

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 4/2024**

Precautionary Measure No. 14-18
Ericka Yamileth Varela Pavón and her family unit regarding Honduras
January 13, 2024
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of Ericka Yamileth Varela Pavón and her family in Honduras. At the time of making the decision, the Commission identifies the lack of response from the beneficiaries' representation since August 2021, despite the requests for information made. Similarly, the beneficiary and two of her children have been outside Honduras since July 2018. Upon not identifying compliance with the requirements set forth in Article 25 of the Rules of Procedure, the IACHR decided to lift these precautionary measures.

II. BACKGROUND INFORMATION

2. On February 24, 2018, the IACHR decided to grant precautionary measures in favor of Ericka Yamileth Varela Pavón and her family in Honduras.¹ The request for precautionary measures alleged that the beneficiary was at risk due to threats against her by armed persons who allegedly murdered her son and mother in December 2017. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requested that the State of Honduras: i) adopt the necessary measures to preserve the life and personal integrity of Ericka Yamileth Varela Pavón and her family; b) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and c) report on actions taken to investigate the alleged facts that led to the adoption of this precautionary measure, so as to prevent such events from reoccurring.

III. INFORMATION PROVIDED DURING THE TIME THESE PRECAUTIONARY MEASURES WERE IN FORCE

3. During the time the precautionary measures were in force, the Commission followed up on the subject matter of these precautionary measures by requesting information from both parties.
4. The State submitted observations on the following dates:

2018	March 15, May 14, and September 4
2019	May 20 and November 4
2021	October 1, November 12 and 23

5. The representation submitted information on the following dates:

2018	May 10 and July 2
2019	August 5
2021	August 3

¹ IACHR. [Resolution 9/2018](#). Ericka Yamileth Varela Pavón regarding Honduras. Precautionary Measure 14-18. February 28, 2018 [in Spanish].

6. The Commission has made requests for information to the parties on July 31, 2018; May 28, July 19, and October 1, 2019; January 27 and December 30, 2020; September 16, 2021; June 23, 2022; and March 31, 2023. On November 13, 2023, the Commission reiterated its request for information to the representation in order to assess whether these precautionary measures should remain in force. However, no response has been obtained from the representation, and the deadlines have expired. In that sense, the last information presented by the representation was on August 3, 2021.
7. Representation is exercised by Young Promoters and Defenders of Human Rights (*Jóvenes Promotores y Defensores de Derechos Humanos*, JOPRODEH).

A. Information provided by the State

8. In 2018, the State indicated that on March 8, 2018, a consultation meeting was held, and through the beneficiary's representation, protection measures agreements were reached in her favor. In this regard, it was determined that a risk analysis would be carried out in favor of the beneficiary, as well as a measure for her home relocation. They also assigned her two permanent security escorts in 24-hour shifts in favor of the beneficiary, a police liaison for emergency cases, and granted police patrols in favor of her relatives. In addition, it was indicated that an immediate investigation would be carried out to find the whereabouts and capture of the material and intellectual perpetrators of the deaths of Nahaman Otoniel Gómez Varela and María Amparo Pavón Bustillo, son and mother of the beneficiary. The parties also agreed to adopt measures for the immediate recovery of the beneficiary's home, located in the Municipality of Villa de San Francisco, and that a new consultation meeting would be held to discuss the recovery of the beneficiary's assets.
9. In relation to the investigations into the murders of Nahaman Otoniel Gómez Varela and María Amparo Pavón Bustillo, the State indicated that it carried out a series of procedures: removal of the body, on-site inspection, statement by the beneficiary, police background check, request for information to the National People's Registry. In addition, a complaint was filed regarding both cases. The Special Prosecutor's Office of Crimes against Life of the Public Prosecutor's Office reported that, on January 10, 2017, the Technical Agency for Criminal Investigation (ATIC) of the Public Prosecutor's Office generated an alert regarding suspicion of planning the murder of a male person in the Sector of the Municipality of the Villa de San Francisco, which would be Nahaman Otoniel Gómez Varela. Due to the above, agents were transferred to the premises. Due to the seriousness of the situation, the family unit was transferred to the City of Tegucigalpa. Ms. Ericka Yamileth Varela Pavón indicated to the Prosecutor's Office days later that such measures would not be necessary, and that she would return to her home because she understood that her family was not the object of the alleged attack. On February 9, 2017, the ATIC carried out an operation in the Villa of San Francisco in order to capture people who were under investigation, and who allegedly planned the death of Nahaman Otoniel Gómez Varela. These persons were remanded in custody.
10. In 2019, the State indicated that the Special Prosecutor's Office for Crimes against Life reported that the investigations of the murders were in the investigative stage in the ATIC, which reported that it has sought to locate the beneficiary, so that she can participate in the investigation, which has not been possible. On another note, the Directorate of Police Intelligence indicated efforts to carry out the risk analysis in favor of the beneficiary, but she decided not to continue with the procedure.
11. According to information from the National Directorate of Migration and Aliens, the beneficiary left Honduras for El Salvador on April 3, 2018, and her return to the country has not been registered. In this regard, the State alleged that the protection measures have not been complied with, since the beneficiary has not made an appearance at the Department of Human Rights. On October 29, 2019, a consultation meeting was held with the beneficiary's representation, in which it was confirmed that

the beneficiary left the country with her underage children and allegedly requested asylum in Spain, and that some of her relatives remained in Honduras. On this occasion, it was considered that the identification of the people who comprise the beneficiary's family unit would be requested so that the authorities can provide protection. It was also agreed that police patrols would be provided three times a week at the home of the two underage children of Nahaman Otoniel Gómez Varela, grandchildren of the beneficiary. No other members of the family unit have been indicated to remain in Honduras.

12. In 2021, the State indicated that the agreements of the meeting of October 29, 2019, would be fulfilled when the representation notifies the current residence of the underage children of Nahaman Otoniel Gómez Varela, which had not occurred. It was also indicated that, despite the call for a monitoring meeting in November 2021, the representation was not present. Regarding the information about an attack against Mr. Ricardo Antonio Gómez Turcios, the State indicated that he died on August 21, 2021. According to the Police Investigation Directorate, the beneficiary is not identified as his wife, and another person is identified as his wife. Finally, the Public Ministry reported that, regarding the investigations into the murders of the beneficiary's relatives, it has repeatedly requested the facilitation of access to the beneficiary, a witness to the events, through CONADEH and the representation, which has not been possible. In addition, it was indicated that they were carrying out proceedings for the exhumation of the body of Nahaman Otoniel Gómez Varela.

B. Information provided by the representation

13. In 2018, the representation indicated that the beneficiary and her family were in a house of refuge, belonging to the National Commissioner for Human Rights (CONADEH), for more than four months. It was also indicated that on March 8, 2018, a consultation meeting was held with the state authorities. In addition, in relation to the investigations of the facts that gave rise to the precautionary measures, until now they had not taken the testimony of the beneficiary within the framework of the investigations.
14. In 2019, the representation reported that an adequate investigation of the murders of the beneficiary's relatives has not been carried out. The representation also alleged that the people involved in these murders were maras and gangs in the region, as well as agents of the Honduran Police. In January 2018, the beneficiary and her family were removed from the shelter where they were, without having received security measures in their favor, or who had captured the material and immaterial perpetrators of the murders.
15. In 2021, the representation indicated that the beneficiary was "in exile" with her two underage children. However, some of his relatives are still in Honduras, and they have not received protection measures. Additionally, it was indicated that on July 25, 2021, the husband of the beneficiary, Mr. Ricardo Antonio Gómez Turcios, suffered an attack, and was in a serious state of health.

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

16. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with this Article, the IACHR grants precautionary measures in urgent and serious situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

17. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.² Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.³ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.⁴ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the inter-American system. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its 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.
18. With regard to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions. Article 25(9) sets forth that the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force. In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.
19. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more

² See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Provisional measures, Order of the Inter-American Court of Human Rights of July 6, 2009, considerandum 16.

³ See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Inter-American Court of Human Rights of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Inter-American Court of Human Rights of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

⁴ See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Inter-American Court of Human Rights of February 8, 2008, considerandum 9; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6.

rigorous evaluation.⁵ In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.⁶ The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the lifting of international protection measures.⁷

20. In the matter at hand, the Commission observes that the precautionary measures were granted in 2018 in favor of Ericka Yamileth Varela Pavón and her family unit, due to the risk she faced because of threats suffered after the murders of her son and mother in December 2017.
21. The Commission notes that in 2018 concertation meetings have been held between the parties, in order to implement protection measures in her favor, in particular the home relocation of the beneficiary and her family, who were temporarily in a shelter belonging to CONADEH (see *supra* paras. 8 and 13). According to information from the representation, the beneficiaries were removed from the temporary shelter where they were (see *supra* paras. 13 and 14). Subsequently, on July 3, 2018, the beneficiary and her two underage children left Honduras, seeking asylum abroad. According to the representation, some of her relatives are still in Honduras. However, no details have been specified regarding the current situation of these people (see *supra* paras. 11 and 15). The State indicated that it would implement the agreed police patrol measures in favor of the children of Nahaman Otoniel Gómez Varela, the deceased son of the beneficiary, when the representation indicates the address of her residence. However, this information had not been submitted to date (see *supra* para. 11).
22. In analyzing this matter, the Commission verifies that almost two and a half years have passed without information from the representation on the situation of the beneficiaries. Despite the requests for information in the years of 2021, 2022, and 2023, the representation presented updated information, while its last information provided was on August 3, 2021 (see *supra* para. 6). Moreover, the beneficiary and her underage children have been outside Honduras since July 2018.
23. When analyzing the situation of persons who have left the territory of a State that was requested to implement international protection measures, the Commission recalls that the Inter-American Court has indicated the following within the framework of provisional measures:

“Regarding the foregoing, it should be noted that the *effet utile* of provisional measures depends on the real possibility that they can be implemented. With respect to the indicated beneficiaries, there is a material impossibility for the State to comply with the provisional measures over territories where it lacks sovereignty, while, on the other hand, the representatives have not expressed the beneficiaries’ intention to return to the country. Additionally, there is no record of any new serious events that put their life and personal integrity at risk. For these reasons, the Court considers that it is appropriate to lift the provisional measures regarding these persons.”⁸

24. Regarding beneficiary Ericka Yamileth Varela Pavón, the Commission considers that, following the beneficiary’s departure from Honduras since July 2018 to seek asylum abroad, there is no material possibility to date that the precautionary measures will be implemented. Furthermore, the Commission notes that the latest facts reported against her predate the granting of these precautionary measures in 2018, more than five years ago.

⁵ I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional measures regarding Mexico. Order of the Inter-American Court of Human Rights of February 7, 2017, paras. 16 and 17.

⁶ *Ibid.*

⁷ *Ibid.*

⁸ I/A Court H.R. [Matter of Luisiana Ríos et al. regarding Venezuela.](#) Provisional Measures. Order of the Inter-American Court of Human Rights of August 22, 2018. Considerandum 4.

25. Regarding the beneficiary's family unit,⁹ the Commission notes that two of her children also left Honduras in July 2018 along with their mother. On another note, regarding some of her relatives who allegedly continue in Honduras, the Commission has not received specific and updated information about these people from the representation.¹⁰ In October 2019, at a consultation meeting between the authorities and the representatives, the parties agreed that protection from police patrols would be provided in favor of the beneficiary's grandchildren, children of her deceased son, who reportedly continue in Honduras. However, the State alleged that the representation has not informed the address of the residence of these people, and did not attend the monitoring meeting of the precautionary measures in November 2021 (see *supra* paras. 11 and 12). In this regard, the IACHR appreciates the State's expressed willingness to provide protection to the beneficiary's relatives who reportedly continue in Honduras. Despite requests for information from the IACHR, the representation has not presented information on threatening incidents against them, so it does not have sufficient information on the family members of the beneficiary who allegedly continue in Honduras to determine that they are currently at serious and urgent risk.
26. In relation to the investigations of the facts that gave rise to these precautionary measures, the Commission verifies that the State indicated that the murders of the beneficiary's son and mother are at the investigation stage. However, the authorities alleged that it has not been possible to contact the beneficiary, a witness to the events, to participate in the investigations. The Commission also verifies that the State did not submit information on substantive progress in these investigations in recent years (see *supra* paras. 9 and 12). In this regard, the Commission calls on the State to continue with the investigations of the facts related to these precautionary measures, in accordance with the inter-American parameters, in order to clarify such facts.
27. Considering the analysis carried out, the Commission observes that the beneficiary and her underage children have been outside Honduras since July 2018, no information has been received from the representation since August 2021, and the last threatening incidents reported against the beneficiaries have occurred prior to the granting of these precautionary measures, more than five years ago. Thus, the Commission understands that, according to the information available, it is not currently possible to determine an ongoing situation presenting a serious and urgent risk for the beneficiaries, in compliance with Article 25 of the Rules of Procedure.
28. In view of the above, and taking into account that exceptional and temporary nature of precautionary measures,¹¹ the Commission considers that it currently has no elements to support compliance with the requirements of Article 25 of the Rules of Procedure, and that it is appropriate to lift these precautionary measures.

V. DECISION

29. The Commission decides to lift the precautionary measures granted in favor of Ericka Yamileth Varela Pavón and her family unit in Honduras.

⁹ [Resolution 9/2018](#) of the IACHR determines Ericka Yamileth Varela Pavón and her family unit as beneficiaries of Precautionary Measure 14-18. In the said Resolution, the representation referred in its pleadings to three children of the beneficiary.

¹⁰ The Commission notes that, in 2021, the representation indicated that Mr. Ricardo Antonio Gómez Turcios, husband of the beneficiary, suffered an attack, without presenting further details (see para. 15). In its response, in 2021, the State indicated that Mr. Ricardo Antonio Gómez Turcios died on August 21, 2021; however, it stated that this person had a wife, who was not the beneficiary (see para. 12). Despite having forwarded information, the representation did not submit information in this regard. In Resolution 9/2018 of the IACHR, which granted Precautionary Measure 14-18, it is observed that the representation did not specifically refer to the beneficiary's husband as part of the family unit. The Commission considers that it does not have sufficient elements to evaluate such facts, considering the lack of information from the representation.

¹¹ I/A Court H.R. Matter of Adrián Meléndez Quijano et al. Provisional Measures regarding El Salvador. [Order of August 21, 2013](#), para. 22; Matter of Galdámez Álvarez et al. Provisional Measures regarding Honduras. [Order of November 23, 2016](#), para. 24.

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30. The Commission recalls that lifting these measures does not prevent the representatives from filing a new request for precautionary measures should they consider that there is a situation that meets the requirements established in Article 25 of the Rules of Procedure.
 31. The Commission instructs its Executive Secretariat to notify this resolution to the State of Honduras and to the representatives.
 32. Approved on January 13, 2024, by Roberta Clarke, President; Edgar Stuardo Ralón Orellana, First Vice-President; Carlos Bernal Pulido, Second Vice-President; José Luis Caballero Ochoa; Arif Bulkan; Andrea Pochak; Gloria Monique de Mees, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary