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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 64/2023**

Precautionary Measure No. 576-21

José Domingo Pérez Gómez and his family unit regarding Peru<sup>1</sup>

November 8, 2023

(Follow-up and Extension)

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. In the resolution, the IACHR assesses the progress made in the implementation of the precautionary measures and addresses the parties' approaches. Furthermore, the Commission decides to extend the precautionary measures in favor of prosecutor Rafael Ernesto Vela Barba and his family unit. Finally, the Commission decides to continue assessing the situation of the beneficiaries in the terms of Article 25 of the Rules of Procedure, and other applicable procedural and treaty provisions.

**II. BACKGROUND INFORMATION**

2. On June 23, 2021, the IACHR granted precautionary measures, by Resolution No. 55/2021, in favor of José Domingo Pérez Gómez and his nuclear family, in Peru.<sup>2</sup> According to the request, Mr. Pérez was at risk as a result of the work he has been doing as a prosecutor in the current context of the country. Therefore, based on Article 25 of its Rules of Procedure, it requested that Peru: a) adopt the necessary measures to guarantee the rights to life and personal integrity of the persons identified as beneficiaries; b) adopt the necessary measures to guarantee that Mr. Pérez can continue to carry out his duties as a prosecutor without being subjected to threats, harassment, or acts of violence in the exercise thereof; c) consult and agree upon the measures to be implemented with the beneficiary and his representatives; and d) report on the actions taken to investigate the alleged events that led to the adoption of this resolution, so as to prevent them from reoccurring.

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<sup>1</sup> In accordance with Article 17(2)(a) of the IACHR Rules of Procedure, Commissioner Julissa Mantilla Falcón, a Peruvian national, did not participate in the debate and deliberation of this matter.

<sup>2</sup> IACHR. [Resolution 55/2021](#). José Domingo Pérez Gómez and his family unit regarding Peru. July 25, 2021.

3. Representation in these precautionary measures is exercised by the Association for Human Rights (*Asociación Pro Derechos Humanos, APRODEH*), the Legal Defense Institute (*Instituto de Defensa Legal, IDL*) and the Center for Justice and International Law (CEJIL).

### **III. INFORMATION PROVIDED BY THE PARTIES DURING THE TIME THE PRECAUTIONARY MEASURES HAVE BEEN IN FORCE**

4. During the time the precautionary measures have been in force, the Commission has followed up on the beneficiaries' situation by requesting information from the parties. The representation sent communications on the following dates:

2021	August 24, September 29, October 9, November 18 and 19
2022	August 15 and 23
2023	March 24, March 29, May 11, July 24 and 26, September 26, and October 6

5. For its part, the State submitted reports and observations on the following dates:

2021	August 12, November 19 and 22
2022	February 16, December 15
2023	March 28 and 30, May 2, June 23, August 15 and 25, and September 20

6. The Commission forwarded these reports between the parties and requested relevant information on the following dates:

2021	September, 1, 2, 4 and November 19
2022	January 17, June 15, August 19 and 26
2023	March 21, June 5 and 27, July 24 and 28, and September 5

7. The Commission held work meetings on November 22, 2021, and April 19, 2023, within the framework of the 186<sup>th</sup> Period of Sessions. By communications of December 15, 2022, June 23, 2023, and August 15, 2023, the State requested the issuance of a follow-up resolution in this matter in order to assess whether the actions taken have contributed to the mitigation of risk factors. In particular, to determine what actions fall within the scope of the protection components of his work as a prosecutor and whether the way in which the investigations are reportedly being carried out is within the purview of these precautionary measures. For its part, by communications of July

26, September 25, and October 6, 2023, the representation requested the extension of the precautionary measures in favor of Rafael Ernesto Vela Barba and his family unit.

#### **A. Information provided by the State**

##### **- 2021**

8. On August 12, 2021, the State reported that a consultation meeting was held with the representatives on July 30, 2021. The State received the proposals from the representation,<sup>3</sup> which were transferred to the corresponding units to assess their viability. It was reported that the security and personal protection service for Vanessa Medina Muñoz and her son were reinstated, but this was allegedly postponed at the request of Prosecutor Pérez Gómez. In addition, basic information about their police security was reportedly delivered. Three cell phone numbers of high-ranking police personnel were provided, and it was allegedly decided to avoid making changes to these personnel without prior notice. The State indicated that the reports and notices formulated by its security service will reportedly not be delivered to the beneficiary as they are confidential. The State indicated that the Department of Protection of Public Figures and Officials has allegedly been granting the security and protection service to prosecutor Domingo Pérez as well as the security service to his home. In this sense, eight non-commissioned officers of the Peruvian National Police reportedly provide personal protection services 24 hours around the clock, while four non-commissioned officers reportedly provide home security service 24 hours around the clock.
9. The State declared that Investigation Folder No. 25-2021, relating to the events that occurred in front of the beneficiary's residence on June 11, 2021, was not assigned to the Organized Crime Prosecutor's Office, since this entity is allegedly not competent.<sup>4</sup> The investigation was referred to the Provincial Prosecutor's Office of Miraflores. The

<sup>3</sup> The State indicated that the beneficiaries have requested: In relation <sup>10</sup> to the adoption of necessary measures to guarantee the rights to life and integrity of the beneficiaries and so that José Domingo Pérez Gómez can continue to exercise his work as a prosecutor without being subjected to threats, harassment or acts of violence: i. Reactivation of police protection for his son and wife. ii. Participation in the selection of police personnel accompanying the prosecutor and his family. iii. Avoid changes without notice in the police accompaniment scheme of the prosecutor and his family. iv. Senior police liaison. v. Access to intelligence files with which the security measures granted to prosecutor Pérez are determined, he does not know directly the risk to which he is exposed. In relation to the actions taken to investigate the facts of risk that motivated the granting of the precautionary measures: the beneficiary and his representatives requested that the State follow up on the complaint filed by prosecutor Pérez Gómez with the Crime Prosecutor's Office, and that this Prosecutor's Office initiate and order the investigation of all the facts that they have allegedly been suffering and that put the beneficiaries at risk. In this sense, the representation indicated that in order to effectively deactivate the risks that have been occurring since 2017 and that have increased in the last two months, the State must: i. Include in the investigation all the facts about people harassed and threatened in the framework of the 2021 electoral context. ii. Take into account the report sent by the Prosecutor on all the facts (sit-ins, attacks, security problems, harassment in networks - doxing-, among others), and which was raised by the Prosecutor's Office. iii. Include in its investigation all the events since 2017 that have occurred to the prosecutor within the framework of his duties, as well as to his wife. iv. Report monthly on the progress of the investigation to the IACHR, the beneficiaries and their representatives.

<sup>4</sup> This decision was reportedly taken in Jurisdiction Determination Resolution No. 53-2021, whose basis is that the crime reported by the prosecutor is a crime of harassment, provided for in article 151-A of the Peruvian Criminal Code, and does not correspond to what is contemplated in Law No. 30077 or Law against <sup>Organized</sup> Crime.

complaint referred to the Provincial Criminal Prosecutor's Office of Miraflores, regarding the events that occurred on October 19, 2018, which were classified as aggravated theft, was closed. This decision was not appealed. On the other hand, the State reported that the figure of *doxing* by itself does not constitute a crime in Peruvian criminal law. To this date, there is no criminal offense that expressly sanctions the conduct of investigating and disseminating personal data on the internet without the consent of the victim, with the purpose of humiliating, intimidating or compelling them to act a certain way. The State indicated that the commission of other crimes contemplated in Peruvian criminal law may occur.

- **2022**

10. On February 16, 2022, the State indicated that, following the holding of the work meeting of November 22, 2021, a conciliation meeting was held on December 9, 2021, in which it was allegedly agreed to hold three types of meetings: ordinary, operational and extraordinary.<sup>5</sup> Furthermore, the State indicated that focal points were allegedly identified within the framework of the said meeting, and reportedly pointed out to the Supranational Specialized Public Prosecutor's Office and, in a complementary manner, to other competent entities.<sup>6</sup> Additionally, it was allegedly agreed that the communication between the State and the beneficiaries along with their representatives would be conducted through emails to expedite the processing of the requests. [These requests] will subsequently be regularized in the Virtual Table of Parties in order to preserve the transparency required of all State entities.<sup>7</sup>
11. The State indicated that, on February 1, 2022, a meeting was held in which the agreements reached on December 9, 2021, were reaffirmed. The Dignitaries' Protection Division of the Directorate of State Security of the Peruvian National Police reportedly informed the representation of the steps taken by the said entity so that the General Command of the Peruvian National Police issues the resolution granting State security service to Vanessa Aydee Medina Muñoz. While this resolution was issued, a security service was allegedly provided to the beneficiary. On February 1, 2022, the Dignitaries' Protection Division informed the beneficiary that it assigned two non-commissioned officers of the Peruvian National Police (PNP) to provide security service to Ms. Medina Muñoz. The State indicated that the Coordinating Prosecutor of

<sup>5</sup> The State indicated the following: i. ordinary meetings every three (3) months which will be set at the next meeting through which progress in the implementation of the Precautionary Measure and, if applicable, on the scope thereof will be reported. ii. operational meetings where the scope of the Precautionary Measure is not discussed, but some day-to-day problem is reported on the normal development of the security already granted to date by the Peruvian National Police. To cite an example, in case the beneficiaries consider that the police officers provide an inadequate service or know of facts that put the life and integrity of the beneficiaries at risk. iii. extraordinary meetings, when any event is of such magnitude that it requires an urgent meeting and on an unscheduled date.

<sup>6</sup> Superior Prosecutor Daniel Jara Espinoza, Coordinator of the Superior National Prosecutor's Office and Supraprovincial Criminal Prosecutor's Offices Specialized in human rights, interculturalism and terrorist crimes; and Colonel Juan Carlos Delgado, Head of the Division for the Protection of Dignitaries of the Directorate of State Security of the Peruvian National Police.

<sup>7</sup> It was also agreed that any communication that the representatives and beneficiaries address to another entity, other than the Supranational Specialized Public Prosecutor's Office, would be sent with a copy to the aforementioned entity.

the Superior Prosecutor's Office and Supraprovincial Criminal Prosecutors' Offices reportedly informed the representation of the investigations' status orally, in the framework of the meeting of February 1, 2022. The State indicated that its work within the implementation of the precautionary measures is framed in providing periodic information on the progress of the investigations, implications in International Human Rights Law, and follow-up, in order to make the final decisions known. The foregoing does not include questions regarding the lines of investigation, the factual framework of the events, or how the investigations are conducted.

12. The State considered that the fears that *doxing* against the beneficiaries could be resumed are allegedly unfounded and, in any case, if it were to occur, this situation would allegedly be combated by the State through the beneficiary's security detail and the investigations that would reportedly be carried out.
13. About the protection detail, the State indicated that the files of the agents that make up the security and protection escort of the beneficiaries have been disclosed to the beneficiary per his requests. The file called "Personal Information Report" could corroborate the capacities and specialization that the police force possesses in terms of security and personal protection, as well as the services provided since the beginning of its activities and up to the possible disciplinary sanctions that the police force allegedly possesses, among other aspects. According to the State, the police personnel who are part of the beneficiary's security and personal protection escort provide services on a continuous and permanent basis, and only when they make use of their statutory vacations are the corresponding reliefs carried out, of which the beneficiary would have been informed of with due notice. Regarding the assigned liaison person, the State indicated that, on November 22, 2021, it was reported that the designated person would be the Head of the Dignitaries' Protection Division, in order to respond urgently and in real time to new facts. This was brought to the attention of the beneficiary.
14. On December 15, 2022, the State recalled that in 2022, two ordinary meetings were held on February 1 and June 1, 2022. The State stressed that the representation and beneficiaries were recurrently requiring information regarding the lines of research and investigative actions, without taking into consideration the impact that the implemented protection measures had with respect to the acts of harassment and stalking, including digital harassment.
15. The State reported that, on March 25, 2022, the Supranational Prosecutor's Office held a meeting with representatives of the Senior Management of the Peruvian National Police in order to discern the degree of implementation of the precautionary measures in favor of José Domingo Pérez Gómez and his family unit. The authorities have reportedly expressed their willingness to be able to grant the security service to Vanessa Aydee Medina Muñoz and J.D.P.M. On the other hand, the State reported that the protection measures indicated in the report of February 15, 2022, will allegedly be in force as long as the IACHR maintains the precautionary measure in force.

16. The State reported that, from November 2021 to April 2022, information on situations of harassment and/or stalking was received, as follows:

- On November 12, 2021, it was reported that Ms. Keiko Fujimori Higuchi's lawyer was present outside the beneficiary's home.
- On November 18, 2021, the General Secretariat of the Office of the Attorney General reported on the digital harassment allegedly suffered by the beneficiary and requested the adoption of necessary measures to guarantee his prosecutor's role and protection, as well as that of his family.
- On December 27, 2021, the Dignitaries' Security Division was informed about the presence of journalists outside the beneficiary's home.
- On April 4, 2022, the General Secretariat of the Office of the Attorney General sent the report prepared by the beneficiary, through which he requested the adoption of necessary measures to guarantee the exercise of his functions, as well as his personal protection and that of his family.

17. The State indicated that in view of these situations, the Dignitaries' Division reportedly carried out the corresponding coordination with the Lima Police Region in order to consider a mobile and/or foot patrol at the beneficiary's home and office; as well as the coordination with the PNP Miraflores Police Station, so that security measures are taken at his home.

18. The State reported that, on September 16, 2022, the security and personal protection service that had been granted to Vanessa Aydee Medina Muñoz was temporarily suspended at the request of the beneficiary. The State indicated that, in the last quarter of 2022, no new events related to the safety, integrity, and tranquility of the beneficiaries were registered, a fact that was allegedly confirmed by the person in charge of the security and personal protection escort of the beneficiary José Domingo Pérez Gómez. The State indicated that the guarantees necessary for the beneficiary to continue performing his functions are intrinsically related to the actions to guarantee life and integrity. In this regard, the State reported that it has been coordinating with Peruvian National Police officials and the Public Ministry, who have been increasing the security and personal protection measures of the beneficiaries, as well as monitoring the investigations to the beneficiary's detriment. The State also indicated that the observations presented are not on the merits of the questions raised by the representatives, but on whether the procedure is the appropriate way to enforce the rights of the beneficiaries.

19. The State reported that, by order of the National Coordinating Superior Prosecutor's Office Specialized in Crimes against Organized Crime, Prosecutorial Folder No. 521-2021<sup>8</sup> passed to the Second Office of the Fourth Corporate Supraprovincial Prosecutor's Office Specialized against Organized Crime, which allegedly has a new file

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<sup>8</sup> The investigation corresponding to tax folder No. 25-2021 was under the knowledge of the Fourth Office of the Criminal Prosecutor's Office of Miraflores-Surquillo-San Borja, under Folder No. 521-2021.



entry number under No. 15-2022, known as the “*La Resistencia*” [in English, this translates to “The Resistance”] investigation (declared secret). According to the State, they will investigate all instances of harassment and threats that occurred in the electoral context, as long as those incidents have not yet been reported to the authorities. This decision was made in response to a proposal made by the representation to include all such facts in the investigation. The State forwarded information related to the disciplinary investigations that are allegedly being pursued against the beneficiary.<sup>9</sup>

- **2023**

20. By communication of June 23, 2023, the State indicated that in 2022 and so far in 2023 no threatening events or complaints were reportedly recorded. The State reported on the implemented protection measures. In relation to the beneficiary Vanessa Aydee Medina Muñoz, the State indicated that the service was suspended at her request, formulated on August 24, 2022. The State indicated that the address and office of the beneficiary José Domingo Pérez were allegedly considered within the patrol roadmap of the Peruvian National Police, which would qualify as a reinforcement of the protection requested by the beneficiaries and their representatives. On the other hand, the State indicated that in 2022 and until April 14, 2023, no verified incidents reportedly occurred against the beneficiaries. Furthermore, the Miraflores PNP Police Station allegedly reported that there were no complaints filed in 2023.
21. The State reported on the protocol of action in the event of occurrences against the security of the beneficiaries, which purportedly consists of the police officers in charge of security informing the Supranational Specialized Public Prosecutor’s Office (*Procuraduría Pública Especializada Supranacional*, PPES); which reportedly communicates the facts to the Public Ministry and the Coordination of the National Superior Prosecutor’s Office and Supraprovincial Criminal Prosecutors’ Offices Specialized in human rights and interculturality. Finally, the Public Ministry purportedly communicates the result of this evaluation to the PPES, who in turn informs the IACHR. In this regard, the State indicated that the follow-up is not only carried out at the initiative of the beneficiaries, but that it could carry out ex officio registration through its entities and, if applicable, the monitoring of criminal complaints that could be generated. Referring to the risk levels of the beneficiaries, the State reported that on April 17, 2023, a meeting was held with the Intelligence Directorate of the Peruvian National Police, in order to consult whether there is any way to make feasible the request of the beneficiary José Domingo Pérez and his representation, it being to know the levels of risk that he and his family are at. The State indicated that such information is confidential, but that the Intelligence Directorate of the PNP communicated that it was possible to provide the required

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<sup>9</sup> He referred to the status of the cases of No. 20-2022 (pending), No. 776-2019 (with definitive file), No. 190-2021 (with definitive file), No. 153-2021 (with definitive file), No. 577-2021 (with definitive file), and No. 649-2021 (pending pronouncement).

information through a document of similar characteristics that does not violate the internal provisions. In this regard, the State submitted a report from the said entity regarding a risk assessment, dated April 2023.<sup>10</sup> It was indicated that the beneficiary is in charge of investigations in which senior public officials are involved. This, according to the information, could allegedly lead to potential risks against his physical integrity and family environment, and it was recommended to increase the beneficiary's security measures during the development of his daily activities, and the unexpected execution of police patrols at his home.

22. On the other hand, the State indicated that a number of investigations were declared to have been definitively closed.<sup>11</sup> The State reported that, on December 15, 2021, through Provision No. 1, the preliminary investigation into the facts related to the existence of various groups called "*La Resistencia*", "*La insurgencia*", "*Los combatientes*" and "*Los Patriotas*" [respectively "The Resistance", "The insurgency", "The combatants" and "The Patriots"], was opened. These groups allegedly harassed, coerced, intimidated and aggressed various authorities, including Prosecutor José Domingo Pérez Gómez and his wife. Moreover, the State referred to Prosecutorial Folder No. 15-2022, called the "*Resistencia*". The State indicated that the events were classified under Article 317 of the Criminal Code as a crime of Criminal Organization, which includes serious injuries, defamation, coercion, harassment, and riots. On another note, the State reported that on June 30, 2022, through Prosecutorial Provision No. 17, the Coordinator of the Central Unit for Protection and Assistance to Victims and Witnesses was notified, given that José Domingo Pérez Gómez and others were at risk. The proceedings carried out within the framework of Folder No. 15-2022 - *La Resistencia* case, were reported.<sup>12</sup> The State reported that on July 13, 2022, José Domingo Pérez Gómez<sup>13</sup> was incorporated as a beneficiary into the Victim and Witness Assistance Program of the Public Ministry through the District Unit for Protection and Assistance to Victims and Witnesses of the Specialized Prosecutor's Offices in Organized Crime

<sup>10</sup> The content of the aforementioned report is not detailed for the safety of the beneficiary and his family.

<sup>11</sup> The State indicated that Folder No.506-2023, by a press release linked to the beneficiary's wife, was filed as it was a crime against honor, in the modality of defamation, whose exercise is private and fully responds to the activity of the aggrieved party. In relation to Prosecutor's Folder No. 1218-2022, for the alleged crime against life, body and health in the form of Minor Injuries, to the detriment of José Domingo Pérez and Magaly Minelly Ponce de León Ecurra, the State reported that the Prosecutor resolved there is no place to formalize a criminal complaint given that the investigation would have become unfeasible and unsuccessful given the circumstances of the criminal acts and the time elapsed since the date on which the event occurred. It was indicated that on May 20, 2021, the fiscal provision of No Merit to formalize a complaint was declared firm and consented, archiving the case.

<sup>12</sup> It was indicated that on December 15, 2021, the opening of the preliminary investigation was arranged; on March 16, 2022, Fiscal Folder 50-2021 was accumulated to Fiscal Folder No. 15-2022; on June 30, 2022, it was arranged to officiate the Coordinator of the Central Unit for Protection and Assistance to Victims and Witnesses; on January 18, 2023, it was arranged to reiterate to the Head of the Department of Investigation Against Organized Crime- send a report on the Surveillance and Follow-up Operations (OVISES) made; on February 17, 2023, it was decided to extend the preliminary investigation period by 15 days; on March 2, 2023, it was decided that various information requests be made; on March 3 and April 5, respectively, the investigation was extended ex officio; and on April 11, 2023, it was decided, among others: i) to officiate at the Head of the Department of Investigation against Organized Crime (DEPINCCO) LIMA 01, in order to report the results of the investigative acts; ii) Inform the PNP La Huayrona-B Police Station, in order to formulate a comprehensive and/or detailed report regarding the actions and/or results of the investigative acts carried out by the respective instructor.

<sup>13</sup> In subsequent communication from the State, it was indicated as dated July 21, 2023.



(Unidad Distrital de Protección y Asistencia a Víctimas y Testigos de las Fiscalías Especializadas en Crimen Organizado, UDAVIT FECOR) through a Prosecutorial Provision issued by the Fourth Corporate Supraprovincial Prosecutor's Office Specialized in Organized Crime. Moreover, on April 10, 2023, the Miraflores PNP Police Station indicated that the domicile and office of the beneficiary were purportedly considered within the patrol roadmap. The State highlighted the independence and autonomy of the work carried out by each prosecutor's office within the Public Ministry. Furthermore, the State informed that there had been changes in the officials of the Public Ministry and the Peruvian National Police, providing the names of two liaison officials in these entities. Regarding the consultation spaces, the State indicated that, so far, no extraordinary meetings have been held, having only held ordinary meetings on July 30 and December 9, 2021, and on February 1 and June 6, 2022. The State sent information related to the disciplinary investigations regarding the beneficiary.<sup>14</sup>

23. On August 15, 2023, the State reported that, at the date of its communication, the protection remained in force. The State reported that the Social Conflict Division of the PNP General Advisory Command indicated that the risk assessment would be reported bimonthly. Concerning the investigations, the State reported that within the framework of prosecutorial folder 15-2022, coordination activities were allegedly carried out by the Fourth Corporate Supraprovincial Prosecutor's Office Specialized in Organized Crime - Second Office with the Investigation Department against Organized Crime – Team 01.
24. In relation to the protection measures, the State indicated that, according to Supreme Decree No. 04-2022-IN-Regulation of Security and Protection of Public Officials, dignitaries and public figures, the beneficiary is purportedly not entitled to any type of security. The State indicated that, in view of the activities carried out by the National Police at the request of the Public Ministry, he had allegedly been assigned an integral protection level, which is reportedly comparable to that assigned to heads of State. The State indicated that, on April 14, 2023, the Department of Protection of State Officials and Public Figures of the Dignitaries' Security Division of the State Security Directorate of the Peruvian National Police reported the number of agents assigned to each beneficiary according to the following detail:

Beneficiaries	No. of police officers assigned	No. of police officers per day	Method
José Domingo Pérez Gómez	8	4	24h x 24h
J.D.P.M.	2	1	24h x 24h
Residence	4	2	24h x 24h

<sup>14</sup> Within the framework of Case No. 649 it was reported that the complaint against the beneficiary was declared inadmissible, decision consented to with Resolution No. 607-2023 in February 2023. In another complaint signed with No. 20-2022 it was indicated that it was determined not to open the procedure.

25. On September 19, 2023, the State indicated that the beneficiaries benefit from resolutions implementing protection measures that are issued for a period of one year. The State indicated that, in the event that the beneficiary considers that such resolutions should be extended for the term of the precautionary measure, it is reportedly advisable to request it from the General Command of the Peruvian National Police. Furthermore, the State indicated that the protection measures will reportedly continue to be executed continuously while the Command's resolutions are renewed. On the other hand, the State indicated that the Department of Protection of State officials and public figures of the State Security Directorate of the Peruvian National Police requested the Police Region of Lima that the respective police stations consider the beneficiary's home and office in their roadmap the mobile and/or foot patrol service. Moreover, the State reported that the Miraflores Police Station indicated that it continuously carries out motorized and foot patrols in the vicinity of the home of José Domingo Pérez. In addition, this police station has been coordinating patrol service by convention (PNP-Sereno) to carry out patrols in the vicinity of the beneficiary's home. Furthermore, the State indicated that the Miraflores Police Station reported that it has not registered any event or circumstance of alteration or complaint presented by the beneficiary, neither did it register any type of intervention in the vicinity of prosecutor José Domingo Pérez's personal address.
26. The State reported that, on April 14, 2023, personnel from the beneficiary's security escort reported that a group of 30 people gathered in front of the building where the beneficiary works with banners bearing inscriptions such as "jail for these gangsters," "justice for Peru," "no to corruption", and that these people also carried megaphones. In this regard, the State indicated that the Department of Protection of State Officials and Public Figures of the State Security Directorate of the Peruvian National Police stated that it took security and protection measures regarding the beneficiary's escort in order to avoid any type of aggression against his life and physical and personal integrity.
27. In relation to the publication of the beneficiary's personal information on social networks, the State reported on the actions that can be initiated in response to the disclosure of the beneficiary's personal data.<sup>15</sup> The State referred to a disciplinary

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<sup>15</sup> The State submitted report No. 049-2023-JUS/DGTAIPD of August 25, 2023 issued by the General Directorate of Transparency, Access to Public Information and Protection of Personal Data of the Ministry of Justice and Human Rights in which it is indicated that, before the disclosure of personal data such as the photo of Mr. José Domingo Pérez, as well as his license plate through SUNARP's vehicular consultation without his consent through social networks, as they are acts of possible violation of the regulations on the protection of personal data, the Directorate of Inspection and Instruction, in the exercise of its powers, may investigate the dissemination or disclosure of the said personal information and, evaluate, ex officio, the relevance of initiating a sanctioning procedure against those who are responsible for the improper processing of Mr. José Domingo Pérez's personal data. The State reported that the beneficiary may file a request for guardianship with the owner of the data bank requesting the cancellation or opposition of their personal data contained in publications. Likewise, the State indicated that, given the denial of this request by the owner of the data bank, the beneficiary may appeal to the National Authority for the Protection of Personal Data to initiate a trilateral guardianship procedure to resolve the claim made, which could lead to precautionary measures or corrective measures. On the other hand, the State reported that the General Directorate of Transparency, Access to Public Information and Protection of Personal Data or DGTAIPD would transfer the information sent by the representation to the

procedure regarding the beneficiary, indicating that the National Control Authority of the Public Ministry reportedly has yet to issue a decision on the merits.

28. In relation to prosecutorial folder No. 15-2022,<sup>16</sup> the State reported on July 25, 2023, that the deadline of the preliminary investigation was extended by a term of 30 days. The State indicated that, at the end of that period, on August 24, 2023, the prosecutor's office in charge of the case would issue a pronouncement. The State specified that the Provincial Prosecutor in charge of the aforementioned investigation, having not received the results of the special investigation techniques and intelligence actions carried out, nor an analysis for each fact subject to investigation related to the actions of the group called "*La Resistencia*", ordered the enforcement of the warning decreed by Prosecutorial Provision No. 53 dated August 14, 2023, and send a copy of the proceedings to the General Inspectorate of the Peruvian National Police, in order to proceed in accordance with its powers.
29. The State recalled that the beneficiary was incorporated into the Victim and Witness Assistance Program of the Public Ministry. As part of the protection policy, monitoring and follow-up actions were arranged, after coordinating with the beneficiary, due to his performance as chief prosecutor in high-risk and large-scale cases. The State indicated that such monitoring is carried out through telephone calls, and visits to his workplace, and that legal, psychological, and social services are allegedly provided. In this regard, the State indicated that, on August 14, 2023, an interview was conducted with the beneficiary in which he allegedly indicated that he did not notice situations of risk and that he performs his duties without any hindrance. Moreover, the beneficiary allegedly indicated that he has been subjected to criticism, persecution campaigns, harassment, and the discrediting of the prosecutorial function, with the intent to criminalize the prosecutors of the *Lava Jato* Task Force in order to him from office. It was indicated that there is also a defamatory campaign in the press aimed at discrediting the prosecution's work, a situation that was brought to the attention of the Senior Prosecutor, Rafael Ernesto Vela Barba, as well as the Office of the Attorney General. In this regard, the State expressed that the beneficiary may activate the mechanisms provided for by domestic legislation in order to protect any damage done against his honor by requesting monetary compensation or a retraction.

## **B. Information provided by the representation**

- 2021

Directorate of Supervision and Instruction of the Ministry of Justice and Human Rights so that, in the exercise of its powers, it investigates the alleged spreading or dissemination of the beneficiary's personal information through social networks and evaluates ex officio the relevance of initiating a sanctioning administrative proceeding.

<sup>16</sup> The State indicated that this folder investigates the events that occurred on November 13 and 19, 2019, February 10, 2020, June 10, 2021, June 14, 2021, and January 13, 2022.

30. On August 24, 2021, the representation reported that a consultation meeting had been held on July 30, 2021, in which the strengthening of the protection measures in favor of the beneficiaries was allegedly requested. Furthermore, the representation indicated that the proposals made were sent to the State in writing on August 2, 2021. The representation indicated that in the first days of August, the beneficiary allegedly received, from the protection personnel, the verbal communication that the Head of the Police Protection Division was seeking to hold a meeting on the police protection of his family. After that, on August 6, the beneficiary allegedly received an official letter indicating the reactivation of the police service in favor of his wife and son. Concerning the investigations, the representation reported that on August 4, 2021, the beneficiary was notified by provision No. 01-2021-MPFN-4D-1FCMSS, that the investigation regarding the sit-in of June 11, 2021, in front of his home was referred to a Prosecutor's Office for Violence Against Women and not for organized crime, it being considered that the facts involved a woman. Moreover, the representation reported that, on August 26, 2021, the Criminal Prosecutor's Office investigating the acts of harassment reportedly summoned the beneficiaries to testify. The representation indicated that prosecutor Domingo Pérez would leave the country while in the exercise of his functions, not knowing if protection measures for his family unit would be implemented in his absence.
31. On September 29, 2021, the representation argued that little progress had been made in the protection of the beneficiaries and that the State purportedly limited its action to the submission of reports, without establishing fluid channels of communication with beneficiaries and representatives. In this sense, the representation required that there be greater initiative in consultation, the assignment of a liaison person who can respond urgently and in real time to new serious events, and the forwarding of the IACHR reports directly to the representatives and beneficiaries, opening a simplified communication channel that does not go through the system of the Ministry of Justice.<sup>17</sup> The representation reported that, at the time of their communication, only the accompaniment for the prosecutor's son had been implemented and that the liaisons assigned to the beneficiary were low-ranking officers, without the power to make decisions. The representation indicated that the beneficiary allegedly did not have information prior to the assignment of protection personnel. In this regard, it was pointed out that only the internal file of each agent was shared with [the beneficiaries], reportedly not allowing them to know [the agents'] work history, which could purportedly have been a risk factor in this case, since they had been escorted by people previously investigated by the beneficiary. In relation to the investigations, the representation indicated that logical lines of investigation related to the prosecutorial activity of the beneficiary would allegedly not be followed. In that sense, the

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<sup>17</sup> The representation indicated that the system of the Ministry of Justice requires entering a website and downloading the document and, likewise, requires entering any communication to the State. It was also pointed out that access to the said website would not be available if it was entered from outside Peru.

representation pointed out that the situation in which the prosecutor found the door of his house open with the lock removed was qualified by the State as attempted theft, while the sit-in outside his house was first assigned to the Prosecutor's Office of violence against women since there was a woman inside his house, only to then be assigned again in consultation with the Superior Criminal Prosecutor of the First Corporate Criminal Prosecutor's Office of Miraflores-Surquillo-San Borja.

32. On November 19, 2021, the representation presented information regarding two situations that occurred on November 12, 2021. First, reference was made to the loitering of Keiko Fujimori's lawyer, who was investigated by the prosecutor, outside the beneficiaries' private residence. Second, a new smear campaign against the prosecutor on social media was described. It happened in the wake of an incident that occurred at a hearing that same day with Keiko Fujimori's lawyer. The representation indicated that, in the media and social networks, the insults and attacks were immediately reactivated where he is branded as a "*senderista*" [in Peru, this insult refers to the Peruvian political party and terrorist group named "*Sendero Luminoso*" by accusing the insulted person of supporting them], "*terrucos*" [in Spanish, this term is used to refer to terrorists] "admirer", "crazy", "delinquent", "serial harasser", "sick", among others. Furthermore, calls were reportedly made to investigate the beneficiary alleging, among other things, that he is not suitable for the position, and "that it cannot be denied that he has abused a woman."

- **2022**

33. On August 23, 2022, the representation indicated that they were still unaware of the risk analysis carried out on the beneficiary. The representation indicated that, since the beneficiary Vanessa Aydee Medina Muñoz was not commuting to work daily, the suspension of police protection was requested until further notice.<sup>18</sup> In relation to the investigations, the representation indicated that, despite the absence of a final pronouncement by a competent judge or prosecutor, the State allegedly maintains that the risk events that concern the beneficiaries do not constitute the elements required by domestic regulations to be investigated by a Specialized Prosecutor's Office against Organized Crime. The representation pointed out that the investigative method addressed by the Public Ministry has not shown conclusive results that have put an end to the victimizing events to which the beneficiaries are constantly subjected. The representation indicated that, on the contrary, the beneficiary José Domingo Pérez Gómez was invited to continue reporting all the events that he considers a crime, providing concrete facts and evidence that allow the State to duly monitor [the situation].

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<sup>18</sup> In this regard, the representation indicated that, in relation to the beneficiary, the removal of her protection scheme was requested in the face of the tangible ignorance of the risk she faces and the people who allegedly provide her with protection. Likewise, the representation indicated that this was due to the social and cultural implications that traveling with an escort would entail, the fear that personal matters would be leaked to the media, or that her personal information would be misused.

34. The representation reported that, during the first quarter of 2022, the beneficiary allegedly informed his Coordinating Prosecutor, Rafael Vela Barba, of new acts of harassment, *doxing* and defamatory campaigns against him and his family:

- On January 13, 2022, the beneficiary informed his Coordinating Prosecutor about the assessment of a then Magistrate of the Constitutional Court in a sentence, where he insinuated that the suicide of former President Alan García was motivated by the investigation [the beneficiary] was carrying out at that time within the corruption case of the Odebrecht company. The beneficiary indicated that after this assessment, the hate campaign on social networks and in the media reportedly increased.
- By means of official letter 688 of March 10, 2022, the beneficiary reported that some WhatsApp chats were published through a media outlet report, with which they pretended to falsely attribute him to have compromising conversations with a Senior Prosecutor.
- On March 22, 2022, the beneficiary informed his Coordinating Prosecutor of new acts of persecution and harassment on social media after the Fuerza Popular political party's candidate for congress published on his social media the summons made by the Prosecutor's Office to give his testimony in the development of the criminal complaint that is being filed for the crime of harassment, where the aggrieved is José Domingo Pérez.
- On April 1, 2022, unidentified individuals forcibly entered the beneficiary's home and took a computer owned by the Public Ministry that contained information from the investigation against Keiko Fujimori. Moreover, it was reported that he received violent text messages to his institutional cell phone.
- On May 30, 2022, the beneficiary reported that a media outlet published a note entitled "Manure Factory", in which it noticed a possible organization dedicated to producing false conversations, to discredit the prosecutors of the *Lava Jato* Task Force. The representation indicated that the complaint in this regard was filed.

35. The representation reported that, on July 7, 2022, the newspaper *Expresso* published a note entitled "Wife of Domingo Pérez wants to supervise contracts", referring to Vanessa Medina's intention to apply to a public tender. In this regard, the representation indicated that these are allegedly false statements that are part of the hate campaign against the beneficiaries and the publishing of their personal information. The representation reported that the beneficiary received a visit from officials of the Public Ministry's Victims and Witnesses Assistance Program – UDAVIT, in which they indicated that, special protection had been ordered in the course of the investigation being carried out against the group "*La Resistencia*" and others. Because of that, it was necessary to submit him to psychological and sociological tests, which were carried out on the day of the visit. Given this, the representation indicated that the beneficiary informed them that he has police protection measures and requested a copy of the resolution ordering that protection, which the officials refused, arguing that it was confidential. Furthermore, the representation indicated that this was also proposed to Vanessa Medina Muñoz, who decided not to undergo the evaluation because she felt exhausted given the ineffectiveness of state measures for greater protection.

- **2023**

36. On May 11, 2023, the representation indicated that the resolution giving rise to protective measures purportedly has a validity period that expires on December 31, 2022. However, the measures allegedly remained in force thereafter. The representation reported that meetings were held on February 1 and June 1, 2022, so



they were reportedly awaiting the calls for the September and December 2022 meeting.

37. The representation indicated that the social media stigmatization campaign against the beneficiary allegedly continued. It was reported that the social media posts purportedly accused the beneficiary of being “*rojo*” [in Spanish, to be red means to be a communist], a “*caviar*” [in Spanish, this expression is used to refer to those who proclaim to have leftist convictions while living an luxurious life], “corrupt”, “*vividor*” [in Spanish, this expression is used to refer to people who live at the expense of others], a “scammer”, “*senderista*”, “faggot”, “filthy rat”, “mythomaniac” and are reportedly asking to put him “behind bars”, among other insults. Moreover, the representation stressed that these messages had also been addressed to his wife. The representation reported that, in addition to social media posts, videos attacking the beneficiary were also circulating. As an example, the representation referred to the video broadcast on a television program on April 18, 2023, in which the announcer allegedly stated: “What a coward, what a thousand times a coward is José Domingo Pérez who, having been the anti-corruption herald, the superhero of the *Lava Jato* case, did not even have the guts to go personally to arrest President García (...)”. The representation indicated that these types of messages and harassment had reportedly increased due to the release of the last months of former President Alan García’s life and the causes of his death were reportedly analyzed. The representation pointed out that there the prosecutor Domingo Pérez is accused of being responsible for the suicide of Alan García. On the other hand, the representation reported that the beneficiary had acquired greater public visibility with the extradition to Peru of former President Alejandro Toledo. The representation indicated that, on April 26, 2023, a group of people belonging to the self-proclaimed “*La Resistencia*” group, reportedly went to the headquarters and building where the offices of the *Lava Jato* Special Prosecutors Team are located and where the beneficiary works, carrying posters, uttering intimidating insults and, allegedly, inciting hatred and violence.
38. The representation reported that, on May 2, 2023, the National Control Authority of the Public Ministry opened a preliminary investigation against the beneficiary for statements he issued to the press about the public event of the extradition of former President Alejandro Toledo.
39. On July 24, 2023, the representation reported that, on June 12, 2023, public media outlets initiated a disinformation campaign accusing the beneficiary of having acquired a high-priced vehicle. Subsequently, in social media posts, users shared the beneficiary’s license plate, color, make, and car model. In this regard, the representation indicated that this information, by disseminating the license plates of the vehicle of prosecutor Domingo Pérez, could reportedly make it easier for third parties to identify and locate his vehicle and could lead to attacks against the beneficiary’s life and integrity. Furthermore, the representation alleged that, both through written media and social media, false information was purportedly

disseminated regarding the beneficiary's salary and indicating that he had large amounts of money, which reportedly exposes him to common crime.

40. In relation to the investigations, the representation indicated that the risk events that led to the adoption of these precautionary measures allegedly remain in a situation of impunity. In this regard, it was reported that the complaint filed by prosecutor Domingo Pérez for the publication of false news against him was closed by order of April 14, 2023. The representation reported that prosecutor José Domingo Pérez has informed his Coordinating Prosecutor, Rafael Vela Barba, about new disciplinary procedures and acts of persecution and defamatory campaigns against him and his family. The representation indicated that, in turn, Prosecutor Vela Barba has systematically and periodically transferred the information to the competent higher authorities.

#### **IV. APPLICATION FOR EXTENSION IN FAVOR OF PROSECUTOR RAFAEL VELA BARBA AND FAMILY UNIT**

##### **A. Application submitted by the representation**

41. On July 24, 2023, the representation requested the extension of the precautionary measures in relation to the prosecutor Rafael Vela Barba and his family unit. The representation reported that prosecutor Vela Barba is married to C.V.R., with whom he has two children, F.V.V., ten years old and I.V.V., eleven years old. From August 2018 to date, in addition to his duties as Prosecutor Coordinator of Money Laundering, he also serves as Senior Prosecutor Chief Coordinator of the Special Team of Prosecutors in the "*Lava Jato*" case, that is, he supervises the work of the beneficiary José Domingo Pérez and other prosecutors, and defends before the second jurisdictional instance of the cases, the position and prosecutorial work of the investigation processes developed by the prosecutors under his coordination.<sup>19</sup>

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<sup>19</sup> He reportedly entered the judicial career in 2002 as a Criminal Judge of first instance in the District of Lima. The representation pointed out that throughout his professional career Mr. Vela Barba has been linked to multiple of the most important anti-corruption processes in Peru. In 2005, he was appointed Special Criminal Judge for cases arising from crimes committed during the government of former President Alberto Fujimori and his advisor Vladimiro Montesinos. Subsequently, in 2011, he was appointed Magistrate Coordinator of the process of implementation of the Code of Criminal Procedure in the anti-corruption system in Lima, being promoted as Senior Judge of the National Anti-Corruption Appeals Chamber until 2013. In that year, the proposed beneficiary resigned from the Judiciary after being appointed Senior Prosecutor in the Public Prosecutor's Office, where he has served as Senior Anti-Corruption Prosecutor, Senior National Coordinator of the Prosecutor's Offices against Organized Crime and from 2015 to date as Senior National Coordinator of the Anti-Money Laundering and Domain Extinction System. Likewise, the representation indicated that, in accordance with his role and legal obligations, the proposed beneficiary testifies before the International Center for the Settlement of Investment Disputes (ICSID) and before the Permanent Court of Arbitration of the United Nations in the arbitration proceedings filed against the Peruvian State or by it in economic conflicts between investors and States or in State-State disputes. The representation reported that within the framework of these functions, Mr. Vela Barba presents information on the Peruvian State's concession contracts to companies investigated for corruption and laundering crimes in the processes under his charge. In this regard, it was indicated that Mr. Vela Barba have allegedly been a witness in the proceedings of the "yellow line" case of the municipality of metropolitan Lima in 2021; the "Lima route" case in 2022; the "southern gas pipeline - GSP" case in 2022; and the Odebrecht case in 2024.

42. The representation reported that, in December 2016, the Special Team of Prosecutors specialized in investigations related to corruption crimes was created. It is in charge of investigations related to acts of corruption carried out by the Brazilian company Odebrecht and other construction companies in the same country, for being favored in various public works tenders in Peru. The representation indicated that the team that Prosecutor José Domingo Pérez and Coordinating Prosecutor Rafael Vela Barba are part of, is in charge of the investigation, accusation, and litigation of the various corruption crimes in the framework of the *Lava Jato* investigation. Odebrecht operators also confirmed the financing of the presidential campaigns of Keiko Fujimori, Alan García, Alejandro Toledo, Pedro Pablo Kuczynski, and Lourdes Flores Nano. Thus, there have been investigations against these former presidents and presidential candidates since then.<sup>20</sup>
43. The representation reported that prosecutor Vela Barba and his family have been subject to acts of harassment since **2018**, a period that corresponds to his first years in the role of Coordinating Prosecutor of the Money Laundering and Domain Extinction Prosecutor's Office:
- On February 28, 2018, Coordinating Prosecutor Rafael Vela Barba and Prosecutor José Domingo Pérez were in Brazil taking statements in the framework of the *Lava Jato* case. While there, he became aware of an extremely serious fact, a journalist informed him that they had reportedly been followed in the framework of the *Lava Jato* case;
  - In October 2018, both Prosecutor José Domingo Pérez and Coordinating Prosecutor Rafael Vela Barba began to receive an increase in attacks as a result of the formalization of the preparatory investigation against Keiko Fujimori and the request for her preventive detention. That month an attempt was made to enter the home of the prosecutor José Domingo Pérez.
  - During 2019, the *Lava Jato* Team, part of the Money Laundering Prosecutor's Office coordinated by Prosecutor Vela Barba, also suffered an escalation of persecution, harassment, incitement to violence, and defamation by certain groups such as the one called "*La Resistencia*". On November 13, 2019, the said group was reportedly present outside the prosecutor's workplace. The representation indicated that one of the members of this group was allegedly registered in the database of complaints for the crime of aggravated homicide.
44. The representation pointed out that, since the beginning of **2023**, Prosecutor José Domingo Pérez and Coordinating Prosecutor Vela Barba have been supporting and defending the accusations of the *Lava Jato* Team before the different courts of the Superior National Court of Specialized Justice, which reportedly led to an accelerated increase in the risk events against them:

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<sup>20</sup> In that sense, the representation referred to the state of the processes of former President Alejandro Toledo, former President Pedro Pablo Kuczynski, Keiko Fujimori and 40 people including the Popular Force Party, and current President Dina Ercilia Boluarte Zegarra and others, or the folder followed against former Governor Vladimir Cerrón Rojas, the Free Peru Party.

- On April 26, 2023, alleged members of “*La Resistencia*” went to the main headquarters of the Public Ministry shouting offensive slogans with large dolls bearing the faces of both prosecutors, which were later burned;
  - On May 5, 2023, the “*La Resistencia*” group went to the former home of prosecutor Vela Barba with banners and megaphones. As soon as they were informed that the Prosecutor no longer lived in that address, they withdrew;
  - In May 2023, prosecutor Vela Barba was the subject of attacks by unknown people in public spaces, who, upon seeing him uttered all kinds of insults and made him fear physical aggression and that more people would join the attacks against him. The events purportedly took place in two supermarkets in Lima. The representation indicated that among the shouts against prosecutor Vela Barba, some allegedly stated “you have destroyed the country by doing politics.” In this regard, the representation pointed out that both prosecutors are falsely identified as a problem, not only by a certain group of people but by any bystander, due to the impact of disinformation and smear campaigns against them;
  - On June 4, 2023, Prosecutor Vela Barba was in line at a commercial store in the United States when two people who identified him reportedly accused him of being “garbage”, “scoundrel”, “thief”, “destroy everything in the country”, “nice work you have done”, “you should go to jail”, among other insults.
45. According to the representation the campaigns of certain media outlets to discredit the work of prosecutor Vela Barba and Domingo Pérez are allegedly recurrent. The representation emphasized that such events have intensified since the end of May 2023, coinciding with progress in the investigations. In this sense, the media reportedly accused both prosecutors of failing to tell the truth in the framework of the investigations and were celebrating the opening of disciplinary investigations against them. The representation reported that, on May 5, 2023, information was published indicating the opening of an investigation against one of the owners of these media outlets, and, on the same day, the group “*La Resistencia*” appeared at the residence of the prosecutor Vela Barba. The representation indicated that prosecutor Vela Barba has already been incorporated into the circle of violence of “*La Resistencia*”, which allegedly generated fear of leaving work and exposing himself to aggression. The representation alleged that the campaigns initiated in the media are being replicated on social media, where both prosecutors are reportedly accused of being “corrupt”, “criminals”, “*terrucos*”, “*caviares*” and “traitors to the homeland”, among other insults, making calls to “send them to jail”, “unravel them”, “destroy them” or “disqualify them”. The representation stated that it is expected that these risks will continue to increase and reach a peak in the coming weeks because both prosecutors will have to support the accusation of the so-called “Cocktails” case before the Judiciary.
46. The representation indicated that the threats, persecution, and disinformation campaigns against both prosecutors are not being countered by a public discourse that supports their work and condemns the attacks against them. In this regard, the

representation pointed out that both officials exercise their freedom of expression as the only way to protect their rights to life and integrity. Thereby, the prosecutors went to the media to report to the public on non-confidential topics of the investigations carried out to defend themselves from the attacks and campaigns against them. The representation indicated that this self-protection strategy was purportedly restricted through the opening of disciplinary processes. In that sense, on May 9, 2023, a disciplinary investigation was opened for the comments issued by prosecutor Vela Barba and prosecutor José Domingo Pérez in the media. On June 22, 2023, the National Control Authority of the Public Ministry opened an investigation against prosecutor Vela Barba. The representation reported that a disciplinary investigation was opened regarding prosecutor Vela Barba in parallel to moments of activity of the trial of a former presidential candidate, even though the events allegedly took place three years earlier.

47. The representation reported that, on June 12, 2023, prosecutor Vela Barba became aware of the existence of a criminal complaint for the crime of money laundering and abuse of authority, which was filed on July 7, 2023. The representation indicated that this complaint contained multiple irregularities, so it could have been filed to intimidate the integrity and independent exercise of the proposed beneficiary's prosecutorial function.
48. The representation reported that, on July 4, 2023, the National Board of Justice was informed of the smear campaigns and disciplinary proceedings initiated against prosecutor Vela Barba. Furthermore, the Office of the Attorney General was informed about the disciplinary and criminal investigations against prosecutor Domingo Pérez and Vela Barba, obtaining as a response from the Secretariat of the Office of the Attorney General that the National Control Authority of the Public Ministry has administrative, functional and economic autonomy.
49. The representation indicated that while prosecutor Vela Barba has a police escort, his family does not have any police escort. Given the past events, the proposed beneficiary requested the reinforcement of his protection and the protection of his family from the Peruvian National Police in May. The representation indicated that their request was denied, by an official letter of July 12, 2023, indicating "not having accredited the instrumental objective evidence of the threat or risk that endangers their personal integrity."
50. The representation reported on August 22, 2023, that the escort service of Rafael Ernesto Vela Barba informed that the proposed beneficiary "has been monitored by different unknown persons [...], who are reportedly aware of his different movements within the city, consequently, it is possible that his physical safety is at imminent risk." Moreover, the member of the assigned security command indicated that "he ordered that the security and personal protection measures of the aforementioned Prosecutor be increased."

51. On September 26, 2023, the representation reported that on September 23, 2023, Rafael Vela and his wife were allegedly assaulted by two subjects at commercial premises in Lima. The representation indicated that these subjects also reportedly aggrieved the wife of the proposed beneficiary, in response to which the police guard purportedly proceeded to remove them from the place. A report by the police assigned as security of the proposed beneficiary was filed, indicating that one of the people “repeatedly shouted DR. VELA ALL LOOSE, ALL FREE VELA in an exalted way, followed by recriminatory and insulting words.” The report adds that “other people attending the shopping center filmed and photographed these events, consequently, it was decided to lead [the proposed beneficiaries] to their vehicle and remove them from the place, in order to bring them to safety”.
52. On October 6, 2023, a decision was reported by the National Control Authority of the Public Ministry that provided for the suspension of Prosecutor Rafael Vela Barba, which resulted in the withdrawal of the protection that he had in his capacity as Prosecutor. On October 5, 2023, the new senior prosecutor in charge of the National Control Authority, decided, through an expedited process, on the “suspension without pay and temporary removal from office” of the Senior Prosecutor and Vela Barba Coordinator for 8 months and 15 days in total.<sup>21</sup> They consider that the disciplinary procedure constitutes one more strategy of intimidation to the proposed beneficiary’s prosecutorial work. They warn that it coincides with the date on which the trial of Keiko Fujimori was about to begin the oral stage and consider that it could be associated with intimidation of the prosecutors’ work precisely at a crucial moment in the progress of the “Cocktails” case.

## **B. Response from the State**

53. In relation to the request for the extension of the present precautionary measures, the State indicated that only the proposed beneficiary Rafael Ernesto Vela Barba presented his consent to be a beneficiary, so neither the consent of the “wife” of the proposed beneficiary nor documents proving the representation and/or paternal-filial relationship with F.V.V. and I.C.V.V. could be observed. The State indicated that the proposed beneficiary is not in a similar or identical situation to that of José Domingo

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<sup>21</sup> One of these investigations was opened by the National Control Authority of the Public Prosecutor’s Office against Prosecutor Vela Barba on June 22, 2023, it is attributed to him “for having issued improper and manifestly offensive expressions against the aforementioned judge [Sonia Bienvenida Torre Muñoz] and the other members of the Colegio Superior”. Specifically, in an interview on May 1, 2020, he stated “that they could not attend their work center, to access the tax folder.” He is also being investigated for what he said in an interview in May 2020, in which he referred to the case of Keiko Fujimori. In relation to this investigation, on October 5, 2023, the Disciplinary Procedure Commission by Resolution No. 007-2023-ANC-CPD determined to declare the functional complaints followed against Rafael Ernesto Vela Barba in his performance as senior prosecutor coordinator of the Special Crime Team of Money Laundering and Loss of Domain. In particular, Prosecutor Vela Barba was convicted for i) having issued improper expressions under his charge that failed to “preserve the prestige of the institution, that is, of the Public Prosecutor’s Office”; ii) having commented through any means of communication on procedural or substantive aspects of an investigation in progress, and iii) interfering in the exercise of functions of the other organs of the State, its agents or representatives or allowing the interference of any agency, institution or person that attacks the prosecutor’s body or the prosecutor’s function.



Pérez Gómez. According to the State, the role of senior prosecutor does not imply assuming the same criteria in criminal investigations *per se*, since each prosecutor reportedly acts independently in the exercise of their functions. The State indicated that the existing subjection is allegedly of an administrative nature, but not necessarily about how to carry out the investigations.

54. Regarding the risk events reported by the representation, the State indicated that, although they could merit protection actions, it did not indicate the internal mechanisms activated or the reasons why the disciplinary investigations were purportedly contrary to the ACHR. In this regard, the State expressed that the representation has not activated the internal mechanisms in favor of the proposed beneficiary, such as criminal or administrative complaints, amparo, appeal and other similar mechanisms that allow the State to guarantee the rights of the proposed beneficiary. On the other hand, the State indicated that the information provided by the representatives of the proposed beneficiary is not sufficient for the adoption of precautionary measures. Similarly, the State maintained that by generically pointing out that events affecting the proposed beneficiary occurred since 2018, without indicating every one of them, it is reportedly impossible to verify the veracity of that assertion. This allegedly means that evidence to assess the severity of the situation has not been adequately presented. In relation to the facts indicated by the representation, which occurred in a commercial premise in the United States on June 4, 2023, the State indicated that the IACHR cannot take into account the statements of the representatives that do not allow an examination or questioning by the State due to the lack of identification of the aggressor, the shopping center and the actions taken by the proposed beneficiary in relation to the facts. On the other hand, the State questioned whether the investigations against the proposed beneficiary can be analyzed within the framework of the precautionary measures procedure given that there is no risk of an irreparable nature.
55. In relation to the urgency regarding the situation of the proposed beneficiary, the State indicated that his situation is not urgent since it has been alleged since at least the beginning of 2023, in addition to not posing a high degree of imminent threat that requires an immediate response through an extension of precautionary measures. In relation to the irreparability that the facts exposed by the representation could generate, the State indicated that, since the requirement of seriousness or imminence was not established, this requirement was reportedly not established either.
56. On September 19, 2023, the State reported that through Report No. 282-2023-DIRNOS-DIRSEEST PNP-DIVPRODIGDEPPFEP of August 13, 2023, the Department of Protection of State Officials and Public Figures of the Directorate of State Security of the Peruvian National Police indicated that Mr. Rafael Vela Barba is not entitled “*ex officio*” to security and personal protection services. The State indicated that, however, through General Command Resolution N of February 16, 2023, the Division of Dignitary Protection through the Department of Protection of State Officials and Public Figures has been granting the security and personal protection service to Mr. Rafael

Vela Barba at Level III, Sublevel III-D, with four non-commissioned officers at the rate of two police officers per day 24 hours around the clock.

57. On the other hand, in relation to the disclosure of the names and surnames of the proposed beneficiary, the State indicated that, like José Domingo Pérez, Rafael Vela Barba can initiate a request for custody to the owner of the data bank or those responsible for its processing (social media), opposing the processing of his personal data correspondingly. In that case, he can evaluate the existence of well-founded and legitimate reasons related to his specific situation in order to obtain the cessation of improper processing of his personal data, which involves acts of *doxing*, persecution or harassment in social media suffered by him and his family. The State indicated that, if the response is unsatisfactory, a trilateral procedure may be initiated before the General Directorate of Transparency, Access to Public Information and Protection of Personal Data (*Dirección General de Transparencia, Acceso a la Información Pública y Protección de Datos Personales*, DGTAIPD), and precautionary or corrective measures may be issued at any stage of the trilateral procedure, for the affectation of his rights in order to eliminate, avoid or stop the improper processing of his personal data. Furthermore, the State indicated that the DGTAIPD will transfer the information sent by the Supranational Specialized Public Prosecutor's Office to the Directorate of Inspection and Instruction (*Dirección de Fiscalización e Instrucción*, DFI) of the Ministry of Justice and Human Rights to investigate the alleged dissemination or disclosure of the proposed beneficiary's personal information through social media and evaluate ex officio the relevance of initiating a sanctioning administrative procedure against those responsible for improper processing of the personal data of the proposed beneficiary.
58. With respect to the ongoing investigations regarding the proposed beneficiary, the State reported that the Supreme Prosecutor's Office Specialized in Crimes Committed by Public Officials decided not to formalize a criminal complaint against the proposed beneficiary on July 7, 2023, which was declared consensual on August 15, 2023. Likewise, the State reported that the Directorate of Disciplinary Proceedings of Judges and Prosecutors of the National Board of Justice indicated that on July 4, 2023, it received the proposed beneficiary's complaint for misconduct of lawyers Javier Gonzales Luna García and Liliana del Carmen Castillo Carrasco, prosecutors of the National Control Authority of the Public Ministry and Deputy Supreme Prosecutor Miguel Ángel Vargas Vaccaro, in charge of the Supreme Prosecutor's Office Specialized in Crimes Committed against Public Officials. On the other hand, the State indicated that the proposed beneficiary informed that Deputy Supreme Prosecutor Miguel Ángel Vegas Vaccaro, in charge of the Supreme Prosecutor's Office Specialized in Crimes Committed by Public Officials, ordered not to formalize and continue with the preparatory investigation against him in case No. 383-2023. Likewise, the State indicated that on July 14, 2023, the proposed beneficiary informed the National Board of Justice of an interview on July 13, 2023 of the Head of the National Control Authority of the Public Ministry in a media outlet in which the principle of impartiality of the disciplinary procedure was allegedly violated. In this regard, the State reported

that the Directorate of Disciplinary Proceedings of Judges and Prosecutors of the National Board of Justice indicated that complaint 824-2023-JNJ was formed, still pending at the time of communication. The State stated that the criminal and disciplinary proceedings regarding the proposed beneficiary have been filed or processed regularly, so they could not be taken into account to analyze an alleged serious situation placing the proposed beneficiary and his family at risk.

## **V. ANALYSIS OF THE REQUIREMENTS OF URGENCY, SERIOUSNESS, AND IRREPARABLE HARM**

59. 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.
60. 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.<sup>22</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>23</sup> 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<sup>24</sup>. Regarding the 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

22 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 July 6, 2009, considerandum 16.

23 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 Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court 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.

24 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 Court 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.

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.

61. 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 maintain, modify or lift the precautionary measures in force. In this regard, the Commission should assess if the situation severity and urgency and the possibility of irreparable harm that caused the adoption of the precautionary measures persists yet. Moreover, the Commission shall consider whether 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. Through Resolution 2/2020 of April 15, 2020, the IACHR ruled on the possibility of issuing Follow-up Resolutions.
62. The Commission recalls that, in this proceeding, it is not called upon to analyze alleged human rights violations in light of the American Convention and the applicable standards. Nor, by its own mandate, does it correspond to the Commission to individualize the criminal responsibility of specific persons in light of the alleged facts. The Commission establishes that the analysis it will carry out below focuses exclusively on the requirements established in Article 25 of its Rules of Procedure, which can be done without making any determinations on the merits
63. On this occasion, the Commission decides to address two requests submitted by the parties. First, the Commission proceeds to follow-up the situation of José Domingo Pérez and his family unit, considering the nature of the information presented. The IACHR will address the issues that have arisen during the term of the precautionary measures with a view to promoting their implementation. Second, the Commission rules on the request for extension of precautionary measures filed in favor of

Prosecutor Rafael Ernesto Vela Barba and his family unit. Finally, the Commission presents its decision in the present case.

64. When analyzing the situation, the Commission considers it relevant to understand the alleged facts in the context in which they occur. The Commission has been monitoring the situation of justice operators in the fight against corruption in Peru, as well as the guarantees they reportedly have to carry out their work in the country. The Commission recalls that, when assessing a situation presenting a risk, the Inter-American Court has indicated that “it is possible to assess the set of political, historical, cultural factors or circumstances, or those of any other nature, which affect the proposed beneficiary or place him or her in a situation of vulnerability at a particular time and expose him or her to violations of his or her rights,” being that “[t]his situation may increase or decrease over time depending on innumerable variables<sup>25</sup>.”
65. In 2019, the Commission highlighted that the National Institute of Statistics and Informatics of Peru identified corruption as “the main problem of the country<sup>26</sup>.” That same year, the Commission observed that the situation of corruption had generated a crisis in the Peruvian Judiciary as well as in their democratic institutions<sup>27</sup>. The Commission also noted with concern the possible impairment of the guarantee of independence of the Public Ministry in the face of proceedings initiated against prosecutors investigating corruption cases involving high-ranking authorities and former authorities, and the subsequent dismissal of their positions<sup>28</sup>. The Commission warned that such measures allegedly hinder the development of a prompt, serious, diligent and transparent investigation to determine the possible commission of crimes, as well as to judge and punish those responsible.<sup>29</sup> The IACHR noted the reinstatement of the prosecutors who had been dismissed,<sup>30</sup> referring to the current beneficiary, prosecutor José Domingo Pérez, and the proposed beneficiary, prosecutor Rafael Vela.
66. In 2021, the Commission observed that there were several challenges that reportedly prevented the independent exercise of justice operators in the country.<sup>31</sup> As the Commission warned in its 2023 Country Report, after the general elections that took place in 2021, unproven accusations of electoral fraud and incessant confrontations between public authorities were observed, which deepened citizen distrust in institutions and increased the polarization of the country<sup>32</sup>. The Commission noted

<sup>25</sup> See, for instance: I/A Court H.R. Case of Carpio Nicolle. Provisional measures regarding Guatemala. Order of the Court of July 6, 2009, considerandum 26, and Matter of Members of the Nicaraguan Center for Human Rights (CENIDH) and the Permanent Commission on Human Rights (CPDH) regarding Nicaragua. Adoption of Urgent Provisional Measures. Order of the President of the Inter-American Court of Human Rights on July 12, 2019, considerandum 42.

<sup>26</sup> IACHR, Annual Report 2019, Chapter IV. A. Human rights development in the region, para. 488 <https://www.oas.org/en/cidh/docs/annual/2019/docs/IA2019cap4A-en.pdf>

<sup>27</sup> Ibid., para. 500.

<sup>28</sup> Ibid., para. 501.

<sup>29</sup> Ibid.

<sup>30</sup> Ibid.

<sup>31</sup> IACHR. 2021 Annual Report. [Chapter IV. A. Human rights development in the region](#), para. 808.

<sup>32</sup> IACHR. [Human Rights Situation in Peru in the Context of Social Protests](#). OAS/Ser.L/V/II. Doc. 57/23. April 23, 2023, para. 52.



that this situation has been prolonged over time, leading to the adoption of decisions and bills that weaken the Peruvian system of checks and balances, deepening the distrust of citizens in public institutions.<sup>33</sup>

67. The IACHR also recalls that, in May 2022, its Special Rapporteurship for Freedom of Expression carried out a working visit in Peru. In its preliminary observations report, the Office of the Rapporteur highlighted that “it has seen with particular concern the consistent reports received reporting acts of harassment and threats carried out by groups identified as ‘La Resistencia’”.<sup>34</sup> In 2023, the IACHR expressed its concern about the consequences derived from the use of certain legal figures against justice operators in Peru, with the weakening that this implies for judicial independence.<sup>35</sup>
68. Likewise, the Commission observes that, pronouncements have been issued from the United Nations, calling for the protection of justice operators in Peru. On January 25, 2023, within the framework of the Universal Periodic Review of Peru at the United Nations Human Rights Council, threats and intimidation received by judges and prosecutors that affected the justice system were reported. Peru was also recommended to guarantee the principle of judicial and fiscal independence and to ensure safe environments for the conduct of impartial investigations and judicial decisions free from external and internal pressures.<sup>36</sup>
69. On March 24, 2023, the United Nations Human Rights Committee noted with concern that the ambiguity of the legislation encourages the so-called “*terruqueo*”, a practice that consists of associating people who exercise their rights to protest, expression, thought, assembly and political participation with behaviors or ideas related to terrorism, in order to invalidate their speech.<sup>37</sup> In this regard, the Committee indicated that the State must take measures to fight against stigmatization, dehumanization and prejudice towards protesters, social leaders and political opponents, or even judicial operators, and put an end to the “*terruqueo*”.<sup>38</sup> In this regard, the Commission has indicated, in its 2023 Country Report, that the term “*terruqueo*” seeks to associate people with terrorist activities.<sup>39</sup> As the Commission indicated, that qualification revives a recent past of armed conflict that has not found sufficient reconciliation

<sup>33</sup> IACHR. Human Rights Situation in Peru in the Context of Social Protests. OAS/Ser.L/V/II. Doc. 57/23. April 23, 2023, para. 57.

<sup>34</sup> IACHR. The Office of the Special Rapporteur for Freedom of Expression of the IACHR presents its preliminary observations and recommendations after its first visit to Peru, June 2, 2022.

<sup>35</sup> IACHR. Press Release No. 129/23, “Peru: IACHR Expresses Concern over Constitutional Accusations against justice operators and calls for the guarantees of due process,” June 21, 2023.

<sup>36</sup> Human Rights Council. Report of the Office of the United Nations High Commissioner for Human Rights. Summary of stakeholder communications on Peru. A/HRC/WG.6/42/PER/3. 43rd Period of Sessions. January 23 to February 3, 2023, para. 30.

<sup>37</sup> Human Rights Committee. Concluding observations on the sixth periodic report of Peru. CCPR/C/PER/CO/6. Advanced unedited version. April 5, para. 14.

<sup>38</sup> Human Rights Committee. Concluding observations on the sixth periodic report of Peru. CCPR/C/PER/CO/6. Advanced unedited version. April 5, para. 15.

<sup>39</sup> IACHR. Human Rights Situation in Peru in the Context of Social Protests. OAS/Ser.L/V/II. Doc. 57/23. April 23, 2023, para. 221.



efforts.<sup>40</sup> In addition to stigmatizing people, this phenomenon has the potential to put them in a situation of greater vulnerability and risk of suffering attacks.<sup>41</sup>

70. Considering the monitoring of the context that has been carried out on the situation in Peru, as well as the pronouncements from the United Nations Organization, the Commission will understand the situation of the beneficiaries and proposed beneficiaries in this context.

#### **A. Implementation of precautionary measures granted by the Commission**

71. The Commission recalls that, by granting precautionary measures, it requested the State for the protection of prosecutor José Domingo Pérez Gómez, his wife, and their son. In the terms of the granting resolution, the Commission requested the State to: a) adopt the necessary measures to guarantee the rights to life and personal integrity of the proposed beneficiaries; b) adopt the necessary measures to guarantee that Mr. Pérez can continue with his duties as a prosecutor without being subjected to threats, harassment or acts of violence in the exercise thereof; c) agree on the measures to be implemented with the proposed beneficiary and their representatives; and d) report on the actions taken to investigate the alleged facts that led to the adoption of this resolution, and prevent these actions from being repeated.
72. On that occasion, the Commission indicated, based on the information available, that certain allegations, such as those referring to disciplinary proceedings before the corresponding Prosecutor's Office, require substantive determinations.<sup>42</sup> The Commission recalled that it is appropriate that the proceedings in force follow due process and with due guarantees in the terms established by the American Convention and the applicable standards.<sup>43</sup>
73. In analyzing the information available to the parties in the context of the implementation of these precautionary measures, the Commission assesses the measures adopted by the State in this matter.
74. Regarding the *measures to guarantee the rights to life and personal integrity and that the beneficiary can continue to perform his duties as a prosecutor without being subjected to threats, harassment or acts of violence*, the IACHR observes that:

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<sup>40</sup> Ibid.

<sup>41</sup> Ibid., para. 222.

<sup>42</sup> IACHR. Resolution 55/2021. PM 576-21. José Domingo Pérez Gómez and his family unit regarding Peru. July 25, 2021, para. 52.

<sup>43</sup> Ibid. Notwithstanding the foregoing, the Commission notes that, within the framework of cases under the knowledge and supervision of the Inter-American Court, provisional measures have been issued to prevent the withdrawal of justice operators. For example, the provisional measures granted in 2018 in favor of certain judges of the Constitutional Court of Peru in the framework of the *Case Durand and Ugarte Vs. Peru*.

- a. The State kept providing security measures to prosecutor José Domingo Pérez Gómez and his family. It is noted that, at the request of the beneficiaries, the State suspended the individualized protection provided to the prosecutor's wife. The Commission also observes that, according to the State, although the General Command of the National Police of Peru issues resolutions granting the security service for certain temporary periods, protection allegedly continue to be provided during the term of these precautionary measures. In view of the foregoing, the Commission identifies that, since the granting of precautionary measures in 2021, the security detail of Prosecutor Pérez has been maintained, having only temporarily modified the security of the beneficiary's wife, at the request of the beneficiaries.<sup>44</sup>
- b. The Commission also assesses the implementation of a protocol of action in the event of occurrences against the safety of the beneficiaries, as well as the carrying out of patrols in the vicinity of the beneficiary's home and office. The Commission notes that, since July 2022, the beneficiary has been part of the Victims and Witnesses Assistance Program of the Public Ministry due to his performance as a titular prosecutor in "high-risk and large-scale cases." As reported by the State, as part of the aforementioned Program, telephone calls, visits to his work center were allegedly made, and legal, psychological and social services were reportedly provided.
- c. The Commission observes that, upon the request of the representation and beneficiaries to know the risk analyses that would be carried out, the State made internal arrangements. In August 2023, it was reported that the Social Conflict Division of the PNP General Advisory Command allegedly report the risk assessment bimonthly. Along these lines, information was submitted in a report of April 2023 that shows that, according to the competent national entities, the risk allegedly remain in force.
- d. The Commission notes that security measures continue to be implemented in favor of the prosecutor within the framework of his work in Peru, including his family. The Commission also appreciates that the State periodically informs both the beneficiary and the representatives about the risk assessments.
- e. In future communications, the Commission considers it relevant to have additional elements of assessment around the relationship between the security detail implemented, the risk analyses carried out after April 2023, and the Victim and Witness Assistance Program of the Public Ministry. Particularly, in what would imply in terms of the adequacy and effectiveness of security measures and the mitigation or elimination of existing risk factors. This is important since, according to the State's own information, the recommendations made by the entity that carries out the risk assessment indicate

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<sup>44</sup> At the time of granting these precautionary measures, the Commission assessed that the State implemented protection measures composed of eight police officers with respect to the prosecutor and two police officers with respect to his wife and son (IACHR. [Resolution 55/2021](#). PM 576-21. José Domingo Pérez Gómez and his family unit regarding Peru. July 25, 2021, para. 20). By communication of August 15, 2023, the State reported that José Domingo Pérez Gómez has eight police officers and his son has two police officers. On the other hand, four police officers in the 24x24 mode were allegedly assigned to the home.

that the beneficiary's security measures must be extreme. Likewise, given that the risk report submitted by the State dates from April 2023, the Commission considers it important to know those that have been done subsequently, including the status of its recommendations, as well as the actions that are being taken to address existing sources of risk.

- f. The Commission recalls that it requested the State to “adopt the necessary measures to ensure that Mr. Pérez can continue to carry out his duties as a prosecutor without being subjected to threats, harassment or acts of violence in the exercise thereof.” In this regard, the Commission also recalls that the rights at risk, identified at the time of granting precautionary measures, were the rights to life and personal integrity of the beneficiary. In this sense, the Commission considered that there was a connection between the security conditions of the beneficiary and the possibility that he can continue to carry out his work properly, as a prosecutor in high-profile cases in the country. In this regard, the Commission recalls that the Inter-American Court indicated that “the State must ensure that judicial officials, prosecutors, investigators and other justice operators have an adequate security and protection system, taking into account the circumstances of the cases under their charge and the place where they are working, which allows them to carry out their duties with due diligence.”<sup>45</sup>

75. With regard to *spaces for consultation in the implementation of these precautionary measures*, the Commission observes that:

- a. The parties agreed that three types of meetings would be held: ordinary, operational and extraordinary. In this regard, the Commission notes that meetings were held on February 1 and June 1, 2022. For its part, the representation has informed that, in accordance with the agreement, it would be awaiting the convening of the meetings corresponding to the months of September and December 2022. The Commission also notes that the State has designated focal points for dialogue with the beneficiaries and their representation, also enabling emails as a means of exchanging information. In addition, it is observed that certain issues, which were addressed in the consultation spaces, were overcome or defined in the implementation of precautionary measures, such as the willingness to deliver a version of the beneficiary's risk reports, the investigation opened for organized crime, within the framework of respect for the independence of the Public Ministry.
- b. The Commission considers it necessary that the spaces for consultation agreed between the parties be carried out in accordance with the planned schedule. The Commission recalls that only through a stable, respectful and constructive dialogue between the parties – State authorities, beneficiaries and/or their representatives - can the protection measures be implemented that are appropriate to the level of risk being experienced and to the specific needs of their fiscal work. Likewise, the

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<sup>45</sup> I/A Court H.R. Case of the Rochela Massacre v. Colombia. Merits, Reparations and Costs. Judgment of May 11, 2007, para. 297.

Commission notes that, while the State must establish these communication channels, the beneficiaries are required to provide the necessary collaboration to promote the effective implementation of the measures<sup>46</sup>.

76. Regarding the *actions taken in order to investigate the alleged events that led to the adoption of these precautionary measures, and thus avoid their repetition*, the Commission recalls that, at the time of granting the precautionary measures, it was assessed that no substantive progress had been made in order to sanction those who allegedly are responsible for the identified risk events, which is a relevant aspect when establishing the risk that the proposed beneficiary reportedly faces and the possibilities of their repetition<sup>47</sup>. In relation to the above, the Commission noted that:

- a. Reportedly, the alleged situation presenting a risk is related to the tax actions that the proposed beneficiary leads in a particular context identified in Peru, in which he allegedly continues to file tax requests in various cases, which allegedly increase the situation placing him at risk, in view of the threats received<sup>48</sup>.
- b. In light of the information available, the State reported on the archival status of investigations. Furthermore, the Commission notes that the most recent information focuses on folder No. 15-2022, called “La Resistencia case”, by the Fourth Prosecutor’s Office Against Organized Crime, and within the framework of which proceedings continue to be carried out. Within the framework of this investigation, José Domingo Pérez Gómez was incorporated into the Victims and Witnesses Assistance Program of the Public Ministry in July 2022.
- c. On this last investigation, the Commission notes that, since the precautionary measures were in force, the representation requested in the consultation spaces that the facts faced by the beneficiary be addressed under the prism of organized crime. In response, the State requested the Commission to clarify the scope of the precautionary measures with respect to this component. In this regard, the Commission recalls that it is not responsible in this proceeding, to indicate how each of the proceedings should be carried out in the investigations opened in this matter. The foregoing does not imply denying the contribution that the beneficiaries, and their representatives, can make in the consultation spaces for the implementation of the precautionary measures. In these spaces, the Commission notes that the representation proposed that the facts faced by the beneficiary be addressed from the perspective of organized crime, which has finally been under investigation in folder No. 15-2022, currently with proceedings pending.

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<sup>46</sup> IACHR. Second Report on the Situation of Human Rights Defenders in the Americas. OAS / Ser. L / V / II, Doc. 66. December 31, 2011. Para. 524, 528.

<sup>47</sup> IACHR. Resolution 55/2021. PM 576-21. José Domingo Pérez Gómez and his family unit regarding Peru. July 25, 2021, para. 48.

<sup>48</sup> Ibid., para. 48.

- d. In line with the above, the Commission reminds that, at the time of granting precautionary measures and based on the available information, there was a group of people who: (i) consistently seek to intimidate or harass the proposed beneficiary; (ii) pay close attention to the proposed beneficiary's actions in his cases as a prosecutor; (iii) know the proposed beneficiary's home address as well as possess personal information; (iv) have the ability to organize and act swiftly, considering that the "sit-in" event was planned in just one day; and (v) have gone from discrediting campaigns on social media to concrete acts of harassment or intimidation against the proposed beneficiary in personal spaces such as his personal home<sup>49</sup>. In this regard, the Commission notes with concern that these groups, under their different names, allegedly act under the context of "*terruqueo*" to which the beneficiary has been subjected.
  - e. On the other hand, the Commission observes in relation to the publication of personal nature in social networks that the said information would be brought to the attention of the Directorate of Supervision and Instruction of the Ministry of Justice and Human Rights in order to evaluate ex officio the relevance of initiating an administrative proceeding. In this regard, it is noted that the information submitted by the parties does not indicate that the said information has been effectively transferred or, in case it has been, that concrete actions have been taken in order to respond to the said situation.
  - f. As the time of granting precautionary measures in 2021, the Commission notes that the investigations opened internally have not made it possible to identify the responsibilities of the persons involved in the alleged events or prevent their repetition. This situation has persisted over time. To date, more than two years after the granting of precautionary measures, no responsibilities have been identified for the alleged facts so that it can be analyzed whether the risk-generating elements have been mitigated or have disappeared.
  - g. In support of the consultation spaces, the Commission recalls that it has developed various publications and reports in which it has addressed guidelines or guidance for the investigation of crimes against defenders, including justice operators<sup>50</sup>.
77. Although the Commission assesses the current state of implementation of precautionary measures, there are elements to consider that the situation presenting a risk continues in force, being necessary to continue and strengthen the actions for the due protection of the beneficiary and his family. In this regard, the Commission notes that events have continued to occur against the beneficiary. Along these lines, the Commission observes that, according to the State's own information, the report of the

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<sup>49</sup> IACHR. [Resolution 55/2021](#). PM 576-21. José Domingo Pérez Gómez and his family unit regarding Peru. July 25, 2021, para. 47.

<sup>50</sup> For example, see IACHR. [Basic Guidelines for the Investigation of Crimes against Human Rights Defenders in the Northern Triangle](#), June 1, 2021. and IACHR, [Practical Guide on Guidelines and Recommendations for the Development of Risk Mitigation Plans for Human Rights Defenders](#).

Intelligence Directorate of the National Police of Peru of 2023 allegedly gives an account of the continuity of the situation placing the beneficiary and his family at risk.

78. Likewise, the Commission recalls that, at the time of granting precautionary measures in favor of prosecutor Domingo Pérez, it valued that the smear campaigns went from messages on social networks to materialize in concrete acts of harassment and intimidation<sup>51</sup>. In this regard, the Commission observes that the disclosure of the details of an alleged vehicle of the beneficiary, which include his license plate number, not only give rise to exposure to digital actions, but also pose a risk given the possible identification of the beneficiary during his travels.
79. The Commission considers that the exercise of criticism of a public official should not be confused with expressions that do not have the same level of inter-American protection, such as the disclosure of personal information for intimidation purposes and other actions included under the practice of *doxing*, or with the issuance of threats through social networks. *Doxing* and threats can involve severe self-censorship effects that inhibit the exercise of freedom of expression and hurt public debate. Likewise, the Commission underlines that the so-called inauthentic and coordinated behaviors on social networks do not necessarily reflect a debate of a citizen and democratic environment. Therefore, it is necessary to differentiate, in applicable cases, between the exercise of citizen criticism and the deliberate action of escalating harmful positions to people by implementing inauthentic and coordinated behaviors. Faced with the foregoing, the Commission emphasizes that the negative effects of coordinated behaviors on social networks that appeal to intimidation, discredit, harassment and threats against justice operators can, and sometimes must, be countered in the public debate with institutional messages of protection and support, which must be added to the timely deployment of mechanisms for protection and investigation of the rule of law to the affected person or public official.
80. In this regard, the Commission notes that the situation currently placing the prosecutor Domingo Pérez at risk remains in force, and continues to require an immediate state response through actions that not only include security measures, but also include measures to address the risk-generating causes assessed by the IACHR at the time of granting these precautionary measures<sup>52</sup> and in this resolution.
81. The representation requested the extension of precautionary measures in relation to the prosecutor Rafael Vela Barba and his family unit (his wife C.V.R. and two children F.V.V., years and I.V.V., minors. From August 2018 to date, in addition to his duties as Prosecutor Coordinator of Money Laundering, the proposed beneficiary serves as Senior Prosecutor Chief Coordinator of the Special Team of Prosecutors in the “Lava

<sup>51</sup> IACHR. [Resolution 55/2021](#). José Domingo Pérez Gómez and his family unit regarding Peru. July 25, 2021, para. 44.

<sup>52</sup> IACHR. [Resolution 55/2021](#). José Domingo Pérez Gómez and his family unit regarding Peru. July 25, 2021, para. 40 et seq.



*Jato*” case, that is, he supervises the work of the beneficiary José Domingo Pérez and other prosecutors, and defends before the second jurisdictional instance of the cases, the position and prosecutorial work of the investigation processes developed by the prosecutors under his coordination.

82. The Commission recalls that a requirement for the extension of precautionary measures is that the facts alleged in the extension request have a “factual connection” with the events that justified the initial adoption of the precautionary measures<sup>53</sup>. Regarding the situation of prosecutor Rafael Vela and his family unit, the Commission observes that, although the State indicated that the relationship between the said prosecutor and the current beneficiary is an administrative relationship and that each one allegedly maintain their own criteria within the framework of their functions as prosecutors of the same team, the information available reflects: (i) a common relationship and identification as prosecutors who, before public opinion, bring certain cases of corruption involving former presidents and political figures of the country; (ii) prosecutor Vela Barba supervises the work of prosecutor Domingo Pérez; and (iii) he defends before the second jurisdictional instance the cases, the prosecutorial work of the investigation processes carried out by the prosecutors under his coordination. Therefore, within the framework of the work carried out by both prosecutors, the Commission understands that there is a common identification of the work carried out by both at the national level. Additionally, according to the information available, in 2019, both prosecutors were dismissed and reinstated at the same time in the current team in which they are. It is worth highlighting the connection between the two prosecutors as part of the same work team in the investigations they carry out within the Public Ministry.
83. Likewise, the connection is reflected in relation to the implementation of the protection measures in favor of prosecutor Domingo Pérez. Based on the information available, prosecutor Domingo Pérez formally informs his superior, prosecutor Vela, of his situation, who then informs his superiors within the Public Ministry. Thus, it is observed that Prosecutor Vela is part of the internal workflow so that the events faced by the current beneficiary in the country are known. The foregoing helps the competent entities process what corresponds in favor of the prosecutor Domingo Pérez.
84. In the opinion of the Commission, whether in the framework of the investigations or in the implementation of the protection measures in favor of prosecutor Domingo Pérez, the requirement of “factual connection” is fulfilled. Considering the foregoing, the Commission proceeds to analyze the situation of the proposed beneficiary in light of the context in which the facts are inserted, and in light of the assessment made

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<sup>53</sup> In this regard, see: IACHR, Resolution 10/17, Precautionary Measure No. 393-15 Detainees in “Punta Coco” regarding Panama, March 22, 2017, para. 28; and I/A Court H.R., Fernández Ortega et al. regarding Mexico. Resolution of Provisional Measures of November 23, 2010, considerandum 19th

regarding the implementation of the precautionary measures in favor of prosecutor Domingo Pérez.

85. As for the requirement of *seriousness*, the Commission considers that it has been met. At the time of making this determination, the Commission considers the information submitted by the State. Particularly, that referring to the protection detail of the proposed beneficiary, as well as the internal actions that could be activated to meet the claims of the proposed beneficiary. The Commission appreciates that the State has implemented protection measures in favor of the proposed beneficiary. It also takes note of the status of the investigations, of various kinds, against the proposed beneficiary.
86. When analyzing all the information as a whole, the Commission notes that events have continued to occur against the proposed beneficiary and his family. On August 22, 2023, the escort service of Rafael Ernesto Vela Barba reported that the proposed beneficiary “has been monitored by different unknown persons [...], who are reportedly aware of the different movements he makes within the city, so it is possible that his physical safety could be at imminent risk. In September 2023, after what happened in a commercial premises, it is observed that the intervention of the proposed beneficiary’s security was required to remove them from the place and “put them to good safety”. The alleged most recent events have been preceded by other follow-up events, which are consistent with what is assessed by the security of the proposed beneficiary. Such facts have not only focused on the proposed beneficiary, but have also been directed towards the current beneficiary, prosecutor Domingo Pérez. For example, in 2018, it was reported that both were followed up in the framework of proceedings, and in 2023, a group of people, whose organization was assessed in the case of prosecutor Domingo Pérez, appeared at what they identified as the address of the proposed beneficiary.
87. Along the same lines, the Commission notes that the State itself indicated, in the face of the facts alleged by the representation, that they allegedly merit protection actions. However, it was pointed out that the internal mechanisms such as criminal complaints, among others, had not been activated. In this regard, the Commission notes that, according to the information available, there have been several times when the proposed beneficiary has made his situation known to the internal authorities. For example, in May 2023, he requested reinforced protection from the National Police, which was rejected in July 2023. In the same way, the Commission observes that, according to the available documentary support, the proposed beneficiary’s own police security has been reporting his security situation internally, being that, for example, in August 2023, the said security required “the security and personal protection measures of the aforementioned Prosecutor to be extreme”. Consequently, the Commission understands that, the situation of the proposed beneficiary has been made known internally, being even his own state security who has recently requested that his protection be “extreme”.

88. The previous assessment is reinforced by the actions of certain groups that are allegedly behind the alleged events faced by both prosecutor Domingo, the current beneficiary, and prosecutor Vela, the proposed beneficiary. As this Commission has already had the opportunity to assess, such groups have threatened other beneficiaries with precautionary measures in force in the country, and their actions over time were considered when granting precautionary measures in favor of *Jorge Luis Salas Arenas and his family* in 2021, and *Gustavo Andrés Gorriti Ellenbogen* in 2023<sup>54</sup>.
89. Given the existence of risk factors shared with Prosecutor Pérez, the Commission recalls that, in a similar context assessed in the *Salas Arenas and others case with respect to Peru*, the Inter-American Court indicated that certain facts, such as harassment in public or demonstrations with aggressive speeches in the workplace or residence, constitute a considerable risk and should be understood as imminent threats. In the opinion of the Inter-American Court, these events put the lives and personal integrity of the persons subject to them at risk, in addition to generating intimidation, anguish and fear<sup>55</sup>. For the Inter-American Court, the conjunction of recurrent negative mentions on social networks and harassment, threatening calls and harangues in public speeches should be understood as direct threats to the personal integrity of the person<sup>56</sup>. As was assessed by the Inter-American Court, the Commission calls for an investigation of the facts faced by the proposed beneficiary.
90. Given the above assessments, the Commission takes with concern the allegation that, given the temporary suspension of the proposed beneficiary, there is a possibility that the protection detail that he allegedly has will be withdrawn. Although according to public information, the proposed beneficiary announced that he will file an appeal against the said decision and he will continue in his position<sup>57</sup>, the Commission does not have information on whether additional protection measures have been adopted to date given the follow-ups accredited by his own security, which called for his protection since August 2023, and they allegedly are consistent with previous facts. The Commission is not aware that, like prosecutor Domingo Pérez, recent risk reports have been made. This is relevant after assessing the safety of the proposed beneficiary and the possibility of adapting the protection measures.
91. In view of the elements narrated and taken as a whole in light of the specific context that the country is going through, the Commission considers, from the applicable *prima facie* standard, that the proposed beneficiary is in a situation of serious risk to his rights to life and personal integrity. The characteristics of this matter, within the

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<sup>54</sup> IACHR. [Resolution 56/2017](#). Jorge Luis Salas Arenas and his family regarding Peru. July 25, 2021, para. 39; IACHR. [Resolution 42/2023](#). Gustavo Andrés Gorriti Ellenbogen regarding Peru. July 24, 2023, para. 56.

<sup>55</sup> I/A Court H.R., [Matter of Jorge Luis Salas Arenas and his family unit regarding Peru](#). Order of the Inter-American Court of Human Rights of September 4, 2023, para. 62.

<sup>56</sup> Ibidem

<sup>57</sup> El Peruano (The Peruvian). [Prosecutor of the Nation ratifies support for Rafael Vela of the Lava Jato special team](#), October 6, 2022; and Exitosa, [Prosecutor Rafael Vela announces that he will file an appeal against suspension and does not rule out going to the PJ](#), October 6, 2023.

framework of possible reprisals for the work carried out by the prosecutor Vela Barba, suggest that the members of his family share the same risk factors, to the extent that they may be subject to reprisals against them.

92. Given the continuity of the risk factors in the context of this matter, the Commission considers that it is necessary to immediately adopt measures that represent a comprehensive response to the nature of the risk. Likewise, the Commission recalls that, although the mechanisms of material protection aimed at protecting against situations of risk are important, it is necessary to take into account a comprehensive and preventive approach. Thus, not only should threats, attacks and reprisals be prevented, but their causes must also be addressed<sup>58</sup>.
93. The Commission also notes the differentiated impact that the situation described allegedly has on the work of the proposed beneficiary as a prosecutor and the necessary guarantees for this. The Commission considers that, if this situation persists, it generates a frightening impact not only on the proposed beneficiary, but on other prosecutors who promote investigations into corruption crimes involving former high authorities or high-visibility persons in the country under the current context.
94. In relation to the requirement of *urgency*, the Commission notes that the validity of the sources of risk of Prosecutor Pérez and his relationship with the events that the proposed beneficiary is currently facing, reflect that his situation requires the immediate intervention of the State, as was also assessed by the proposed beneficiary's own security. His situation will continue to intensify as the investigations of the Team he leads within the Public Ministry progress in the current context.
95. Finally, regarding the requirement of *irreparable harm*, the Commission considers that it is met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.
96. Finally, faced with the specific context of this matter, the IACHR reiterates the role of persons who exercise a public function, especially of high rank, not to contribute to the creation of an environment of hostility, intolerance or animosity<sup>59</sup> and, on the contrary, to adopt public pronouncements that counteract these facts.<sup>60</sup>

## **VI. DECISION**

<sup>58</sup> IACHR. *Towards Effective Integral Protection Policies for Human Rights Defenders*. OEA/Ser.L/V/II., Doc. 207/17, December 29, 2017, para. 30.

<sup>59</sup> I/A Court H.R. Case of Ríos et al. v. Venezuela. Preliminary Objections, Merits, Reparations, and Costs. Judgment of January 28, 2009, para. 148.

<sup>60</sup> RELE. [2021 Joint Statement on Political Leaders, Persons Performing Public Function, and Freedom of Expression](#). 2021: Recommendations for political parties, political leaders and people holding high public office. ii. Political parties should consider introducing or participating in cross-party initiatives aimed at countering intolerance, discrimination and disinformation, and promoting intercultural understanding, social inclusion and respect for diversity. iii. Political leaders and individuals in public office should not make statements that may promote intolerance, discrimination or misinformation and should instead leverage their leadership positions to counter these social harms and promote intercultural understanding and respect for diversity.

97. 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. Likewise, the Inter-American Commission on Human Rights considers that these requirements are met. Accordingly, the IACHR requests that Peru:
- a) Continue with the implementation of the precautionary measures granted in favor of the prosecutor José Domingo Pérez and his family unit in the terms of Resolution No. 55/2021, along with the provisions of this resolution;
  - b) Adopt the necessary measures to protect the rights to life and personal integrity of the prosecutor Rafael Ernesto Vela Barba, including the members of his family unit duly identified;
  - c) Adopt the necessary measures so that Rafael Ernesto Vela Barba can carry out his work as a prosecutor without being subject to threats, harassment or acts of violence when fulfilling his duties;
  - d) Agree on the measures to be adopted with the beneficiaries and their representation;
  - e) Report on the actions taken in order to investigate the events that led to the adoption of this resolution, so as to prevent such events from reoccurring.
98. The Commission will continue to carry out appropriate follow-up measures under the terms of Article 25.10 and other procedural and conventional provisions.
99. The Commission requests that the Government of Peru report, within 15 days from the date of this resolution, on the adoption of the precautionary measures required and to update that information periodically.
100. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment of any violation of the rights protected in the American Convention and other applicable instruments.
101. The Commission instructs the Executive Secretariat of the IACHR to notify the State of Peru and the representation of this resolution.
102. Approved on November 8, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Edgar Stuardo Ralón Orellana; Carlos Bernal Pulido; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary