

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 85/2024**

Precautionary Measure No. 457-03

Mario Minera, Héctor Amílcar Mollinedo, and the other members of the Center for Legal
Action on Human Rights (CALDH) regarding Guatemala¹

November 14, 2024

Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Mario Minera, Héctor Amílcar Mollinedo, and the other members of the Center for Legal Action on Human Rights (CALDH, by its Spanish initialism), in Guatemala. Following the State's request to lift the said measures, the Commission assessed the protective actions taken in favor of the beneficiaries for the implementation of the precautionary measures. It has also considered the long period of time without facts that indicate an ongoing situation posing an imminent risk. Thus, given the nature of the precautionary measures and upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these precautionary measures.

II. BACKGROUND INFORMATION

2. On March 17, 2003, the Commission granted precautionary measures in favor of Mario Minera, Héctor Amílcar Mollinedo, and the other members of CALDH. The members of the organization claimed to be subject to acts of harassment, threats, and intimidation. Consequently, the Commission requested that the State of Guatemala: a) Take the necessary measures to protect the rights to life and personal integrity of Mario Minera, Héctor Amílcar Mollinedo, and the other members of the non-governmental organization CALDH. Specifically, that the National Civil Police (PNC, by its Spanish initialism) provide surveillance to the organization's headquarters, and that an efficient communication system be implemented to facilitate immediate action by the authorities in the event the beneficiaries were to require it and if the circumstances demand it; b) Investigate immediately and gravely the death threats made against both of them.²

3. The representation of the beneficiaries of these precautionary measures is exercised by the CALDH.

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

4. During the time the precautionary measures have been in force, the Commission has followed up on the situation that is the subject matter of these precautionary measures by requesting information from the parties. In this regard, communications have been received from the parties and sent from the IACHR. With the purpose of analyzing the most recent situation, the Commission will consider the information received by the parties in the last 10 years, recognizing that the matter has been ongoing for more than 20 years:

	Reports by the State	Communication by the representation	Information requested and forwarded by the Commission
--	-----------------------------	--	--

¹In accordance with Article 17(2)(a) of the Commission's Rules of Procedure, Commissioner Edgar Stuardo Ralón Orellana, a Guatemalan national, did not participate in the debate or deliberation of this matter.

²Inter-American Commission on Human Rights (IACHR), Precautionary Measures 2003, Precautionary Measures granted by the IACHR during 2003, Guatemala. (Available only in Spanish)

2013	July 29 and October 8	March 12, July 24, and November 22	February 19, April 9, June 27, and October 23
2014	No information	September 1	March 31
2015	August 19	October 13	June 11 and September 22
2016	No information	No information	January 4
2017 and 2018	No information	No information	No information
2019	June 27	April 3 and September 12	May 22 and August 19
2020 and 2021	No information	No information	No information
2022	No information	No information	October 31
2023	April 5 and September 8	June 8	April 5, July 12, and November 13
2024	No information	No information	May 6

5. Since July 29, 2013, the State has requested the lifting of these measures. This request was reiterated in its subsequent communications, in particular on April 5 and September 8, 2023. The representation was asked for their observations in this regard on November 12, 2023, and May 6, 2024. However, to date, no response has been received from the representation and the granted deadlines have expired.

A. Information provided by the State

6. In 2013, when requesting the lifting of the precautionary measures, the State reported on the protective measures in favor of the beneficiaries through a fixed security post in the facilities of the organization CALDH, with two agents of the National Civil Police and security perimeter in this same location since 2003. Likewise, it was indicated that the executive director of CALDH, Juan Francisco Soto Forno, had a personalized protection detail since 2007, made up of two PNC agents who worked on shifts of eight days on and eight days off. It was indicated that the authorities offered personalized security to Mario Eduardo Minerá Monzón, but he opted for perimeter security at his residence.

7. Guatemala also alluded to five complaints between 2002 and 2005 in relation to crimes of theft of money and vehicles against CALDH workers; as well as a complaint dated January 11, 2005, for the crime of threats against members of the organization. According to the State, these facts presented elements of “common crime” and were unrelated to the activities of human rights defense carried out by the beneficiaries. Due to the absence of information on specific incidents that demonstrate a risk to these people, the State requested that the precautionary measures be lifted.

8. In 2015, the State reported that on February 12 of that year, the PNC carried out a risk analysis of CALDH workers. Given that a medium risk was identified, it was recommended to maintain the same protective measures. On the facts reported by the representation against Gustavo Adolfo Illescas Arita and Pedro José Reyes, it was argued that there was a contradiction in the complaint. Thus, although these people indicated that the attack on Pedro Reyes was allegedly perpetrated by police officers, it was claimed, afterwards, that only one police officer had allegedly been identified.

9. In 2019, the State declared that, on March 27, 2019, the PNC carried out an updated risk analysis for CALDH workers. On this occasion, it was again concluded that these people were at a medium risk level, and it was recommended to maintain the established measures, as well as, to set up a security perimeter at the facilities of the Museum Casa de la Memoria “Kaji Tulam,” in Guatemala City. It was sought to arrange

with the representation a monitoring meeting on the precautionary measures, in order to identify the people who continued to work at the CALDH. Simultaneously, the lifting of the precautionary measures was requested, given the appropriate and timely action of the authorities.

10. In 2023, the State highlighted the adequacy of the protective measures adopted in favor of the beneficiaries, and that there had been no threatening incidents in recent years. On June 30, 2023, the PNC issued a declaration, in which it was recommended to modify the measure of a fixed security post to a security perimeter at the facilities of the CALD. A phone number of the 11th Police Station of the PNC was also assigned so that people could request security support in case they were required it. This recommendation was issued considering the request of the organization. On March 22, 2023, a new risk analysis was carried out regarding Juan Francisco Soto Forno, by means of which it was concluded that he was at a medium risk level, and it was recommended to modify his police escort detail for perimeter security at his residence. It was stated that the protective measures were being complied with, and that the authorities were available to meet any request from the CALDH for a new risk analysis.

11. The request to lift the precautionary measures was reiterated. The State alleged that they have complied with the measures for over 20 years they have been in place, and that in recent years there has been no elements that indicate an ongoing, threatening situation.

B. Information provided by the representation

12. In 2013, the representation stressed that the CALDH provides judicial and political advice to victims and relatives of genocide crimes in criminal cases against former generals of the Guatemalan Army. The vulnerability situation of the beneficiaries would increase as a result of the social impact of these causes. It was stated that they had suffered threats, intimidation and robberies. According to the representation, the State's allegation of the reported incidents of theft would be characterized as "common crime" is not reasonable, since the duty to investigate has not been fulfilled.

13. It was reported that the CALDH had a fixed security post in its facilities, made up of two agents from the Division of Protection of Persons and Security of the PNC, as well as police patrols around the premises. The executive director of the organization, Juan Francisco Soto Forno, had personalized security detail since 2007, made up of two other PNC agents. The representation stated that the security detail was properly working. However, it was alleged that the authorities did not offer personalized security to beneficiary Mario Eduardo Minera Monzón.

14. In 2014, the representation reported that Gustavo Adolfo Illescas Arita, a journalist who works at the CALDH, had published a research article on conflicts related to communities of the Q'eqchi People in the department of Alta Verapaz, on August 1st of that same year. On that same day, the website's server was hacked. On August 23, 2014, Pedro José Reyes González, Gustavo Illescas' roommate, was intercepted by unknown persons near his residence, who allegedly covered his eyes, put him in a vehicle, and beat him. On several occasions, they allegedly mentioned the name of Gustavo Illescas. Mr. Pedro Reyes stated that he had allegedly managed to see the Police logo on the shirt of one of the said persons. These events were reported to the authorities.

15. In 2015, the representation indicated that on February 12, 2015, a risk analysis was carried out for CALDH workers. The authorities' efforts to comply with the protective measures in favor of the beneficiaries were assessed. However, it was alleged that these have been the subject of a hatred and stigmatization campaign by the Foundation Against Terrorism.

16. In 2019, the representation pinpointed some events that took place to the detriment of members of the CALDH. For instance, Esteban Manuel Celada Flores, a lawyer of the organization, who was

returning to Guatemala after a work trip in July 2018, was approached at the airport by individuals in the PNC uniforms who asked him for his passport and requested information about his activities. On January 31, 2019, the staff of CALDH and other organizations participated in an event and realized that the vehicle used for their transfer had been scratched. When checking the truck, a nail was found, on which it was written “piloto X1X.” In addition to this, on February 18, 2019, when S.A.C.C., who had begun working in the CALDH, was at the CALDH headquarters in Cobán when an unknown man covered her mouth, and she fainted. Subsequently, she woke up naked and found her cell phone turned off with a note that read “don’t say anything.” In the following days, she was admitted to the Hospital of Cobán for feeling physically and emotionally ill due to the aforementioned events. On March 5, 2019, unknown persons entered the facilities of the CALDH, and, on March 10, 2019, a drone flew over the headquarters of the organization at various times. It was warned that all these events were reported to the authorities.

17. Regarding the protective measures, the beneficiaries stated that the authorities have regularly maintained the fixed security post and perimeter security details at the facilities of the CALDH organization, and personalized security for Juan Francisco Soto.

18. In 2023, the representation stated that the CALDH had surveillance from the PNC at its headquarters, which has operated for many years. They questioned the frequent rotation of police officers without prior consent from the beneficiaries. Due to the foregoing, it was stated that the State would be requested to transform the measures into a security perimeter for the organization.

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

19. The precautionary measures mechanism is part of the Commission’s function of overseeing compliance with the human rights obligations established in Article 106 of the Charter of the Organization of American States. These general oversight functions are provided for in Article 41 (b) of the American Convention on Human Rights, as well as in Article 18 (b) of the Statute of the IACHR, while 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.

20. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary.³ Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights.⁴ 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.⁵ As for their precautionary nature, these measures have the purpose of preserving a legal situation while under study by the organs of the inter-American system. Their precautionary nature aims at safeguarding the rights at risk

³ I/A Court H.R., [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#), Provisional Measures regarding the Bolivarian Republic of Venezuela, Order of March 30, 2006, considerandum 5; [Case of Carpio Nicolle et al. v. Guatemala](#), Provisional Measures, Order of July 6, 2009, considerandum 16 (Available only in Spanish).

⁴ I/A Court H.R., [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; [Case of Bámaca Velásquez](#), Provisional measures regarding Guatemala, Order of January 27, 2009, considerandum 45; [Matter of Fernández Ortega et al.](#), Provisional measures regarding Mexico, Order of April 30, 2009, considerandum 5; [Matter of Milagro Sala](#), Provisional measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish).

⁵ I/A Court H.R., [Matter of Milagro Sala](#), Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish); [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#), Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; [Matter of the Criminal Institute of Plácido de Sá Carvalho](#), Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6 (Available only in Spanish).

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 of the final decision. In this regard, precautionary or provisional measures allow 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.

21. In this sense, 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 shall assess whether the serious and urgent situation and the risk of irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may meet the requirements outlined in Article 25 of its Rules of Procedure.

22. Similarly, the Commission recalls that while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard of review, keeping such measures in force requires a more rigorous evaluation.⁶ In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.⁷ The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures.⁸

23. In this matter, the Commission recalls that the precautionary measures were granted in 2003 in favor of members of the CALDH, due to threatening events related to their work defending human rights. The Commission observes that the State requested the lifting of these measures since 2013, which was reiterated more recently in 2023. Pursuant to Article 25 (9) of the Rules of Procedure, that request was forwarded to the representation on that occasion, requesting details on the current situation of the beneficiaries and their observations on the State’s allegations in November 2023 and May 2024. However, the Commission has not received a response from the representation on these occasions regarding the request to have the measures lifted, or updated information on a situation posing a risk.

24. In analyzing this matter, the Commission verifies that, since the granting of these precautionary measures and throughout the time they were in force, the state authorities provided protective measures to the members of the CALDH. In this regard, both parties confirmed that perimeter and fixed post security was provided to the organization’s facilities until 2023, and a police escort detail to its executive director, Juan Francisco Soto Forno. In this regard, the representation affirmed its satisfaction with the compliance of the measures established in this procedure at different times. In 2023, the measures transformed into a perimeter security for the CALDH headquarters due to the request from the representation, following

⁶ I/A Court H.R., Case of Fernandez Ortega et al., Provisional Measures regarding Mexico, Order of February 7, 2017, considerandums 16 and 17. (Available only in Spanish)

⁷ I/A Court H.R., previously cited, considerandums 16 and 17.

⁸ I/A Court H.R., previously cited, considerandums 16 and 17.

complaints about the frequent rotation of assigned police officers. In addition, after the risk analysis of May 2023, the police escort detail was changed for perimeter security to the residence of the executive director of the organization. No information has been provided to indicate that the protective measures have recently changed.

25. In addition to the foregoing, the Commission notes that the last events reported by the representation purportedly occurred in March 2019, and approximately five years have elapsed since then. Despite the State's request to lift the precautionary measures in 2023 and the timely transfer of these communications to the representation, no response has been received since June 2023. There is also no knowledge of any elements that would demonstrate a situation presenting a current, imminent risk with respect to the beneficiaries. In this sense, the representation has not reported the occurrence of any act of threat, harassment or violence against members of the CALDH in recent years.

26. In view of the above, the Commission assesses that the state authorities have implemented for approximately 20 years protective measures in favor of the persons who make up the CALDH. While the Commission takes note of the questions raised in 2023 about the fixed security post measure at the headquarters of the organization, the authorities have modified the measures as requested by the representation. The Commission does not identify additional elements of questioning.

27. Furthermore, the Commission notes that there is a lack of events that could reveal an ongoing situation presenting a serious and urgent risk for the beneficiaries, considering that no specific facts have been reported against them in the last five years. Thus, the adoption of adequate protective measures and the absence of threatening events over a long period of time does not currently support the requirements of Article 25 of the Rules of Procedure. Based on the information available and the previous analysis carried out, the Commission understands that it has no elements to find compliance with the requirements of Article 25 of the Rules of Procedure. Given the above and taking into account the exceptional and temporary nature of precautionary measures,⁹ the Commission considers that it is appropriate to lift these measures.

28. In the same vein with what was indicated by the Inter-American Court in various cases,¹⁰ a decision to lift cannot imply that the State is relieved of its general protection obligations, contained in Article 1 (1) of the Convention. Thus, the State is especially obliged to guarantee the rights of persons at risk and must promote the necessary investigations to clarify the facts, even those that gave rise to these precautionary measures, followed by the established consequences. Furthermore, following the assessment of the Inter-American Court, the lifting of the precautionary measures does not imply an eventual decision on the merits of the dispute.¹¹

V. DECISION

29. The Commission decides to lift the precautionary measures granted to Mario Minera, Héctor Amílcar Mollinedo, and the other members of CALDH, in Guatemala.

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

⁹ 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. (Available only in Spanish)

¹⁰ I/A Court H.R., Matter of Velásquez Rodríguez, Provisional Measures regarding Honduras, Resolution of January 15, 1988, considerandum 3; Matter of Giraldo Cardona et al., Provisional Measures regarding Colombia, Order of January 28, 2015, considerandum 40; Case of Vélez Loo, Provisional Measures regarding Panama, Order of May 25, 2022, considerandum 62. (Available only in Spanish)

¹¹ I/A Court H.R., Matter of Guerrero Larez, Provisional Measures regarding Venezuela, Order of August 19, 2013, considerandum 16; Matter of Natera Balboa, Provisional Measures regarding Venezuela, Order of August 19, 2013, considerandum 16. (Available only in Spanish)

requirements established in Article 25 of the Rules of Procedure, nor does it imply that the State should not comply with its international obligations regarding investigation and justice for the facts denounced.

31. The Commission instructs its Executive Secretariat to notify this resolution to the State of Guatemala and the representatives.

32. Approved on November 14, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice-President; José Luis Caballero Ochoa, Second Vice-President; Arif Bulkan; and Andrea Pochak, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary