto Hernández García, 11) Evelio Pérez Jacinto, 12) Dore Manueles, 13) José Zacarías Méndez, 14) José Silvestre Bautista, 15) Silvestre Adolfo Bautista, 16) José Ramón Reyes, 17) Celestino Gutiérrez, 18) Santos Anastasia Reyes, 19) Francisco Javier Sánchez, 20) Alexander García Sorto, 21) Rosalina Domínguez, 22) Arnold Guifarro, 23) Víctor Fernández, 24) Rodil Vásquez, and 25) Ariel Madrid

¹⁶ The following protection measures are allegedly being implemented: emergency liaison service, cell phone device, police patrols, security circuit cameras in his residence, as well as a serpentine installation in the perimeter center.

¹⁷ Bertha Isabel Zúñiga Cáceres, Francisco Sánchez Gonzales, Miriam García, José Trochez, Erlyn del Cid, Felipe Gámez, Marleny Reyes, Jacobo Gámez Higinio Mendoza, Carlos Roberto Reyes, Rosalidia Aguilar, Catalina Hernández, Esperanza Aguilar, Fausto Vásquez, and Marvin Rápalo.

individualization of their sentence. Regarding this point, the State indicated that the criminal proceedings for the issuance of the concession agreement without observance of the prior, free, and informed consultation have been launched. On the other hand, the State requested the partial lifting of this measure with respect to the beneficiary Gustavo Castro as he is not in the country.

21. Through communication dated September 9, 2020, the State provided a certified copy of Judgement No. TSJN-SI-S53-2019 from December 2, 2019, issued by the First Judgement Court Chamber of Tegucigalpa, whereby conviction is rendered against those responsible for the crimes of assassination and attempted assassination to the detriment of Berta Isabel Cáceres and another person (referred to as “ABC”).¹⁸ Furthermore, the State produced the report from the Department of Human Rights of the Secretariat of Security, in which it is stated that there was “an inappropriate use of protection measures” by some of the beneficiaries. This report referred specifically to beneficiaries Olivia Marcela Zúñiga Cáceres and Gustavo Adolfo Cáceres, who have apparently requested several times that the officers in charge of their personal security detail perform some activities that do not match their typical functions.¹⁹

22. In the report dated February 26, 2021, the State indicated that the trial against Mr. David Castillo concerning the assassination of Berta Cáceres is underway and that the Public Ministry is performing the corresponding investigative procedures. In the same way, it stressed that it would continue to implement the corresponding protection measures in favor of the beneficiaries. On this last point, the State requested support from the IACHR to mediate between the parties in order to reach joint agreements which ensure the effectiveness of the measure as well as its scope and limits. The State reported that, on October 23, 2020, the Technical Committee held a meeting which the beneficiaries and their representation attended. During that meeting, state authorities reported that the protection measures have been implemented and complied with in accordance with the precautionary measure adopted. Similarly, the police protection measures were reviewed taking into account the situations informed during the deployment of these measures. On this occasion, the Technical Committee reached a series of agreements, including: i) to request the coordination of the COPINH to comply with the agreements from previous meetings, which include sending a complete list of all the beneficiaries of this precautionary measure; ii) to carry out an assessment of the context and a prevention plan concerning the conflict that the Community Rio Blanco faces, through the Unit of Prevention and Context Analysis; iii) to send a note to the Department of the Interior requesting that, according to their powers, they train the personnel of the Office of Conflict Resolution in order to encourage the dialogue and mediation in the situation that the Community Rio Blanco is facing; iv) these protection and preventive measures will be in force while the risk reassessment of this case is performed, which will be presented again before the Technical Committee of the Protection Mechanism. Therefore, the State considered that the state institutions are complying with Article 25 of the Rules of Procedure.

23. Concerning the protection measures implemented in favor of the beneficiaries, the State asserted that the Cáceres Family currently has a detail composed of 10 police officers, police patrols,

¹⁸ From judgment of December 2, 2019, the conviction of Messrs. Elvin Heliberto Rápalo Orellana, Oscar Arnoldo Torres Velásquez, Edilson Atilio Duarte Meza, and Henry Javier Hernández Rodríguez as co-perpetrators, liable for the crime of consummated murder and as co-perpetrators of the crime of attempted murder. Moreover, Messrs. Sergio Ramon Rodríguez Orellana and Douglas Geovanny Bustillo are convicted as co-perpetrators of the crime of consummated murder. Mr. Mariano Diaz Chaves is also convicted as perpetrator by omission for the crime of consummated murder.

¹⁹ In the case of Ms. Olivia Marcela Zúñiga Cáceres, they point out that the beneficiary told one of the officers of her personal security detail to “go to work elsewhere,” that she no longer wants to see him there, or otherwise, she was “going to report him.” On previous occasions, the beneficiary asked the security officers to dump her garbage using the assigned patrol. When they refused to do so, she reproached them with phrases such as “Go away, I no longer want you in my personal security detail,” that she was “going to ask the Mechanism for a change” and “Don’t worry, go away, I don’t want you to be here anymore.” Regarding beneficiary Gustavo Adolfo Cáceres, it was reported that he has repeatedly requested that assigned security officers intervene at police checkpoints to “pass his personal friends and trucks that do not meet the requirements for proper circulation.” Furthermore, the beneficiary has purportedly asked the drivers of the Police Radio Patrol to transfer the housemaid to his home, while the beneficiary has a private vehicle for his personal proceedings.

specific accompaniments, and police liaison. Ms. Olivia Marcela Zúñiga Cáceres allegedly has a detail with 9 police officers. Ms. Austra Bertha Flores López purportedly has security 24 hours a day, specific accompaniments, and a police liaison. Ms. Rosalina Domínguez allegedly has a police liaison, police patrols, and specific accompaniments. Then, beneficiaries Víctor Fernández, Arnold Samir Guifarro Aguilar, Roberto Cáceres Flores, Carlos Roberto Reyes, José Marvin Rápalo, Rosa Lidia Cruz, Esperanza Aguilar, Bertha Isabel Zúñiga, Francisco Sánchez, Mirian García, Marleny Reyes Castillo, José Felipe Gámez, Jacobo Gámez García, and Suani Joel Núñez Saucedo purportedly have a police liaison. Regarding the different incidents informed by the representation in their reports, the State indicates that all the complaints filed by the beneficiaries are recorded. The Police Directorate of Investigations was asked to provide the corresponding information on the current status of the investigative proceedings.

24. In relation to the facts informed by Mr. Erlin del Cid about an alleged kidnapping and detention attempt, the State reported that, on April 9, 2020, the police officer from the National Directorate of Special Forces was in a fixed checkpoint on the highway of the Colomoncagua municipality. The police officer informed that that day a citizen was detained for not complying with the curfew. The citizen allegedly argued with the police officers and fled the scene. In spite of that, according to the record of the Municipal Central Office (*Jefatura Municipal*), no citizen called “Erlin del Cid Pineda” was detained that day. Regarding the purported arbitrary detention and mistreatment to a member of the Llano Grande community, the State indicated that, on May 14, 2020, a person was detained in a mobile police checkpoint because this person “made a scandal” with a machete-like weapon and threatened the personnel who were there. The person’s name was “Abner Adalid Del Cid Diaz,” who at the time of his detention had a scratch on his right shoulder and bruises (hematomas) on his right eye. He stated that he did not know how or who had hit him, since he was inebriated. On another note, on March 10, 2021, the State asserted that three of the persons prosecuted for the assassination of Berta Cáceres²⁰ remain held in the corresponding penitentiary.

25. In its communication date October 27, 2021, the State provided a list of the beneficiaries of the protection measures and their execution. With respect to the relatives of Bertha Cáceres, eight persons were accredited²¹; with respect to the members of COPINH, five persons were accredited,²² clarifying that these persons were, in turn, accredited by the Coordination of the said organization; and with respect to the legal team, three persons were accredited.²³ It also referred to the protection measures implemented in favor of Berta Cáceres’s family members,²⁴ which include permanent security at residences, patrols, police accompaniments, and security escorts, installation of security cameras, installation of security doors, police liaison, allocation of vehicles, monthly stipend for the payment of security personnel, driver and fuel, granting of identification cards as beneficiaries of precautionary measures, among other measures. Regarding the measures implemented in favor of Rosalinda Domínguez Madrid, the State referred to police liaisons, police accompaniments, patrols, among other measures. Regarding beneficiaries Víctor Fernández, Ariel Madrid, Arnold Guifarro, and Rodil Vásquez, a series of security measures are purportedly being implemented, including patrols in the workplace, police liaisons, emergency contacts, police accompaniments, and a monthly stipend for the payment of security personnel.

²⁰ Sergio Ramon Rodríguez Orellana, Roberto David Castillo Mejía, and Douglas Geovanny Bustillo.

²¹ Austra Bertha Flores, Olivia Marcela Zúñiga, Mery Hazel Flores, Salvador Zúñiga, Gustavo Cáceres, Roberto Cáceres, Bertha Isabel Zúñiga, and Laura Zúñiga

²² José Melvin Trochez, María Pascuala Vásquez, José Gaspar Sánchez, Rosalinda Domínguez Madrid, and José Asunción Martínez.

²³ Arnold Guifarro, Víctor Fernández, and Rodil Vásquez.

²⁴ Olivia Marcela Zúñiga Cáceres, Austra Berta Flores, Gustavo Cáceres, Roberto Cáceres Flores, Mery Hazel Flores López, Salvador Zúñiga, and Berta Isabel Zúñiga Cáceres.

26. On another note, the State indicated that, according to the Minutes of the Technical Committee of October 23, 2020, Mr. Francisco Sánchez, Mr. Sotero Chavarría, and Ms. Liliam López are no longer part of COPINH; therefore, it was decided to contact these persons in order to determine and verify whether they meet the requirements to be protected by the protection mechanism. In response, it was reported that the aforementioned persons appeared before the Unit; however, their request was not accepted. Lastly, the State reiterated the importance of the COPINH Coordination Office being able to send the list of persons who are members of the Council, which will allow for an adequate management of the protection processes. So far, there is only a list of members of COPINH that make up the Board of Directors, emphasizing that protection in collective cases is complex, especially in cases where all members are unknown.

ii. Information provided by the representation

27. Upon the granting of the precautionary measures, the representation reported on their implementation by the State. According to the representation, the risk for the members of COPINH and the family of Berta Cáceres increased as a result of their participation in the legal proceedings against those responsible for the murder of the defender Cáceres. The representatives referred to events between 2016 and 2019, which include the murder of 3 members of COPINH²⁵ and the human rights defender Lesbia Yaneth Urquía,²⁶ as well as attacks, harassment, and attempts on their lives. They also stressed that the State failed to present detailed information about the investigations carried out to clarify these facts. On December 5, 2019, it was reported that “[...] CEJIL does not act as the representative organization of Mr. Gustavo Enrique Castro Soto.”

28. The representation questioned the implementation of the current measures. They specifically refer to irregularities during the legal proceedings against Cáceres’s murderers²⁷ as well as against the only mastermind being charged, the manager of the DESA company, Roberto David Castillo. The representation stressed that the license of the DESA company is in force and continues to be a source of risk for COPINH members, who still receive threats due to their work in protecting their lands against threats entailed by the hydroelectric project Agua Zarca. These events were allegedly brought to the attention of the State. However, to this date, State authorities have not replied.

29. According to information received, in 2019 several alleged accidents were reported. These include: i) the murder of members belonging to the Río Blanco community and recurring acts of intimidation, attacks, and death threats against other members of the organization,²⁸ ii) attacks including burning of lands and crops of COPINH members in several communities,²⁹ and iii) criminalization of several COPINH members, along with the escalation of a discredit and smear campaign against the organization and its members. The representation deems that there is an alarming

²⁵ On March 15, 2016, the representation reported the murder of Mr. Nelson Noe Garcia. Subsequently, on July 11, 2019, the murder of Elvin Saul Madrid Gómez and Olban Adonay Gómez Garcia was reported.

²⁶ The representation reported on July 7 and 8, 2016, on the murder of Lesbia Yaneth Urquía.

²⁷ As reported, the criminal process culminated in a guilty plea against 7 of the 8 defendants, whose written sentence was not issued until more than a year after the Court issued the ruling.

²⁸ In particular, the information available refers to several reported incidents, namely: death threats against Olban Adonay Gómez Garcia eventually resulted in his death, in March 2019; harassment, threats, and attacks against the indigenous leader Rosalina Domínguez, her family, and other members of COPINH; b) assault with a machete against Mr. Salomé Sánchez, member of COPINH in the month of May 2019; c) in July, destruction of access roads to members of COPINH who reside in Montaña Verde; d) attack with a firearm on members of COPINH who reside in Somolagua, by 8 to 10 armed persons and the destruction of crops; e) detention of a COPINH member by the military, in September 2019; f) an attempt on the life of Rosalina Domínguez, by a person who tried to hurt her with a machete on her neck; g) threats against Mr. Lucio Sánchez, president of the indigenous council, in May 2019.

²⁹ According to the representation, in July 2019, it was recorded the destruction of about 15 blocks of corn crops in the Río Blanco community, as well as 50,000 coffee plants and 7,000 banana plants in the El Mirador Community.

increase in attacks despite repeated communications made to the National System for the Protection of Human Rights Defenders (SNP).

30. The representation also reported the following events: i) on September 22, 2019, Mr. Juvenal Beltrán, member of COPINH in the community of Colomoncagua, was detained and physically assaulted by the military; ii) on September 23, 2019, a COPINH commission was threatened by a family with rocks, machetes, and weapons; iii) on October 27, 2019, a group of communities belonging to COPINH was purportedly detained by members of the same family,³⁰ who stopped traffic and proceeded to insult and threaten to kill beneficiary Bertha Zúñiga Cáceres, COPINH General Coordinator³¹; iv) on October 30, 2019, several members of the abovementioned family threatened to attack Rosalina Domínguez, Cornelia Domínguez, Clementino Martínez, Adolfo Gómez, Naun Pineda, Fredy Sánchez, Santos Sánchez, and Darwin Sánchez with a machete; and v) the alleged detention of several COPINH members and El Achotal community members, by the National Police for the crime of illegal ploughing.³² Based on the abovementioned, the representatives uphold that these acts of intimidation, attacks, and threats show an existing pattern of systemic aggressions against COPINH members.

31. Regarding the unfulfillment and unacceptable delay by state authorities in implementing several security measures, the representation alleged the existence of shortcomings within the security detail, in the implementation of infrastructure security measures, the use of police vehicles, and police liaisons used for the purpose of providing protection to the beneficiaries. According to the representation's claims, the State has not effectively implemented the security measures. The representatives consider that the State has not paid attention to the structural causes that motivated the granting of these measures.

32. The representatives underscore the lack of relevant information from the State regarding the investigations' development in the legal proceedings related to these measures. This alleged lack of progress reflects the impunity for the threatening events reported in the context of this matter and the authorities' refusal to allow for Berta Cáceres's family members and members of COPINH to fully participate in the said proceedings. In this regard, the representatives indicated that they have filed requests for investigation proceedings and for information,³³ but that these have not been duly answered or responded to. The representatives deem that the guilty plea by Berta Cáceres's murderers is an important step towards justice and reparation. They reiterated the need to continue with the investigation and to punish every person linked to this event, both perpetrators and masterminds as well as public officers responsible for the omissions regarding the appropriate investigation into the facts.

33. Through communication dated April 4, 2020, the representatives reported that Douglas Bustillo and Sergio Rodríguez (both convicted of Berta's murder) and Roberto Castillo (accused of being mastermind) were possibly going to be released from jail in the framework of the health emergency caused by the COVID-19 pandemic. On this point, the representation considered that there is a well-founded fear that the actions of the State to protect the population deprived of liberty in the context of the current pandemic may be used illegitimately to release the aforementioned persons. In addition, they considered that the release of the aforementioned persons would have a serious impact on the

³⁰ According to the information provided, the company is allegedly linked to DESA, and would take reprisals against some of the members of COPINH.

³¹ The representatives report that this fact was verbally denounced to the police, who were requested to provide company to avoid any other incident.

³² This crime reportedly consists of opening furrows to till the land.

³³ Through these briefs, it was requested the inclusion of extracts of information from devices seized on May 2, 2016, at the homes of the defendants in the first judicial process launched for the murder of Berta Cáceres, as well as in the offices of the DESA company in Tegucigalpa. Similarly, in October 2018, the daughters and son of Berta Cáceres made a special request to the Attorney General Óscar Chinchilla, for the investigation and prosecution of the masterminds of the crime.

search for truth and justice. Along the same lines, they reiterated the possibility that actions or reprisals could be taken against the beneficiaries if these events materialize.

34. Through a communication sent on October 21, 2020, the representatives provided additional information regarding the attacks on COPINH members during the health emergency. They specifically detailed that Mr. Erlin Del Cid, a member of COPINH general management, was detained on April 9, 2020, by police officers at a checkpoint in Colomoncagua, Intibucá. According to the information provided, police officers interrogated Mr. Del Cid for not wearing a face mask and proceeded to check his belongings without following the established health protocols. Mr. Del Cid was then allegedly attacked and cuffed by the police after a verbal altercation. Police officers purportedly tried to force Mr. Del Cid into an unidentified car. However, he resisted and freed himself from the officer, fleeing the place still in handcuffs. Due to these events, the Public Ministry ordered the detention of Mr. Del Cid. Nonetheless, the Second Court of First Instance (*Juzgado Segundo de Letras*) of the department of Intibucá denied this request and formally notified the start of legal proceedings against him, granting a precautionary measure consisting of appearing every 15 days to the Court to sign.

35. On May 11, 2020, Mr. José Trochez, a member of COPINH general management, was detained at a military checkpoint when returning to the community of Santa Elena. According to available information, soldiers surrounded the car where he was travelling, forced him to get out, and interrogated him. The police officer removed his personal protection and biosafety equipment and accused him of being a gang member. Mr. Trochez was released 6 hours after his detention. On May 14, 2020, Mr. Adner Adalid Diaz del Cid from Colomoncagua (COPINH headquarters) was also detained by the military police at a checkpoint. One of the soldiers allegedly pushed Mr. Diaz to the floor and proceeded to kick and strike him, causing him multiple traumatic injuries. According to the representatives, while Mr. Diaz was beaten, he was also insulted for belonging to COPINH. Afterwards, he was taken to the Municipal Headquarters. His shirt and shoes were removed and was subject to further verbal and physical assaults. Mr. Diaz was kept in isolation without the possibility to contact his family or lawyers. According to the representation, Mr. Diaz was released the following day, with significant injuries and purportedly threatened if he dared to file a complaint.

36. The representation also referred to alleged harassment against Laura Yolanda Zúñiga Cáceres. They specifically argued that on July 28, 2020, an unknown subject appeared at her home and suspiciously lurked around while peeping through the front gate. According to the representation, that same day, another unknown person arrived in a motorcycle and parked in front of her house. In view of these events, the beneficiary reported the facts to the Special Prosecutor for Ethnic Groups and Cultural Heritage and the National Mechanism for the Protection of Human Rights Defenders. As a result, a meeting with the Technical Committee for Protection Mechanisms was held on August 13, 2020. This meeting asked the beneficiary of the possibility of carrying out a risk study to see if the Mechanism should implement or not security measures. In this regard, Ms. Zúñiga considered that, in her case, it is not advisable to move forward with this study, given her mistrust in State institutions. Therefore, the Technical Committee of the Protection Mechanism decided that they do not have the necessary technical elements in order to justify the “granting of alternative measures.”

37. The representation further indicates that on June 15, 2020, several COPINH members reported the attempted theft of equipment and livestock within their facilities as well as possible damage in their workspace. Thus, on June 18, 2020, COPINH presented a request to the National Protection Mechanism and the Human Rights Commission in order to be assigned a police patrol for 15 days at the *Centro de Encuentro y Amistad “Utopía”* and prevent further damage. Nonetheless, the authorities denied the

request stating that it was necessary to file a complaint with the police in order to justify the need of a police patrol.

38. Subsequently, on June 22 and June 23, 2020, rumors allegedly began to surface on social media platforms to burn down COPINH facilities due to their work in support of persons deprived of liberty who were suspected to have COVID-19. These events were reported to the Mechanism and to the Police, and police protection was requested at the same time. Despite this request, the State did not issue a response. Thus, the representatives reiterated the lack of effective protection measures, specifically the lack of security camera maintenance in COPINH premises, as the cameras are said not to be working since October 2018. Similarly, the representatives mentioned the smear campaigns and attacks in social media platforms against Berta Cáceres's daughter and COPINH members. During May 2020, the representation received information on incidents of attacks, aggressions, and threats against members of COPINH³⁴ in the Río Blanco community. These events were denounced to the corresponding authorities. However, the State responded by saying that they do not have the necessary resources to ensure a continuous police presence and that when police officers have been sent, they were attacked.

39. In a communication dated March 19, 2021, the representatives regretted the State allegations, considering that the murders reported since the granting of the measures should not be assessed because the victims were not part of COPINH. In this sense, the representation clarified that COPINH general management's members are not the only beneficiaries of the measures. Instead, COPINH members living in their respective territories are also included. Consequently, they considered it fundamental that the State understands that COPINH members who are living in the communities should be treated as beneficiaries and that they require protection to guarantee that they can carry out their activities as defenders without being subjected to acts of violence. Moreover, the representation reiterated that COPINH is composed of more than 200 communities and that providing a list with all the names of the members of this organization would not be possible because it would infringe the agreements previously established between the parties. In this regard, the representation clarified that the list provided to the State included the members of the General Management of COPINH for the purpose of carrying out the identification of its members, and not for the purpose of considering these persons as the only beneficiaries. Lastly, the representatives emphasized that this precautionary measure is a collective one and the State cannot pretend to individually identify all of COPINH members and provide each of them with personal protection measures.

40. Regarding the implementation of protection measures in favor of COPINH members, the representatives considered that there have been a series of problems and shortcomings, which compromise their effectiveness and have led to an increase in violence in the territories inhabited by COPINH members. In addition, they referred to the non-compliance and unjustified delay on the part of state authorities in the effective implementation of various specific security measures, agreed upon with COPINH, such as, for example, deficiencies in the security details assigned to the communities; problems in the implementation of technological measures such as security cameras or solar panels; difficulties with the police liaisons used to provide protection; and excessive delays in requesting police accompaniment in response times to emergency situations, given the distance from the communities where they must travel to provide protection; difficulties with the police liaisons used to provide protection to beneficiaries; and excessive delays when requesting police accompaniment in response to emergency situations due to the distance from where the patrols must travel to the territory where the beneficiaries live, among others.

³⁴ The representatives referred to machete attacks against Nixon Pineda, Darwin Domínguez, and Leónidas Sánchez between May 18 and 29, 2020.

41. The representation added that, on multiple occasions, a family linked to the DESA company has represented one of the main sources of risk to which the beneficiaries are exposed. In addition, they pointed out that the same authorities called upon to provide protection to the beneficiaries have indicated that they do not wish to continue implementing police patrols and accompaniment because it is a high-risk area. On this point, the representation indicated that, according to what was stated by the Secretariat of Security, the area where the beneficiaries live in Río Blanco “is an area of great risk for the police” and the family “is opposed to the police authorities entering the property where Ms. Rosalina Domínguez is located, given that it is private property and the said family has decided not to allow access to the police or to anyone else.” However, the representatives think police officers are unwilling to provide protection. With regard to consultation meetings, several work meetings have been allegedly held with the National Mechanism of Protection in order to monitor the implementation of these measures. On this point, the representatives indicated that the Public Ministry had participated in the meetings on an exceptional basis. However, they deem their absence harmful since it hinders the fulfillment of actions in order to move forward with the investigation related to threatening incidents as informed by the beneficiaries.

42. Regarding the revocation of the administrative concession agreement of the Agua Zarca Project, the representatives noted that the State referred only to the criminal proceedings launched into the granting of the concession agreement without compliance with free, prior, and informed consultation. However, the representation considers that decreasing the criminal liabilities of those involved in the illegal granting of the license, which did not include a proper consultation, does not replace the State’s commitment to continue the process that will permanently revoke the administrative license. In this regard, they emphasized the lack of progress on the part of the State to guarantee the revocation of the administrative concession agreement that generated the risk to which COPINH is exposed.

43. Regarding the lack of progress in the investigation of the reported incidents, the representatives allege that the State has not provided information on the investigation into the threats and attacks suffered by Ms. Salome Sánchez, since the State does not consider her to be a member of COPINH. In this regard, they recalled that the fact that the state authorities do not consider certain people as beneficiaries does not exempt them from their responsibility to investigate and report on such events. For this reason, the representation expressed its concern over the lack of clarification of the reported events. In addition to the foregoing, the representatives reported that Ms. Rosalina is at risk due to her participation as a witness in the process against Mr. Roberto David Castillo. Furthermore, they reiterated the different incidents against the members of COPINH, as well as the questions on the criminal proceedings pursued against Mr. Castillo. By communication dated April 6, 2021, the representation reported that on April 3, the general coordinator of COPINH, Bertha Zúñiga, as well as Laura Zúñiga and Camilo Bermúdez, had been illegally and arbitrarily detained by the National Police for 3 hours. According to the information available, the police officers detained the beneficiaries because they were traveling in an armored vehicle which reportedly requires a special permit to be used. On that occasion, the beneficiaries identified themselves as members of COPINH and explained that the armored vehicle was one of the security measures granted by the National Mechanism, but that they did not have the required permit because the said institution had not issued it. After several conversations with the police officers aimed at explaining their situation, the beneficiaries were taken to the Santa Rosa Police Station, where they were held for 2 hours and then allowed to go without any explanation. The representatives considered the aforementioned events as an attempt to intimidate the beneficiaries. In addition, they stressed the lack of a promptly and timely response from the National Mechanism, with whom they tried to communicate on that occasion, but it did not give any response. As a result of the above, the representation requests that the necessary measures be taken to guarantee that the contact number assigned in case of an emergency works properly and provides a promptly and timely response.

44. Finally, the representation indicates that the armored vehicle available to the beneficiary Bertha Zúñiga is not safe, since it allegedly needs some fixing, which to date has not been reportedly carried out. Therefore, the representation requested another vehicle for her. Lastly, the representatives claim that as Mr. Castillo's trial progresses, the risk faced by the beneficiaries increases, especially against beneficiary Bertha Zúñiga, who will appear as a witness in the said process.

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

45. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in 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 this Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

46. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that precautionary and provisional measures have a double nature, both precautionary and protective. Regarding their protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are under consideration by the IACHR. In the process of reaching a decision, 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.

47. With respect to the foregoing, Article 25(9) provides that "the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to keep, modify, or lift precautionary measures in force." In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist, so as to keep the precautionary measures in force. 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. Similarly, Article 25(10) establishes 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.³⁵ Through Resolution 2/2020 of April 15, 2020, the IACHR ruled on the possibility of issuing Follow-up Resolutions.

³⁵ IACHR, General guidelines for monitoring the recommendations and decisions of the Inter-American Commission on Human Rights, September 30, 2019, para. 29.

48. On this occasion, the Commission decides to issue a *Follow-up Resolution* with a view to promoting the implementation of these precautionary measures as part of those appropriate follow-up measures for the matters that are in force. At the time of adopting this decision, the Commission takes into account the continuous requests from the representation so that the precautionary measures are duly implemented and the express request for support made by the State (see *supra* paras. 22 and 27, among others).

49. Moreover, the Commission reiterates the duty of States to provide due protection to human rights defenders so that they can carry out their work and activities without being subjected to acts of violence or being victims of events that could be a threat to their rights.³⁶ The Commission considers that human rights defenders are a pillar for the strengthening and consolidation of democracies, given that “they exercise the necessary citizen control over public officials and democratic institutions.”³⁷ In this sense, acts of violence against human rights defenders not only affect the guarantees that every human being must have, but also undermine the fundamental role they play in society. These acts directly impact the people for whom they work, eliminating their voices, causing fear, and creating an intimidating effect for other defenders,³⁸ contributing to the vulnerability and defenselessness of the causes and victims whom they represent. Consequently, when a person is prevented from defending human rights, the rest of society and, in general, the rule of law and the functioning of a democratic society are directly affected.³⁹

50. In the same way, the Commission recalls that, in the case of human rights defenders, the States must implement measures according to the particular conditions derived from their special condition, so that they can freely exercise their duties. In this regard, the Court indicated in the *Case of Human Rights Defender et al. v. Guatemala of 2014* the following:

“[...] This Court has also indicated that, in addition to the general obligations to respect and guarantee rights, from Article 1.1. of the Convention special duties stem, which are determinable based on the particular protection needs of the subject of law, either by his personal condition or by the specific situation in which he finds himself. Along these lines, the Court recalls that in certain contexts, the States have the obligation to adopt all the necessary and reasonable measures to guarantee the rights to life, personal liberty, and personal integrity of those who are in a situation of special vulnerability, particularly as a consequence of their work, as long as the State is aware of a real and immediate risk against them and whenever there are reasonable possibilities to prevent or avoid that risk. [...]”⁴⁰

51. In addition to this, the Court also indicated, in the said judgment, the following:

“[...] The Court reiterates that the defense of human rights can only be exercised freely when the persons who carry it out are not victims of threats, or of any type of physical, mental, or moral aggression, or other acts of harassment. For such purposes, it is the duty of the State not

³⁶ IACHR. Basic guidelines for investigating crimes against human rights defenders in the Northern Triangle. Doc. 110. June 1, 2021, paras. 26-27.

³⁷ IACHR, Criminalization of the Work of Human Rights Defenders, OEA/Ser.L/V/II. Doc. 49/15, December 31, 2015, para. 22.

³⁸ I/A Court H.R. Case of Valle Jaramillo *et al.* v. Colombia. Merits, Reparations and Costs. Judgment of November 27, 2008. Series C No. 192, para. 96; I/A Court H.R. Case of Huilca Tecse, v. Peru. Merits, Reparations and Costs. Judgment of March 3, 2005. Series C No.121, para. 78.

³⁹ IACHR, Report on the Situation of Human Rights Defenders in the Americas, OEA/Ser.L/V/II.124 Doc. 5 Rev. 1, March 7, 2006, para. 34

⁴⁰ I/A Court H.R. *Case of Human Rights Defender et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 19, 2015. Paragraph 141.

only to create legal and formal conditions, but also to guarantee the factual conditions in which human rights defenders can freely develop their role. [...] ⁴¹

52. Taking the aforementioned into consideration, the Commission recalls that the issues identified address the situation of two groups of beneficiaries who are human rights defenders in Honduras. In the first place, the situation of Berta Cáceres as a beneficiary of precautionary measures, and, secondly, the situation of beneficiaries related to Berta Cáceres and whose risk was analyzed following her murder in 2016. Next, the corresponding analysis for each of the two groups of beneficiaries under the following order:

- A. Berta Cáceres and her assassination in 2016
- B. Implementation of precautionary measures regarding the nuclear family of Berta Cáceres, members of the COPINH organization, *et al.*
 - i. Universe of beneficiaries from the “members of the COPINH organization” group*
 - ii. Security details and protection measures to guarantee the life and personal integrity of the beneficiaries*
 - iii. Investigation processes*
 - iv. Ongoing risk pursuant to Article 25 of the IACHR Rules of Procedure*
 - v. Request to lift the precautionary measures regarding Gustavo Castro*

A. Berta Cáceres and her assassination in 2016

53. The Commission considers that the murder of any beneficiary is a particularly grave, serious, and worrying fact, since it represents the materialization of the risk that the precautionary measures sought to prevent. As indicated at the time, and considering the facts presented in the file, on March 4, 2016, the IACHR expressed its deep rejection of the murder of Berta Cáceres, who, in addition to being a beneficiary of precautionary measures since 2009, was a renowned human rights defender, indigenous leader, and general coordinator of COPINH.⁴² The Commission recalled that it had repeatedly denounced publicly the serious risk and harassment that she was facing.⁴³

54. On that occasion, the IACHR expressed its consternation and concern over the fact that this murder took place despite the precautionary measures granted in her favor and following the last working meeting that took place at the IACHR headquarters on October 21, 2015.⁴⁴ At that meeting, the IACHR drew the attention of the State delegation to the risk faced by Berta Cáceres and the shortcomings in the implementation of the protection measures in her favor.⁴⁵ Moreover, the IACHR inquired about the reasons why an effective investigation was not carried out to remove the risk factors that perpetuated the ongoing acts of violence and harassment against her.⁴⁶ Following up on the situation, the IACHR sent a letter to the State of Honduras in December 2015 requesting information on the protection and investigation measures that should be adopted.⁴⁷ According to reported information, the acts of violence continued.⁴⁸

⁴¹ *Ibidem*, paragraph 142.

⁴² IACHR, [IACHR Condemns the Killing of Berta Cáceres in Honduras](#), March 4, 2016

⁴³ *Ibidem*

⁴⁴ *Ibidem*

⁴⁵ *Ibidem*

⁴⁶ *Ibidem*

⁴⁷ *Ibidem*

⁴⁸ *Ibidem*

55. Through a press release dated March 4, 2016, the IACHR recalled that the State has the obligation to investigate the murder in a serious, prompt, and efficient way, and to include lines of investigation that analyze as a hypothesis that this crime has been motivated by her activity as a human rights defender.⁴⁹ In addition to establishing the truth of what happened, the IACHR indicated that the investigation should determine liabilities and punish both perpetrators and masterminds. The Commission emphasized that the crime committed should not be left unpunished.⁵⁰

56. With regard to this mechanism, the Commission recalls that precautionary measures are part of the duty of prevention that the States have, in such a way that, upon becoming aware of a situation presenting a risk, they are obliged to adopt the necessary measures which, reasonably judged, are sufficient to protect the rights of the beneficiaries. Should the State not take such measures, it would fail to comply with an international obligation, and if the risk comes to fruition, it may be held internationally responsible. In this regard, the Inter-American Court indicated in the *Case of Velásquez Paiz et al. v. Guatemala of 2015* the following:

“[...] In this regard, the Court clarifies that, in order to establish a breach of the duty to prevent violations of the rights to life and personal integrity, it must be verified that: i) the state authorities knew, or should have known, of the existence of a real and immediate risk to the life and/or personal integrity of a given individual or group of individuals, and that ii) such authorities did not adopt the necessary measures within the scope of their powers that, judged reasonably, could be expected to prevent or avoid such a risk. [...]”⁵¹

57. In this regard, in its *Report No. 35/17 of Case 12.713 on José Rusbel Lara et al. in Colombia*, the Commission ruled on the murder of a beneficiary of precautionary measures and indicated that:

“[...] there was a special duty to protect him, since he was a beneficiary of precautionary measures granted by the IACHR. Regarding the role of precautionary measures within the preventive duties of the State, the Commission has considered that the granting of precautionary measures allows for the State to be aware of a situation presenting a risk and, therefore, there is a special duty to protection in order to avoid the foreseeable action of actors who contribute to it, in such a way that the effective implementation of the measures constitutes a reasonable means of prevention in order to prevent the risk from materializing.”⁵²

58. Given that in this proceeding the Commission is not called upon to rule on the international liability of the State, nor to find any violations of human rights in light of the applicable international instruments, the Commission proceeds to analyze whether the precautionary measures should remain in force in light of Article 25 of the Rules of Procedure. In analyzing current compliance with the procedural requirements, the Commission recalls the condemnable murder of the beneficiary in 2016. This murder occurred following a series of threatening events towards the beneficiary that included threats, surveillance, and acts of intimidation towards her during the time the precautionary measures have been in force (see *supra* paras. 9-11). In particular, the Commission notes with special concern that

⁴⁹ Ibidem

⁵⁰ Ibidem

⁵¹ I/A Court H.R. *Case of Velásquez Paiz et al. v. Guatemala*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 19, 2015. Series C No. 307. Paragraph 109

⁵² IACHR, *Merits Report N. 35/17, José Rusbel Lara et al. (Colombia)*, March 21, 2017, para. 157

the representation alleged the prior existence of a plan to kill her, which was reported to the State (see *supra* para. 11).

59. Due to the foregoing, the Commission observes that the beneficiary's death entails a material impossibility in terms of implementation of these measures by the State, as well as a significant change in the facts that led to the granting of the precautionary measures. Therefore, considering the temporary and exceptional nature of precautionary measures,⁵³ the Commission considers that the requirements established in Article 25 of its Rules of Procedure are not currently met, given that the matter has been devoid of purpose following the death of the beneficiary of these measures. Therefore, the Commission considers that it is appropriate to lift these precautionary measures.

60. Lastly, in line with what the Inter-American Court has indicated in various matters,⁵⁴ a lifting decision does not imply considering, in any way, that the State has effectively complied with the precautionary measures ordered, nor can it imply that the State is relieved from its general protection obligations contained in Article 1(1) of the Convention, within the framework of which the State is especially obliged to guarantee the rights of persons at risk and must promote the necessary investigations to clarify the facts, followed by the consequences that may be established. In the same way, also based on the assessment of the Inter-American Court, the lifting of the precautionary measures, or the declaration of non-compliance with them, does not imply an eventual decision on the merits of the controversy if the case were to be brought before the inter-American system through a petition, nor does it prejudge state responsibility for the events denounced.⁵⁵

B. Implementation of precautionary measures regarding the nuclear family of Berta Cáceres, members of the COPINH organization, *et al.*

61. Such precautionary measures were granted in favor of the beneficiaries in consideration of a sum of risk factors that they faced after the murder of Berta Cáceres in 2016. The Commission considered "the continuous acts of violence, harassment, and threats that the members of COPINH were purportedly facing, as well as the special circumstances generated by the murder of the leader Berta Cáceres in the situation of her nuclear family and that of Mr. Gustavo Castro, immediate witness of the murder."⁵⁶ The IACHR determined that the situation identified is said to be considered "a retaliation due to the actions that the members of COPINH, who operated under the leadership of Ms. Berta Cáceres, have been carrying out for the recognition of indigenous territories and for their opposition to different projects that are sought to be implemented in different areas of Honduras."⁵⁷ Similarly, the Commission took into account those "alleged acts of harassment, monitoring, intimidation, and threats against Messrs. Víctor Fernández, Arnold Guifarro, Carlos Jiménez, Mr. A, Ms. B, and Ms. C,"⁵⁸ because of "their professional performance in the legal accompaniment of the family of Berta Cáceres in all the processes related to the investigation into her murder."⁵⁹

⁵³ I/A Court H.R., Matter of Adrián Meléndez Quijano *et al.* Provisional Measures regarding El Salvador. Order of the Court of August 21, 2013, para. 22, and Matter of Galdámez Álvarez *et al.* Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of November 23, 2016, para. 24

⁵⁴ See: I/A Court H.R. Matter of Velásquez Rodríguez. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, Considerandum 3, and Matter of Giraldo Cardona *et al.* Provisional measures regarding Colombia. Order of the Inter-American Court of Human Rights of January 28, 2015, Considerandum 40.

⁵⁵ See: I/A Court H.R. Matter of Guerrero Larez. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, Considerandum 16, and Matter of Natera Balboa. Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, considerandum 16.

⁵⁶ IACHR, Resolution 8/2016, PM No. 112-16, Matter of members of COPINH and relatives of Berta Cáceres regarding Honduras, March 5, 2016, paragraph 7

⁵⁷ *Ibidem*

⁵⁸ IACHR, Resolution No. 112-16, PM No. 112-16, Extension of beneficiaries who are members of COPINH and relatives of Berta Cáceres regarding Honduras, March 23, 2016, paragraph 12

⁵⁹ *Ibidem*

62. Upon the granting and the respective follow-up, the Commission takes note of the proceedings reported by the State through its reports on the implementation of this precautionary measure, as well as the information provided by the representation in its briefs with observations on the current situation of the beneficiaries. In particular, the Commission observes that the representation indicated that the beneficiaries continue to be subjected to threatening events, which have continued since 2016. Furthermore, they noted that the State does not implement security measures effectively despite repeated calls and alerts to remedy such deficiencies. Finally, the representatives claimed certain inconsistencies in the criminal proceedings, as well as some questionings regarding the investigative proceedings carried out by the state authorities. On the other hand, the State indicated that it has been implementing the corresponding protection measures in favor of the beneficiaries, and that they were agreed upon by both the beneficiaries and their representation. In turn, it specified that the information provided by the representation refers to a series of facts and events that purportedly concern persons who are not part of the precautionary measure, since they are not identified or accredited as family members of Berta Cáceres or as members of COPINH. The State added that the representation was asked several times to provide a complete list of the persons they consider beneficiaries of these measures, in order to optimize the protection measures and to clarify their identification. Lastly, the authorities claimed that they continue with the corresponding investigative proceedings in order to clarify the acts informed by the representation. In turn, they inform on the conviction of those responsible for the assassination of Berta Cáceres.

63. Given the particularities of this matter, the Commission has paid special attention to the situation described through its various mechanisms, seeking to accompany the process of implementation of these precautionary measures over time. In the framework of precautionary measures, the Commission has continued with requests for information from the parties (see *supra* para. 13); has called working meetings (see *supra* para. 13); and has held a public hearing (see *supra* para. 14). At the same time, the Commission has continued to monitor the context in which these precautionary measures are framed. For example, it has made the following statements with respect to the State of Honduras regarding this matter:

- On July 25, 2017, the IACHR condemned the attack against Berta Zúñiga Cáceres and other members of COPINH.⁶⁰ In particular, the State was urged to immediately adopt all the necessary measures in order to guarantee the life, integrity, and security of the members of COPINH who are beneficiaries of precautionary measures, as well as to reinforce protection for human rights defenders and guarantee that they can carry out their activities without being subjected to acts of violence, threats, and acts of harassment.
- On November 28, 2018, the IACHR, along with the OHCHR, expressed its concern about the exclusion of the representation of the victims and the delays in the process in the Case of Berta Cáceres.⁶¹ In particular, the OHCHR and the IACHR warned that it was imperative that the justice system be able to guarantee absolute compliance with the guarantees of due process and effective judicial protection in the first trial for the murder of defender Berta Cáceres. For this, the administration of justice in such a paradigmatic case, framed in the principles of transparency and access to information, was key to strengthening citizen trust in the justice institutions and their

⁶⁰ IACHR, IACHR Condemns Attack on Human Rights Defenders Berta Zúñiga Cáceres, Sotero Chavarría, and Asunción Martínez in Honduras, July 25, 2017. Available at <https://www.oas.org/es/cidh/prensa/comunicados/2017/104.asp>

⁶¹ IACHR, In Light of the Forthcoming Ruling on the Berta Cáceres Case, the OHCHR and the IACHR Express Concern over the Exclusion of Victims' Legal Representatives and Unjustified Delays in the Trial, November 28, 2018. Available at <https://www.oas.org/es/cidh/prensa/comunicados/2018/256.asp>

resolutions, for the search for justice for her family, as well as for safeguarding the work of human rights defenders in Honduras.

- In the 2019 Country Report, the IACHR addressed the case of Berta Cáceres and recalled that justice for the victims will be effective and comprehensive when all perpetrators and masterminds of the crime are prosecuted and held liable. In this last regard, in its observations on the draft report, the State told the IACHR that a DESA manager was detained and is being prosecuted as the mastermind of the case.⁶²
- In 2020, regarding Berta Cáceres's murder case, the IACHR observed that no substantive progress had been made.⁶³
- On July 1, 2021, the IACHR and the OHCHR called on the Honduran authorities to guarantee effective access to justice, to establish the truth of what happened, and to punish the perpetrators and masterminds in the murder of Berta Cáceres, in order to prevent impunity.⁶⁴ In addition, they reiterated their commitment to contribute to guaranteeing a safe and conducive environment for the defense of human, land, and environmental rights, as well as promoting and protecting judicial independence in the country.

i. Universe of beneficiaries from the "members of the COPINH organization" group

64. Based on the information provided by the parties, the Commission identified a series of challenges regarding the identification of the beneficiaries of these measures, particularly those that are said to be beneficiaries as part of COPINH. On the one hand, the State has indicated that, at the time of implementing the precautionary measures, it agreed with the representatives on who was going to implement the precautionary measures in those groups of determinable beneficiaries. Upon arranging the protection measures with the representation, the State identified the following persons as beneficiaries:

- (i) From the family of Berta Cáceres, the authorities identified the following beneficiaries: 1) María Austra Bertha Flores López, 2) Gustavo Adolfo Cáceres Flores, 3) Olivia Marcela Zúñiga Cáceres, 4) Camilo Alejandro Espinoza Zúñiga, 5) Mery Hazel Flores, 6) Salvador Zúñiga, 7) Roberto Cáceres Flores, 8) Bertha Isabel Zúñiga, and 9) Laura Zúñiga.
- (ii) From the members of COPINH: 1) José Presentación Hernández, 2) Alejandro García, 3) Santos Israel Pérez, 4) María Martina Sánchez, 5) María Mercedes Velásquez, 6) Clemencia Hernández Manueles, 7) Roberto Bautista Pérez, 8) Jesús García Pérez, 9) Jesús Manueles Hernández, 10) Humberto Hernández García, 11) Evelio Pérez Jacinto, 12) Dore Manueles, 13) José Zacarías Méndez, 14) José Silvestre Bautista, 15) Silvestre Adolfo Bautista, 16) José Ramón Reyes, 17) Celestino Gutiérrez, 18) Santos Anastasia Reyes, 19) Francisco Javier Sánchez, 20) Alexander García Sorto, 21) Rosalina Domínguez, 22) Sotero Chavarría Funez, 23) Liliam López, 24) Carlos Roberto Reyes, 25) José Marvin Rápalo, 26) Rosa Lidia Cruz, 27) Esperanza Aguilar, 28) Francisco Sánchez, 29) Mirian García, 30) Marleny Reyes Castillo, 31) José Felipe Gámez, 32) Jacobo Gámez García, 33) Suani Joel Núñez Saucedo, 34) Carlos Jiménez, 35) José Melvin Trochez, 36) María Pascuala Vázquez, 37) José Gaspar Sánchez, and 38) José Asunción Martínez.
- (iii) From the members of the legal team in Berta Cáceres's murder case: (1) Víctor Fernández, and (2) Arnold Samir Guifarro. In the case of Rodil Vásquez and Ariel Madrid, although the Commission

⁶² IACHR, Honduras Country Report 2019 <https://www.oas.org/es/cidh/informes/pdfs/Honduras2019.pdf> Paragraph 174

⁶³ para. 91 <https://www.oas.org/es/cidh/docs/anual/2020/capitulos/IA2020cap.5.HO-es.pdf>

⁶⁴ IACHR, OHCHR and IACHR Call for Effective and Impartial Access to Justice in the Berta Cáceres Murder Trial, July 1, 2021. <https://www.oas.org/es/CIDH/jsForm?File=/es/cidh/prensa/comunicados/2021/163.asp>

appreciates that protection measures are being implemented in their favor, it notes that they are not beneficiaries of these precautionary measures, given that measures were only granted in favor of six beneficiaries identified in Resolution 16/2016.

65. In addition, the State indicated that some of the persons that the representation mentioned in its briefs were not identified by the representation at the time of implementing these precautionary measures at the domestic level. On the other hand, the representation considered that the members of COPINH are not only the members of the Coordination but also the members of its more than 200 communities throughout Honduras. Considering the above situation, it is important to remember that the IACHR granted these precautionary measures considering the special circumstances of the beneficiaries after the murder of defender Berta Cáceres (see *supra* paras. 3, 4, and 61). In the case of the beneficiaries belonging to the nuclear family of Berta Cáceres and the members of COPINH, the Commission granted precautionary measures in accordance with the provisions of Article 25(6)(b) of its Rules of Procedure, the literal meaning of which indicates the following:

“6. In considering the request, the Commission shall take into account its context and the following elements: [...] b. the individual identification of the proposed beneficiaries of the precautionary measures or the determination of the group to which they belong or are associated with; and [...]”

66. Insofar as there is no controversy regarding the beneficiaries who are said to be members of the nuclear family of Berta Cáceres, the Commission will address the corresponding issues regarding the members of COPINH as a determinable group of beneficiaries. To this end, the Commission recalls the provisions of Article 25(3) of its Rules of Procedure, the literal meaning of which indicates the following:

“3. 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.”

67. Although the IACHR did not identify each member of COPINH at the time of granting the precautionary measures, given that its members were determinable due to their membership in the organization, it is noted that at the time of adopting the precautionary measures, the IACHR was not expressly informed of how the COPINH organization was structured, with details of its members. In this sense, no express reference was made, for example, to the large number of communities that are part of the organization, which was what the representation recently reported in the procedure. At present, the Commission also does not have information on which are the 200 communities in Honduras that are members of COPINH, or whether it is possible to consider that all its members throughout the country are in the same situation for the purposes of this proceeding.

68. Given that this is a determinable group of beneficiaries, the IACHR understood it should be the parties who agree upon the protection measures to be implemented at the domestic level, as well as the members of COPINH purportedly entitled to such protection. The Commission observes that, as part of the internal process of agreement and implementation of the precautionary measures, the parties focused on the material protection of the coordinating team of COPINH *et al.* In this regard, the State has indicated that, in the case of persons other than those who currently have security measures, it would require timely information from the representation on who these persons are, to adopt the corresponding actions at the domestic level. The Commission understands that this information was reportedly not provided in the internal forums for consultation.

69. In view of the challenges identified, the Commission considers it appropriate to rule in greater detail on the elements that allow for the parties to find those persons to be determined as beneficiaries who are “members of the COPINH organization.” In this sense, in order to have a greater scope, the Commission proposes that the parties may consider the following criteria in their consultation spaces to define the beneficiaries. In this regard, elements such as: (i) whether the person has a position of representation, leadership, and visibility as a member of COPINH, be it at the national or local level, which undoubtedly includes those members of the Coordinating team or others already identified as beneficiaries at the domestic level, within the framework of the implementation of these precautionary measures; or (ii) if the person has representation, leadership, and visibility within the communities that make up COPINH and carries out actions to defend the rights of indigenous peoples in Honduras in line with the objectives of COPINH; or (iii) whether the COPINH member acquired special relevance and visibility after the murder of Berta Cáceres in 2016. Inasmuch as it is a determinable universe, the Commission understands that the persons to be identified may vary over time and based on the elements indicated, which must be coordinated between the parties so that the State have timely information in this regard.

70. The Commission deems it extremely important to clearly determine who make up the universe of beneficiaries and the specific situation of each one of them under these precautionary measures. This determination will allow for the Commission to continue to duly assess the specific situation presenting a risk for the persons to be identified and evaluate the stage of implementation of the protection measures in their favor.

ii. Security details and protection measures to guarantee the life and personal integrity of the beneficiaries

71. Regarding the implementation of security details and protection measures in favor of the beneficiaries, the IACHR observes that there are discrepancies as to how they have been implemented. On the one hand, the representation alleged an inadequate implementation of the protection measures, certain breaches, and an unjustified delay by the state authorities in the implementation of security measures. On the other hand, the State alleged that security measures were being implemented effectively and that these measures were previously agreed with the beneficiaries and their representation, while in some cases there have been inappropriate uses of the security measures on the part of certain beneficiaries. Upon agreeing upon the protection measures with the representation, the State indicated that it has implemented the following protection details in favor of the beneficiaries:

- (i) Regarding Berta Cáceres’s family, the protection measures implemented include vehicle patrols, a police liaison, security to facilities, security cameras, vehicle allocation, specific accompaniments, and security escorts.
- (ii) Regarding the Members of COPINH, the protection measures implemented include police liaisons and vehicle patrols 3 times a week. In the case of beneficiary Rosalina Domínguez Madrid, she is said to additionally have specific accompaniments, in accordance with what was agreed with the representation (see *supra* paras. 16 and 25).
- (iii) Regarding the legal team for the murder of Berta Cáceres: the protection measures implemented include workplace patrols, police liaisons, emergency contacts, police accompaniments, and a monthly stipend for the payment of security personnel (see *supra* para. 25).

72. The representation also referred to the shortcomings that the police authorities had in accessing the Rio Blanco area to provide security measures. This is an area in which a context of conflict persists. On the other hand, the State recognized the existence of the current problem in the area and indicated that it is arranging the creation of a context diagnosis and prevention plan around the conflict that occurs in Rio Blanco and is allegedly also generating processes of dialogue and mediation through the respective institutions in order to deal with this problem. Similarly, the State reported on a series of agreements that had been reached between the parties during the meeting of the Technical Committee in October 2020, in which the State authorities and the beneficiaries participated along with their representatives (*see supra* para. 22).

73. In light of the foregoing, the Commission values the various actions that the State has implemented in favor of the identified beneficiaries. In this regard, it observes that they allegedly have protection measures which are being implemented through patrols, police accompaniment, among other measures. It is further observed that, according to the information provided by the representation, in the case of beneficiary Rosalina Domínguez, the police officers have had difficulties entering her residence because it is in a private property (*see supra* para. 41). In that sense, the Commission notes that, according to the available information, the protection measures implemented in favor of the beneficiary Domínguez have been conditioned by the access of police officers to the place as they must have permission from the owners before entering.

74. The IACHR notes that, although there exist a series of challenges and delays in the implementation of certain security measures, such as failures in the security cameras, problems with the armored vehicle, among others, the Commission considers it important that the existing challenges or drawbacks be duly addressed in the spaces for internal consultation between the parties and, if necessary, reinforce those security measures so that they continue to be effectively implemented. The Commission understands that it is necessary to continue providing spaces for dialogue between the parties to agree and specify, more assertively, those situations that require close monitoring, as well as to determine what actions should be taken to resolve those difficulties in the implementation and coordination of protection measures in favor of the beneficiaries. In this regard, the IACHR calls on the State authorities to continue adopting suitable and effective actions in favor of the beneficiaries, and to advance in the implementation of precautionary measures with a view to protecting their rights as well as to guaranteeing consultation spaces at the domestic level, and the actions deemed appropriate.⁶⁵

75. Moreover, the Commission reiterates to the State its concern about the ongoing violence against human rights defenders in the country. This is one of the population groups that are particularly vulnerable.⁶⁶ In addition to this, the IACHR recognizes that there are challenges in the implementation of the precautionary measures. For this reason, the state authorities are reminded that they must continue to reinforce and strengthen the Protection Mechanism in order to adequately guarantee the life, safety, and integrity of human rights defenders, providing sufficient human and financial resources to respond to the real protection needs of these persons who are at risk and always in consultation with the beneficiaries.⁶⁷ In this regard, the Commission recalls that in 2020 it found that the recommendation provided to the State on the immediate, appropriate, and effective implementation of the precautionary measures by the Commission was yet to be complied with.⁶⁸

⁶⁵ IACHR. Annual Report 2020. *Chapter V: Follow-up of the recommendations issued by the IACHR on the Human Rights Situation in Honduras*. Doc.28. March 30, 2021. Paragraph 95.

⁶⁶ *Ibidem*. Paragraphs 213 and 214.

⁶⁷ *Ibidem*. Paragraphs 95 and 101.

⁶⁸ *Ibidem*. Paragraph 95

76. Regarding the allegation of the State that certain beneficiaries misused their protection details, the Commission recalls that security details must meet the purpose of protecting the beneficiaries. In that sense, any use that goes against this purpose would potentially change the nature of the security measures. Although there have existed allegations regarding the distrust towards certain persons or authorities of the State of Honduras, the Commission recalls, as indicated by the Inter-American Court, that “adequate compliance with the protection measures requires that there be [...] consultation and dialogue to favor a real coordination in the implementation of the measures, in order to reasonably overcome the drawbacks that arise, and thus make the state protection obligations effective.⁶⁹”

77. With regard to all the beneficiaries identified as part of the legal team in the case for the murder of Berta Cáceres, the Commission requests that both parties provide specific and updated information on the individualized situation of each of them with a view to being able to analyze their risk in light of Article 25 of its Rules of Procedure. If necessary, and based on the information available, the Commission may analyze whether the precautionary measures concerning such persons should remain in force.

iii. Investigation processes

78. The Commission observes that the representation questioned the State’s follow-up on investigative proceedings to carry out such investigation processes and the authorities’ refusal with respect to the participation of Berta Cáceres’s relatives and COPINH members in the investigations. For its part, the State sustained that it had acted diligently and continued to carry out proceedings within the framework of the judicial processes in question. Regarding questions related to due process or effective judicial protection, the Commission considers that, since these are questions on the merits, their analysis exceeds the nature of the precautionary measures mechanism. Notwithstanding, with regard to the participation of the relatives in the process regarding the murder of Berta Cáceres, the IACHR recalls that it is the State’s duty to guarantee access to information to the beneficiaries and their representatives as well as guarantee their participation in judicial processes.⁷⁰ Moreover, in the *Case of Contreras et al. v. El Salvador*, the Inter-American Court stressed that it is the duty of the State “to ensure the full access and capacity to act of the victims or their relatives at all stages of the investigation and trial of those responsible,” emphasizing public, technical, and systematized access to files containing information that is useful and relevant for the persons involved.⁷¹

79. From the information available, the Commission identified that certain perpetrators have been identified, prosecuted, and punished, and that the trial held against Mr. Roberto David Castillo as co-perpetrator is still underway, and the respective authority is carrying out the corresponding investigative proceedings. Although there were questions regarding the way in which the process is being carried out or the possibility that persons deprived of their liberty may access certain beneficiaries in the context of COVID-19, the Commission notes that progress has been made regarding the domestic proceedings aimed at finding those responsible for the murder of Berta Cáceres. The Commission urges the State to continue with the corresponding investigations pursuant to previous observations made in the corresponding communications and reports (see *supra* para. 63) and in

⁶⁹ I/A Court H.R. Matter of Castro Rodríguez regarding Mexico. Provisional Measures. Order of the Inter-American Court of Human Rights of November 18, 2020. Considerandum 19. Available at https://www.corteidh.or.cr/docs/medidas/castrorodriguez_se_05.pdf

⁷⁰ See in this regard: IACHR, Thematic Report: “Access to justice as a guarantee of economic, social, and cultural rights. A review of the standards adopted by the inter-American system of human rights,” December 7, 2007. Available at <http://www.cidh.org/countryrep/AccessoDESCO7sp/Accessodesci-ii.sp.htm#RESUMEN EJECUTIVO>

⁷¹ I/A Court H.R. Case of Contreras et al. regarding El Salvador. Merits, Reparations and Costs. Judgment of the Inter-American Court of Human Rights of August 31, 2011. Considerandums 187, 211, and 212.

accordance with the applicable international standards. The Commission deems it necessary to make progress in the investigations underway, in order to clarify the alleged facts, so as to prevent them from reoccurring.

80. Regarding the concession agreement of the questioned Agua Zarca project, the Commission considers it important to recall that, in this mechanism, it is not called upon to find any possible violations of the rights of indigenous peoples caused by the concession agreement, which may lead to a potential remedial measure that implies the revision of the concession agreement. Nevertheless, the Commission recalls what the Inter-American Court indicated in the *Case of the Saramaka People v. Suriname* 2008. On that occasion, upon having identified the violation of human rights established in the Convention, the Court ordered that “[...] regarding the concession agreements already granted within the traditional Saramaka territory, the State must review them, in light of the [...] judgment and case law of this Court, in order to assess whether a modification to the rights of the concessionaires is necessary to preserve the survival of the Saramaka people [...]”⁷²

iv. Ongoing risk pursuant to Article 25 of the IACHR Rules of Procedure

81. In accordance with Article 25(9) of its Rules of Procedure, the Commission is responsible for periodically evaluating, either on its own initiative or at the request of the parties, whether the precautionary measures should remain in force. Upon analyzing the information furnished by the parties, the Commission considers that, although the State has implemented protection measures and has taken actions to guarantee the life and personal integrity of the identified beneficiaries, the situation placing these persons at risk persists. In this regard, the IACHR notes, from the available information, the existence of acts of violence such as threats on social media platforms, smear campaigns, harassment and monitoring by unidentified persons, attacks with machetes, and burning of crops, to the detriment of some of the identified beneficiaries. Such events represent an ongoing, imminent risk for the beneficiaries, given that they have remained since the granting of these measures. Additionally, understanding such events in their context, the Commission considers that the ongoing violence against human rights defenders in the country implies a continued possibility that serious impacts to the rights of the beneficiaries may materialize, causing irreparable harm to their life and personal integrity.⁷³ Therefore, the Commission considers that the risk factors persist and it is appropriate to keep these precautionary measures in force and to continue assessing the matter in the framework of the respective monitoring.

v. Request to lift the precautionary measures regarding Gustavo Castro

82. The State requested the lifting of the precautionary measures regarding beneficiary Gustavo Castro (see *supra* para. 20). In its request, the State alleged that beneficiary Gustavo Castro left the country on April 1, 2016 and has been residing in Mexico since then. The State added that to date there is no information on his return to Honduran territory. In this regard, it also emphasized that the resolution granting the precautionary measures requested that State protect the life and personal integrity of the beneficiary Castro during his stay in the national territory, as well as prepare and

⁷² I/A Court H.R. *Case of the Saramaka People v. Suriname*. Preliminary Objections, Merits, Reparations and Costs. Judgment of November 28, 2007. Series C No. 172. Operative paragraph 5.

As a background, it is observed that, within the framework of the human rights system before the United Nations, the UN Special Rapporteur on the Rights of Indigenous Peoples indicated in 2016, following a visit to the country, that “it should be seriously considered to revoke the contract in favor of the DESA company, as well as the licenses and other permits in favor of the Agua Zarca project.” See: UN, [Report of the Special Rapporteur on the Rights of Indigenous Peoples on her visit to Honduras](#), A/HRC/33/42/Add.2, July 21, 2016, para. 67.

⁷³ IACHR, Country Report, [Situation of Human Rights in Honduras](#). OEA/Ser.L/V/II. Doc 146. August 27, 2019, para. 149.

complete his departure from Honduras, an obligation that was fulfilled. Due to the foregoing, the State considered that the situation presenting a risk, which gave rise to the measures in his favor, has been rendered moot. Similarly, the State reported that no other threats posing a risk to the life and personal integrity of the beneficiary in Honduran territory have been denounced. For their part, the representatives did not offer observations in this regard, except that “[...] CEJIL does not act as the representative organization of Mr. Gustavo Enrique Castro Soto” (vid. *supra* para. 27).

83. In light of the foregoing, the Commission recalls that these precautionary measures were granted with respect to the beneficiary, considering that the situation placing him at risk was linked to the murder of defender Berta Cáceres. It should be noted that the Commission also identified that defense lawyer Gustavo Castro Soto, in his capacity as an immediate witness to the events under investigation, was at risk as he shared the same risk factors as the other beneficiaries.⁷⁴ For these reasons, the IACHR requested that the State take the necessary measures to guarantee the life and personal integrity of the beneficiary Castro, as well as ensure his safety throughout the process to prepare and complete his departure from the country.⁷⁵

84. Following the corresponding forwarding of information between the parties, the Commission observes that beneficiary Gustavo Castro left the country on April 1, 2016, to Mexico and that to date there is allegedly no information on his return to Honduran territory or on any situation placing him at risk. This being the case, given that Mr. Castro has not been in the country for over five years and there is not sufficient information to identify that the risk persists, the Commission observes that there are no sufficient elements to sustain that the precautionary measures in his favor should remain in force. Due to the foregoing, the Commission considers that the requirements of seriousness, urgency, and irreparable harm, established in Article 25 of its Rules of Procedure, are no longer met, and therefore, it is appropriate to partially lift these precautionary measures in his favor.

V. DECISION

85. The Inter-American Commission on Human Rights considers that this matter continues to meet *prima facie* the requirements of seriousness, urgency, and irreparable harm contained in Article 25 of its Rules of Procedure under the terms indicated throughout this resolution. Accordingly, it decides as follows:

- a) To keep the precautionary measures granted to the members of the COPINH organization, the members of the nuclear family of Berta Cáceres, Víctor Fernández, Arnold Guifarro, Carlos Jiménez, Mr. A, Ms. B, and Ms. C in force. Therefore, it requires that the State of Honduras continue to adopt the necessary measures to effectively guarantee their life and personal integrity pursuant to the requests made through Resolution 8/2016 and Resolution 16/2016, considering the assessments of this resolution.
- b) To lift the precautionary measures regarding Berta Cáceres and Gustavo Castro.
- c) To request that the parties send specific, detailed, and updated information on the situation of the beneficiaries with a view to continuing to analyze their situation in accordance with Article 25 of its Rules of Procedure. At the time of providing such information, the Commission requests

⁷⁴ IACHR, *Resolution 8/2016*, PM No. 112-16, *Matter of members of COPINH and relatives of Berta Cáceres regarding Honduras*, March 5, 2016, para. 7.

⁷⁵ *Ibid.*, para. 16(a)

that they specify the situation of the beneficiaries or groups of beneficiaries, so that the Commission can adequately identify how these precautionary measures are being implemented with respect to each one of them. In particular, with respect to those beneficiaries who are members of the legal team for whom there is not enough up-to-date information in this file.

- d) To request that the parties continue with the consultation and coordination spaces at the domestic level within the framework of the implementation of these precautionary measures.
- e) To express the willingness of the IACHR to carry out an on-site visit to Honduras, with the prior consent of the State, in order to verify the situation of the beneficiaries of these precautionary measures. This could include, among others, a working meeting with the parties, and meetings with the beneficiaries and the domestic authorities directly responsible for the implementation of these precautionary measures. The foregoing, as part of the appropriate follow-up measures for the effective implementation of these precautionary measures.
- f) To continue to implement the appropriate follow-up measures pursuant to Article 25(10) and other provisions of its Rules of Procedure.

86. The Commission instructs its Executive Secretariat to notify this Follow-up Resolution to the State of Honduras and to the representation.

87. Approved on November 15, 2021, by Antonia Urrejola Noguera, president; Julissa Mantilla Falcón, first vice president; Flávia Piovesan, second vice president; Margarete May Macaulay; Esmeralda Arosemena de Troitiño; and Joel Hernández García; members of the IACHR.

Tania Reneaum Panszi
Executive Secretary