

PETITION AND CASE SYSTEM

Informational brochure



**INTER-AMERICAN
COMMISSION
ON HUMAN RIGHTS**

2010



Organization
of American States

What is the purpose of this brochure?

By filing a petition before the Inter-American Commission on Human Rights, victims of human rights violations can obtain help. The Commission investigates the situation and can make recommendations to the State responsible to restore the enjoyment of rights whenever possible, to prevent a recurrence of similar events, to investigate the facts and to make reparations.

The purpose of this brochure is to inform persons seeking to file a petition before the Commission of some of the basic concepts they should know beforehand. It also sets forth, in clear and simple language, which human rights are protected, how and when a petition may be filed, the requirements that must be met and, in general, the procedures that have to be followed.

How is this brochure structured?

This brochure is divided into four sections:

- 1** Human Rights in the Inter-American System
- 2** Guide for submitting a petition
- 3** Serious and urgent situations
- 4** Form for submitting a petition to the IACHR

Human Rights in the Inter-American System

WHAT IS THE INTER-AMERICAN HUMAN RIGHTS SYSTEM?

It is a regional system for the promotion and protection of human rights, and it is made up of two organs: the Inter-American Commission on Human Rights (“IACHR” or “the Commission”) and the Inter-American Court of Human Rights (“Court” or “Inter-American Court”), which monitor compliance by the Member States of the Organization of American States (“OAS”) with the obligations they have undertaken.

1. What is the Inter-American Commission on Human Rights?

The Commission is a principal and autonomous organ of the OAS established in 1959 whose mandate stems from the Charter of the OAS. The Commission is made up of seven members, independent experts on human rights who do not represent any country, who are elected by the General Assembly of the OAS.

A permanent Executive Secretariat headquartered in Washington, DC, United States, provides the Commission with professional, technical, and administrative support.

2. What is the OAS?

The OAS is an organization that brings together the 35 independent countries of the Americas, and has as its purposes:

- ◆ To strengthen the peace and security of the continent
- ◆ To promote and consolidate representative democracy, with due respect for the principle of nonintervention
- ◆ To prevent possible causes of difficulties and to ensure the peaceful settlement of disputes that may arise among the Member States
- ◆ To provide for common action on the part of those States in the event of aggression
- ◆ To seek the solution of political, juridical, and economic problems that may arise among them
- ◆ To promote, by cooperative action, their economic, social, and cultural development
- ◆ To eradicate extreme poverty, which constitutes an obstacle to the full democratic development of the peoples of the hemisphere, and
- ◆ To achieve an effective limitation of conventional weapons that will make it possible to devote the largest amount of resources to the economic and social development of the Member States.

The OAS has four fundamental pillars for attaining its objectives. These are: democracy, human rights, security, and development. In addition, respect for the fundamental rights of the human being is among the basic principles of the OAS.

3. What are the OAS Member States?

The 35 Member States of the OAS are: Antigua and Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, St. Kitts and Nevis, St. Lucia, St. Vincent and the Grenadines, Suriname, Trinidad and Tobago, United States, Uruguay, and Venezuela.

4. What is the Commission's function?

The Commission's function is to promote the observance and defense of human rights in the Americas. The Commission performs this function by making visits to the countries, carrying out thematic activities and initiatives, preparing reports on the human rights situation in a certain country or on a particular thematic issue, adopting precautionary measures or requesting provisional measures before the Inter-American Court, and processing and analyzing individual petitions with a view to determining the international responsibility of the States for human rights violations, and issuing the recommendations it deems necessary.

The individual petitions that the Commission examines may be submitted by individuals, groups of individuals, or organizations that allege violations of the human rights guaranteed in the American Declaration of the Rights and Duties of Man ("the American Declaration"), the American Convention on Human Rights ("the American Convention"), and other inter-American human rights treaties.

5. Against whom can I file a petition alleging a violation of human rights?

The complaint must be filed against one or more Member States of the OAS considered to have violated the human rights contained in the American Declaration, the American Convention, and other inter-American human rights treaties.

The State may be responsible for violating human rights by:

- ◆ **action** (as a result of an act by the State or its agents),
- ◆ **acquiescence** (as a result of the tacit consent of the State or its agents), or
- ◆ **omission** (as a result of the State or its agents failing to take action when they should have done so).

6. Can the Commission determine the liability of an individual person?

No. The Commission is not competent to attribute individual liability, that is, it cannot determine whether an individual person is or is not guilty. The Commission can only determine the international responsibility of a Member State of the OAS.

7. What results can I expect if I file a petition alleging a violation of human rights against a Member State of the OAS?

If the Commission determines that a State is responsible for having violated the human rights of a person or group of persons, it will issue a report that may include the following recommendations to the State:

- ◆ suspend the acts in violation of human rights;
- ◆ investigate and punish the persons responsible;
- ◆ make reparation for the damages caused;
- ◆ make changes to legislation; and/or
- ◆ require that the State adopt other measures or actions.

In addition, a friendly settlement of the matter may be pursued with the State.

8. In which cases will the Commission not be able to help me?

The Commission cannot:

- ◆ issue a ruling with respect to a State that is not a member of the OAS;
- ◆ provide attorneys to assist in domestic judicial proceedings or to submit a petition or request for precautionary measures to the Commission;
- ◆ provide economic assistance or materials and supplies to persons;
- ◆ undertake immigration procedures, or process the granting of visas or political asylum.

9. On what basis does the Commission determine that a State violated or did not violate human rights?

The Commission examines the petitions that allege violations of the American Convention, which applies only to those States which have ratified it. For the Member States that have not yet done so, one can allege violations of rights contained in the American Declaration. One can allege the violation of a right protected in another human rights treaty of the system to the extent that the State in question has ratified it and depending on the applicable conditions.

10. Which States have ratified the American Convention?

The countries that have ratified the American Convention are: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominica, Dominican Republic, Ecuador, El Salvador, Grenada, Guatemala, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago,¹ Uruguay, and Venezuela. In relation to all other States of the OAS, the Commission is competent to receive petitions alleging violations of the American Declaration or other inter-American treaties of human rights ratified by the State.

11. What happens if the State that I am alleging violated human rights is suspended from participating in the OAS?

In the event that a State is suspended from participating in the OAS, it continues to be obligated to ensure human rights and the Commission continues to be competent to monitor the situation of human rights in that country.

12. What is the Inter-American Court of Human Rights?

The Inter-American Court, installed in 1979, is an autonomous judicial organ of the OAS whose mandate arises from the American Convention. The Court is headquartered in the city of San José, Costa Rica, and it is made up of seven judges elected in their personal capacity who are from the OAS Member States. The objective of the Court is to interpret and apply the American Convention and other inter-American human rights treaties, in particular by issuing judgments on cases and consultative opinions.

13. How can I bring a case before the Inter-American Court?

Only the States parties to the American Convention who have accepted the Court's contentious jurisdiction and the Commission may submit a case to the Inter-American Court. Individuals do not have direct recourse to the Inter-American Court; they must first submit their petition to the Commission and go through the procedure for cases before the Commission.

14. Against what States can the Commission refer a case to the Inter-American Court?

The Commission may, when the conditions are met, refer cases to the Inter-American Court only with respect to those States that have ratified the American Convention and have previously recognized the contentious jurisdiction of the Court, unless a State accepts jurisdiction expressly for

¹ Trinidad and Tobago withdrew from the American Convention. The Commission and the Court are competent to examine alleged violations of the rights contained in the American Convention with respect to events that occurred or began to occur from May 28, 1991 to May 26, 1999. The Commission remains competent with respect to the American Declaration.

a specific case. The States that have recognized the contentious jurisdiction of the Inter-American Court are: Argentina, Barbados, Bolivia, Brazil, Chile, Colombia, Costa Rica, Dominican Republic, Ecuador, El Salvador, Guatemala, Haiti, Honduras, Mexico, Nicaragua, Panama, Paraguay, Peru, Suriname, Trinidad and Tobago,² Uruguay, and Venezuela.

WHAT HUMAN RIGHTS ARE PROTECTED?

The Commission is competent to examine petitions in which violations are alleged of the human rights contained in the American Declaration, the American Convention and other inter-American human rights treaties.

15. What are the inter-American human rights treaties?

- ◆ American Convention on Human Rights, “Pact of San José, Costa Rica”, 1969;
- ◆ Inter-American Convention to Prevent and Punish **Torture**, 1985;
- ◆ Additional Protocol to the American Convention in the area of **Economic, Social and Cultural Rights**, “Protocol of San Salvador”, 1988;
- ◆ Protocol to the American Convention on Human Rights to Abolish the **Death Penalty**, 1990;
- ◆ Inter-American Convention on the Prevention, Punishment and Eradication of **Violence against Women**, “Convention of Belém do Pará,” 1994;
- ◆ Inter-American Convention on **Forced Disappearance** of Persons, 1994;
- ◆ Inter-American Convention on the Elimination of All Forms of **Discrimination against Persons with Disabilities**, 1999.

16. What rights are protected?

The American Convention protects the following human rights:

- ◆ The right to juridical personality
- ◆ The right to life
- ◆ The right to humane treatment
- ◆ The right of every person not to be subject to slavery or to involuntary servitude
- ◆ The right to personal liberty
- ◆ The right to a fair trial
- ◆ Freedom from ex post facto laws
- ◆ The right of every person to be compensated in accordance with the law in the event of having been sentenced by a final judgment through a miscarriage of justice
- ◆ The right to privacy
- ◆ The right to freedom of conscience and religion
- ◆ Freedom of thought and expression
- ◆ The right of reply
- ◆ The right of assembly
- ◆ Freedom of association
- ◆ The rights of the family
- ◆ The right to a name
- ◆ The rights of the child
- ◆ The right to nationality

² *Ibid.*

- ◆ The right to property
- ◆ Freedom of movement and residence
- ◆ The right to participate in government
- ◆ The right to equal protection
- ◆ The right to judicial protection
- ◆ The right to the progressive development of economic, social and cultural rights

The American Declaration also contains a complete list of the rights that the States must respect and protect. In addition to the rights mentioned above, the American Declaration specifically recognizes the right to work and to fair remuneration, the right to social security, the right to the benefits of culture, and the right to health, among others.

17. What are the rights protected in the “Protocol of San Salvador”?

The Protocol of San Salvador protects economic, social, and cultural rights, such as the right to education, to organize and join trade unions, to social security, to health, to a healthy environment, to food, and to the benefits of culture.

While the Protocol protects all these rights and the Commission can make observations and recommendations with respect to all of them, the right to education and to organize and join unions are the only ones on which the Commission and the Inter-American Court may rule in the context of an individual petition submitted against a State.

18. What do the other inter-American human rights treaties prohibit?

The objective of these treaties is to reaffirm the protection and develop the content of the human rights guaranteed by the American Declaration and the American Convention. These treaties prohibit, among others, the following acts:

- ◆ torture or cruel, inhuman, or degrading punishment;
- ◆ reestablishment of the death penalty in those countries that have abolished it;
- ◆ physical, sexual, and psychological violence and discrimination against women;
- ◆ forced disappearance; and,
- ◆ discrimination against persons with disabilities.

Not all the Member States of the OAS have ratified all the treaties. You may find the above-mentioned treaties and the ratifications by the States on the IACHR’s website, at the following link: www.cidh.org.

Guide for submitting a petition

IN WHICH SITUATIONS CAN THE COMMISSION INTERVENE?

19. Must I have initiated some judicial proceeding before turning to the Commission?

Yes. For the Commission to be able to examine a petition, one must have exhausted domestic judicial remedies in keeping with the legislation in force in the State in question.

20. What does it mean to exhaust domestic judicial remedies?

It means that those persons who want to file a petition with the Commission must first attempt to have the domestic courts decide on the situation they are denouncing. A person has exhausted domestic remedies when the judicial branch has issued a decision of last resort.

In case that it is not possible to exhaust domestic remedies, one must explain why, since the rule on prior exhaustion of domestic remedies does have exceptions.

21. What are the domestic judicial remedies that need to be exhausted?

One need exhaust those domestic judicial remedies that are adequate and effective.

- ◆ A judicial remedy is adequate when pursuing it may protect the right allegedly violated. For example, habeas corpus is an adequate remedy in the case of a forced disappearance.
- ◆ A judicial remedy is effective when it is capable of obtaining the result for which it was designed. For example, a remedy is not effective when the State has not ensured its proper application by the judicial authorities, or when there is unwarranted delay in the decision.

22. What are the exceptions to the requirement to exhaust domestic remedies?

The Commission may examine a petition in which domestic remedies have not been exhausted when:

- A. domestic laws do not provide due process to protect the rights allegedly violated;
- B. the alleged victim has not been allowed access to domestic remedies or has been kept from exhausting them; or
- C. there is delay in the issuance of a final decision on the case with no valid reason.

Under certain circumstances, a person may be exempted from having to exhaust domestic remedies, for example if the person is living in extreme poverty so critical that one would not be able to pay an attorney in those cases in which legal assistance is necessary, and so long as the State does not offer this service free of charge.

23. When must I submit my petition?

The petition must be submitted within six months of the date of notification of the final judicial decision that exhausted domestic remedies. When an exception to the exhaustion of domestic remedies requirement applies, the six-month term does not apply. In such cases, the petition must be filed within a reasonable time.

24. Can the Commission and the Court review decisions issued by domestic courts?

The mere fact that a judicial judgment does not satisfy a person's interests does not mean that his or her human rights have been violated. The Inter-American Commission and Court are competent to review possible violations of the rights protected in the inter-American treaties.

HOW CAN I SUBMIT A PETITION?

25. Who can file a complaint with the Commission?

Any person, group of persons, or organization, on its own or in representation of another, may file a petition alleging a violation of human rights against one or more Member States of the OAS.

A person may be both the petitioner and the alleged victim in a petition.

- ◆ Petitioner(s): person or group of persons who file the petition.
- ◆ Alleged victim(s): person or group of persons allegedly affected by the facts reported in the petition. The alleged victim(s) shall be identified or identifiable.

If the alleged victim wishes to change his/her representative or to be a petitioner in his/her own petition, he/she should immediately communicate this to the Commission in writing, since, as a general rule, the Commission will maintain contact with the petitioner. In addition, it is important that any change in address or other contact information be notified in writing.

26. Can the Commission keep the identity of the alleged victim confidential?

In general, when the Commission addresses the State in relation to a petition, it communicates the identity of the alleged victim, since the State should be informed of the person who is affected by the facts alleged in the petition. If there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

In certain cases, the Commission may protect the identity of the alleged victim in the documents that are made public, for example, by substituting the person's complete name with his or her initials. The request to protect the victim's identity must be made to the Commission, with an explanation.

27. Can the Commission keep the petitioner's identity confidential?

Yes. The Commission can keep the petitioner's identity confidential if the petitioner makes an express request in this regard. If the petitioner and the alleged victim are the same person, the Commission generally communicates the identity of the alleged victim to the State. If there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

28. In what language should I file my petition?

The official languages of the IACHR are Spanish, English, Portuguese, and French, and generally it is only necessary to send the petition in one of these languages used by the State. Nonetheless, if there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

In any event, it is important to bear in mind that if it is decided to process the petition, it should be forwarded to the State in the official language it uses. For this reason, when a petition is not in that language, it is possible that the Commission may require the petitioner to seek the means necessary for it to be translated.

29. Do I need a lawyer to file my petition?

No. The Commission does not require the representation of a lawyer to file and process the petition.

30. Is there a fee for filing my petition?

No. The procedures before the Commission are free of charge.

31. What should I include in my petition?

Every petition should include:

- ✓ the personal information of the alleged victim(s) and that of his/her next of kin;
- ✓ the personal information on the petitioner(s), such as complete name, phone number, mailing address, and email;
- ✓ a complete, clear, and detailed description of the facts alleged that includes how, when, and where they occurred, as well as the State considered responsible;
- ✓ an indication of the State authorities considered responsible;
- ✓ the rights considered violated, if possible;
- ✓ the judicial bodies or authorities in the State to which one has turned to remedy the alleged violations;
- ✓ the response of the State authorities, especially of the courts of justice;
- ✓ if possible, uncertified and legible copies of the principal complaints and motions

- filed in pursuit of a remedy, and of the domestic judicial decisions and other annexes considered relevant, such as witness statements; and
- ✓ an indication as to whether the petition has been submitted to any other international organization competent to resolve cases.

If possible, it is recommended that a list be included numbering the annexes attached to the petition to facilitate their identification.

32. What requirements must the annexes to the petition meet?

- ◆ Photocopies of documents do not require any formality, that is, it is not necessary that they be certified, notarized or legally authenticated; legible, uncertified copies are sufficient. One need not send several copies of the same document.
- ◆ If the petition and its annexes are sent by mail, it is preferable that the documentation not be bound or laminated in any way.

As a general rule, the Commission does not return documents that have been sent in the context of a petition. Accordingly, originals should not be sent.

33. Where should I send my petition?

While the petition may be submitted personally, it is not necessary to come to the Commission, since one can send it by any of the following means:

- **Email:** cidhdenuncias@oas.org
- **Electronic form:** www.cidh.org. If you wish to send your petition via the electronic form, you have the option of drafting your petition in a separate document and uploading it to the Commission's website.
- **Fax:** +1(202) 458-3992 or 6215
- **Mail:**
Inter-American Commission on Human Rights
1889 F Street, N.W.
Washington, D.C. 20006
United States

If the documents are sent electronically, it is not necessary to resend them in hard copy.

The petition form attached to this informational brochure can be used as a guide for submitting the petition. If using the form, you may attach the additional pages necessary.

Every petition or communication sent should be addressed to the Inter-American Commission on Human Rights.

WHAT IS THE PROCEDURE FOR MY PETITION BEFORE THE COMMISSION?

34. Should I go to the Commission's headquarters at some point?

It is not necessary to come to the Commission, because the procedure is mainly written. In certain cases and once a petition is processed and the State is notified, the Commission may, if relevant, call hearings or working meetings.

35. How can I be sure that the Commission received the complaint?

The Commission sends a letter acknowledging receipt of the petition and indicating the reference number assigned to it. The letter will be sent to the address indicated by the petitioner in the petition.

36. After sending my petition, may I submit additional information?

If necessary, additional information may be submitted. All additional information and documents will be included in the file associated with the petition. Every communication sent by the petitioner should indicate the reference number of the petition. It is important to notify the Commission immediately of any change of address.

37. What happens after the Commission acknowledges receipt of my petition?

Once receipt of the petition is acknowledged, the petition will be under study. Given the large number of petitions the Commission receives, the preliminary evaluation of a petition may take some time. All the petitions submitted to the IACHR are evaluated, and a response is given.

38. What happens once the preliminary evaluation of the petition is completed?

After a preliminary evaluation, there may be a decision:

- A. not to process the petition;
- B. to request additional information or documentation; or
- C. to open the petition for processing. At that moment, the petition will enter the admissibility stage. This decision means that the necessary requirements were met for the Commission to study it, but it is not yet a decision with respect to the subject-matter presented.

39. What does it mean that my petition is in the admissibility stage?

It means that the petition submitted will be sent to the State for observations. A process of exchange of information is begun, in which the Commission may request information to decide whether the petition is admissible. Any information submitted by a party will be forwarded to the other party. After this exchange of information, the Commission decides whether the petition is *admissible* or *inadmissible*.

40. What happens once a petition is found admissible?

When a petition is *admissible*, the Commission will analyze the parties' allegations and the evidence submitted. In this stage, the Commission may ask the State and the petitioner for more information, evidence or documents and, if necessary, may convene a hearing or working meeting.

41. Can a friendly settlement be reached with the State?

Yes. It is a process that depends on the wishes of the parties and consists of negotiations aimed at resolving the matter without the need to reach a conclusion on the matter in dispute. The process unfolds under the Commission's supervision. If it is not possible to reach a friendly settlement, the Commission will continue analyzing the parties' allegations and will decide on the case, determining whether the State is or is not responsible for the violations alleged.

42. What happens if the Commission decides that the State is responsible for the violations of human rights?

The Commission will issue a report on the merits that will include recommendations to the State that may be aimed at:

- ◆ bringing a halt to the acts that are in violation of human rights;
- ◆ clarifying the facts, carrying out an official investigation, and imposing a sanction;
- ◆ making reparation for the harm caused;
- ◆ making changes to the law; and/or
- ◆ requiring the adoption of other measures or actions by the State.

43. What happens if the State does not comply with the recommendations?

The Commission will decide:

- ◆ to publish the case; or
- ◆ to refer the case to the Court if it considers it appropriate.

44. What happens if the Commission decides to refer the case to the Court?

If the Commission decides to refer the case to the Court, the Court will analyze it and issue a reasoned judgment. The Commission, the State, and the victim(s) participate in the process before the Court.

Serious and urgent situations

In certain serious and urgent situations, and provided that certain requirements are met, the Commission may adopt precautionary measures. To learn about the criteria the Commission has used in practice, you can visit the IACHR website (www.cidh.org), and refer to the section of precautionary measures that have been granted or to the IACHR annual reports.

Furthermore, in addition to precautionary measures, there is a mechanism established in Article XIV of the Inter-American Convention on Forced Disappearance of Persons, which the Commission can use in cases of alleged forced disappearances with respect to the States that have ratified this treaty.

45. In which cases can the Commission adopt precautionary measures?

The Rules of Procedure of the IACHR provide:

Article 25. Precautionary Measures

1. In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons or to the subject matter of the proceedings in connection with a pending petition or case.
2. In serious and urgent situations, the Commission may, on its own initiative or at the request of a party, request that a State adopt precautionary measures to prevent irreparable harm to persons under the jurisdiction of the State concerned, independently of any pending petition or case.
3. The measures referred to in paragraphs 1 and 2 above may be of a collective nature to prevent irreparable harm to persons due to their association with an organization, a group, or a community with identified or identifiable members.
4. The Commission shall consider the gravity and urgency of the situation, its context and the imminence of the harm in question when deciding whether to request that a State adopt precautionary measures. The Commission shall also take into account:
 - a. whether the situation of risk has been brought to the attention of the pertinent authorities or the reasons why it might not have been possible to do so;
 - b. the individual identification of the potential beneficiaries of the precautionary measures or the identification of the group to which they belong; and
 - c. the express consent of the potential beneficiaries whenever the request is filed before the Commission by a third party unless the absence of consent is duly justified.
5. Prior to the adoption of precautionary measures, the Commission shall request relevant information to the State concerned, unless the urgency of the situation warrants the immediate granting of the measures.
6. The Commission shall evaluate periodically whether it is pertinent to maintain any precautionary measures granted.
7. At any time, the State may file a duly grounded petition that the Commission withdraws its request for the adoption of precautionary measures. Prior to the adoption of a decision on the

State's petition, the Commission shall request observations from the beneficiaries or their representatives. The submission of such a petition shall not suspend the enforcement of the precautionary measures granted.

8. The Commission may request relevant information from the interested parties on any matter related to the granting, observance, and maintenance of precautionary measures. Material non-compliance by the beneficiaries or their representatives with such a request may be considered a ground for the Commission to withdraw a request that the State adopt precautionary measures. With regard to precautionary measures of a collective nature, the Commission may establish other appropriate mechanisms of periodic follow-up and review.
9. The granting of such measures and their adoption by the State shall not constitute a prejudgment on the violation of the rights protected by the American Convention on Human Rights or other applicable instruments.

46. In which cases will the Commission not be able to help me?

The Commission cannot:

- ◆ issue a ruling with respect to a State that is not a member of the OAS;
- ◆ provide attorneys to assist in domestic judicial proceedings or to submit a petition or request for precautionary measure to the Commission;
- ◆ provide economic assistance or materials and supplies to persons;
- ◆ undertake immigration procedures, or process the granting of visas or political asylum.

47. Can I file a request for precautionary measures without filing or having filed a petition?

Yes. While it is possible for precautionary measures to be associated with petitions, the procedures for precautionary measures and the filing of petitions may be pursued independently.

48. Does the decision made by the Commission with respect to the request for precautionary measures influence the decision regarding the petition?

No. As they are independent procedures, if the Commission decides to adopt or reject the request for precautionary measures, the petition will continue its course until the Commission decides how it is going to respond.

HOW CAN I SUBMIT A REQUEST FOR PRECAUTIONARY MEASURES?

49. Who can submit a request for precautionary measures with the Commission?

Any person or group of persons, on their own behalf or in representation of another, may file a request for precautionary measures with the Commission.

A person may be both an applicant and a beneficiary.

If the person who is the beneficiary wishes to change representation or to come forward as the applicant, he/she must so indicate to the Commission immediately in writing, since as a general practice the Commission will maintain communication with the applicant(s). In addition, it is important to give written notice of any change of address or other contact information.

- ◆ Applicant(s): person or group of persons who files the request for precautionary measures.
- ◆ Beneficiary or beneficiaries: person or group of persons on whose behalf precautionary measures are adopted. Such person or persons must be identified or identifiable.

50. Can the Commission keep the identity of the proposed beneficiary confidential?

In general, when the Commission addresses the State in relation to the request for precautionary measures, it must communicate the identity of the proposed beneficiary, since the State must know to whom it is to provide protection. Nonetheless, if there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

In certain cases, the Commission may opt to protect the identity of this person in the documents that are made public, for example, by replacing the full name with his or her initials. The request to protect the identity of the proposed beneficiary should be made to the Commission with a statement of the reasons.

51. Can the Commission keep the name of the applicant confidential?

Yes. Provided that the applicant expressly requests it, the Commission can keep his or her name confidential. However, if the applicant and the proposed beneficiary are the same person, the Commission generally informs the State of the person's identity. If there is any problem in this regard, the situation can be communicated to the Commission for its consideration.

52. In what language should I submit my request for precautionary measures?

The official languages of the IACHR are Spanish, English, Portuguese, and French. In general it is only necessary to send the request for precautionary measures in one of the official languages that is used by the State. Nonetheless, if there is any problem doing so, the situation can be communicated to the Commission for its consideration.

In any event, it is important to bear in mind that if it is decided to forward the request to the State, it should be in the official language used by the State. For this reason, when a request for precautionary measures is not in that language, the Commission may require the applicant to obtain the means necessary for it to be translated.

53. Do I need a lawyer to file my request for precautionary measures?

No. The Commission does not require the representation of an attorney in filing and processing the request for precautionary measures.

54. Is there a fee for submitting my request?

No. The procedures before the Commission are free of charge.

55. What information is important to include in my request for precautionary measures?

> PERSONAL INFORMATION

- ◆ The applicant's contact information, such as full name, telephone, mailing address, fax and email, and the indication as to whether the applicant seeks to keep his or her identity confidential.
- ◆ The determination of the person or group of persons proposed as the beneficiary, and the contact information, if possible. If it is not possible to name all the persons individually, the data provided must be sufficient for the State to be able to provide them protection.
- ◆ If the person is deprived of liberty, please indicate where he or she is detained.

> FACTS ALLEGED

- ◆ A detailed and chronological description of the facts that shows the existence of a serious and urgent situation and irreparable harm.
- ◆ The current situation of the persons proposed as beneficiaries and their degree of risk.
- ◆ If possible, legible, uncertified copies should be sent of the documents needed to understand the situation of the person or group of persons proposed as the beneficiary, such as copies of complaints presented to the authorities, medical certificates in situations involving health, and any other relevant legal motions that have been presented. If it is not possible to send these documents, the reasons should be provided. Photocopies of documents do not require any formality, that is, it is not necessary that they be certified, notarized or legally authenticated. One need not send several copies of the same document. If the request and its annexes are sent by mail, it is preferable that the documentation not be bound or laminated in any way.

> COMPLAINTS TO STATE AUTHORITIES

- ◆ An explanation of whether the facts alleged have been reported to the authorities or whether the State has been asked to provide protection, and a description of the response, if any; or an explanation of why it has not been possible to put such protection in place.
- ◆ An indication as to whether the person or group or persons proposed as beneficiaries already has any measures of protection domestically. If so, provide an explanation of how effective those measures have been.

> MEASURES REQUESTED

- ◆ A description of the measures of protection or others measures that have been requested.

> INFORMATION AS TO WHETHER IT IS RELATED TO A PETITION OR CASE BEFORE THE COMMISSION

- ◆ An indication as to whether the person has already filed a petition or has a case pending before the Commission, and if so, the date of submission of the petition and the reference number assigned to the petition or case.

As a general rule, the Commission does not return documents received in the context of a request for precautionary measures. Accordingly, originals should not be sent.

56. Where should I send my request for precautionary measures?

While the request may be made personally, it is not necessary to come to the Commission, as the request may be sent by any of the following means:

- **Email:** cidhdenuncias@oas.org
- **Fax:** +1 (202) 458-3992 or 6215
- **Mail:**
Inter-American Commission on Human Rights
1889 F Street N.W.
Washington, D.C. 20006
United States

If the documents are sent electronically, it is not necessary to resend them in hard copy.

Every petition or communication sent should be addressed to the Inter-American Commission on Human Rights.

WHAT IS THE PROCEDURAL COURSE OF MY REQUEST FOR PRECAUTIONARY MEASURES?

57. Should I go to the Commission's headquarters at some point?

It is not necessary to come to the Commission, because the procedure is mainly written. The Commission may call hearings or working meetings in certain matters.

58. How will I find out the Commission's decision regarding my request for precautionary measures?

The Commission sends a letter giving notice of the decision. The letter will be sent to the applicant at the address indicated in the request.

59. After sending my initial request for precautionary measures, may I submit additional information?

If necessary, the applicant may send additional communications regarding the situation of the proposed beneficiary or the facts alleged at any time.

60. What happens if the Commission decides to grant my request for precautionary measures?

If it grants the request, the Commission will turn to the authorities who represent the State in question to ask them to adopt certain measures of protection or prevention. It is the State, in consultation with the beneficiary, that implements the precautionary measures granted.

For more information, visit the Inter-American Commission's website at: www.cidh.org

Form for submitting a petition to the IACHR

This form is based on the information required by the Commission's Rules of Procedure in order to process petitions and to determine whether there has been a violation of the human rights protected by international treaties ratified by the State that is alleged to have committed these violations. The required information is stipulated in Article 28 of the Commission's Rules of Procedure in the following terms:

Article 28. Requirements for the Consideration of Petitions

Petitions addressed to the Commission shall contain the following information:

- a. the name, nationality and signature of the person or persons making the denunciation; or in cases where the petitioner is a nongovernmental entity, the name and signature of its legal representative(s);
- b. whether the petitioner wishes that his or her identity be withheld from the State;
- c. the address for receiving correspondence from the Commission and, if available, a telephone number, facsimile number, and email address;
- d. an account of the act or situation that is denounced, specifying the place and date of the alleged violations;
- e. if possible, the name of the victim and of any public authority who has taken cognizance of the fact or situation alleged;
- f. the State the petitioner considers responsible, by act or omission, for the violation of any of the human rights recognized in the American Convention on Human Rights and other applicable instruments, even if no specific reference is made to the article(s) alleged to have been violated;
- g. compliance with the time period provided for in Article 32 of these Rules of Procedure;
- h. any steps taken to exhaust domestic remedies, or the impossibility of doing so as provided in Article 31 of these Rules of Procedure; and
- i. an indication of whether the complaint has been submitted to another international settlement proceeding as provided in Article 33 of these Rules of Procedure.

Before filling out the form attached hereto, please read the instructions provided carefully.

INSTRUCTIONS

Fill out the form in the most complete manner possible, including all information available in relation to the facts alleged. Please answer the questions in a detailed and direct manner.

If the information requested is not available to you or you cannot send it, please indicate so in the corresponding box.

If you need more space to fill out the form, you may answer the questions using additional sheets or you may draft your petition in a separate document, using the questions in the form as a guide.

The petition may be sent by any of the following means:

■ **Mail:**

Inter-American Commission on Human Rights
1889 F Street, N.W.
Washington, D.C. 20006
United States

■ **Email:** cidhdenuncias@oas.org

■ **Fax:** +1 (202) 458-3992 or 6215

■ **Electronic form:** www.cidh.org. If you wish to send your petition by this means, you have the option of drafting your petition in a separate document and uploading it to the Commission's website.

If you send the petition and its annexes by mail, it is preferable that the documentation not be bound or laminated in any way.

Every petition or communication should:

- ◆ be addressed to the Inter-American Commission on Human Rights.
- ◆ be in the language of the State, so long as it is one of the official languages of the OAS (Spanish, English, French, or Portuguese); nonetheless, if there is any problem doing so, the situation may be communicated to the Commission for its consideration.



FORM

SECTION I. INFORMATION ON THE ALLEGED VICTIM AND PETITIONER

1. INFORMATION ON THE ALLEGED VICTIM(S)

Please provide the information about the person or group affected by the violation(s) of human rights.

It is important to notify the Commission immediately and in writing if the alleged victim(s) wish/wishes to change representation or become the petitioner in his/her/their own petition.

If there is more than one victim, please add the data in the "Additional Information" Section.

Name of the alleged victim:

Sex of the alleged victim: F M

Date of birth of the alleged victim: (day/month/year)

Mailing address of the alleged victim (including the street or avenue, number/name of the building or house, apartment, city, state or province, postal code, country):

Telephone number of the alleged victim (include area codes if possible):

Fax number of the alleged victim (include area codes if possible):

Email of the alleged victim:

Is (are) the alleged victim(s) deprived of liberty? No Yes

Additional information about the alleged victim(s):

2. INFORMATION ON THE FAMILY MEMBERS

Please provide information regarding the close family members of the alleged victim(s) who are likely to have suffered harm as a result of the alleged violation of human rights.

Name of the family members and relationship to the alleged victim:

Mailing address of the family members (including the street or avenue, number/name of building or house, apartment, city, state or province, postal code, country):

Telephone number of the family members (include area codes if possible):

Fax of the family members (include area codes if possible):

Email of the family members:

Additional information on the family members:



3. DATA ON THE PETITIONER

Please provide information about the person or group that is submitting the petition.

It is important to notify the Commission immediately of any change in mailing address.

Name of the petitioner (In the event that it is non-governmental organization, include the name of the legal representative(s) who will receive the communications. If it is more than one organization or person, include the additional information in the space provided):

Acronym of the organization (if applicable):

Mailing address of the petitioner (including the street or avenue, number/name of building or house, apartment, city, state or province, postal code, country):

(NOTE: The Commission requires a mailing address to send notifications related to your petition.)

Telephone number of the petitioner (include area codes if possible):

Fax of the petitioner (include area codes if possible):

Email of the petitioner:

In certain cases, the Commission can keep the identity of the petitioner confidential, if expressly requested. This means that only the name of the alleged victim will be communicated to the State if the IACHR decides to process your petition.

Do you want the IACHR to keep your identity as petitioner confidential during the procedure?

No Yes

Additional information about the petitioner(s):

4. IS YOUR PETITION RELATED TO A PREVIOUS PETITION OR A REQUEST FOR PRECAUTIONARY MEASURES?

Have you previously submitted a petition to the Commission concerning these same facts?

No Yes

(If yes, indicate the number of the petition): _____

Have you submitted a request for precautionary measures to the Commission concerning these same facts?

No Yes

(If yes, indicate the reference number): _____



SECTION II. FACTS ALLEGED

1. MEMBER STATE OF THE OAS AGAINST WHICH THE COMPLAINT IS SUBMITTED

2. THE FACTS

Provide, in chronological order, an account of the facts that is as thorough and detailed as possible. In particular, specify the place, the date, and the circumstances in which the alleged violations occurred. (Add more pages if necessary or attach a separate document in which you describe the facts alleged)

3. AUTHORITIES ALLEGEDLY RESPONSIBLE

Identify the person(s) or authorities who you consider responsible for the facts alleged and provide any additional information as to why you consider the State responsible for the alleged violation(s).

4. HUMAN RIGHTS ALLEGEDLY VIOLATED

Indicate the rights that you consider have been violated. If possible, specify the rights protected by the American Declaration of the Rights and Duties of Man, the American Convention on Human Rights, or the other Inter-American human rights treaties. If you wish to consult a list of the rights or treaties, see the Petition and Case System: Informational Brochure, in particular the section referring to *Human Rights in the Inter-American System*.



SECTION III. LEGAL REMEDIES PURSUED TO RESOLVE THE FACTS ALLEGED

Describe the actions pursued by the alleged victim or the petitioner before the judicial bodies. Explain any other remedy pursued before domestic authorities, including administrative agencies, if any.

If it has not been possible to exhaust domestic remedies, choose from the following options the one that best explains why it was not possible:

- the domestic laws do not ensure due process for the protection of the rights allegedly violated;
- access to domestic remedies has not been permitted, or exhausting them has been impeded;
- there has been unwarranted delay in issuing a final decision in the case.

Please explain the reasons:

SECTION IV. AVAILABLE EVIDENCE

1. EVIDENCE

The available evidence includes any documents that may prove the violations alleged (for example, the principal pleadings and exhibits in judicial or administrative records, expert reports, forensic reports, photographs, and video or film recordings, among others).

- ◆ If possible, attach a simple copy of these documents. (The copies do not need to be certified or legally authenticated).
- ◆ **Please do not attach originals.**
- ◆ If it is not possible to send the documents, you should explain why and indicate whether you will be able to send them in the future. In any event, you should indicate which documents are relevant to proving the facts alleged.
- ◆ The documents should be in the language of the State, so long as it is an official language of the OAS (Spanish, English, Portuguese, or French). If this is not possible, the reasons should be explained.

List or indicate the evidence that is the basis of your petition, and, if possible, identify which evidence you are attaching or sending with your petition:

SECTION VI. PRECAUTIONARY MEASURES

In certain serious and urgent situations, the Commission may ask a State to adopt precautionary measures to prevent irreparable harm to persons or to the subject matter of the proceedings.

For the criteria the Commission has used in practice, you may go to www.cidh.org, where a summary of the granted precautionary measures is periodically published.

If you wish to submit an application for precautionary measures, please refer to the Petition and Case System: Informational Brochure, in particular the section entitled Serious and Urgent Situations.

Indicate whether there is a serious and urgent situation of risk of irreparable harm to persons or to the subject matter of the proceedings.

No Yes

If yes, please explain the reasons:



GLOSSARY

PETITIONS AND CASES

Under Study. The initial review stage in which the petition is reviewed to determine whether it meets the requirements established in Article 28 of the IACHR Rules of Procedure. Given the large number of petitions the Commission receives, the preliminary evaluation of a petition may take some time. This stage culminates in a decision on whether or not to process the petition. The petitioner is notified in both cases, i.e. whether or not processing is initiated.

Admissibility. The stage in which the IACHR determines if a petition meets the admissibility requirements set forth in Articles 46 and 47 of the American Convention on Human Rights, in accordance with the procedure established in Articles 30 and 36 of the Rules of Procedure of the Commission. Processing in this stage begins with the transmittal of the petition to the State and concludes with an IACHR decision issued in an admissibility or inadmissibility report, which is notified to both parties.

Merits. The stage in which the IACHR decides on the merits of the case pursuant to the procedure established in Articles 48 and 50 of the American Convention on Human Rights and Articles 37, 38, 39, 43 and 44 of the Rules of Procedure of the Commission. This stage begins with the assignment of a case number and with notification of the admissibility report to the parties and culminates with a report on the merits.

Petition not opened for processing. According to the information received by the IACHR Executive Secretariat, the petition does not meet the requirements established in Articles 26 and et seq. of the Rules of Procedure of the Commission. Therefore, the petition will not be opened for processing.

Archived. At any time during the processing, the Commission may decide to archive the file if it determines that the grounds for the petition or case do not exist or subsist, or if the information needed to adopt a decision on a petition or case is unavailable. The conditions for archiving a file are set forth in Article 48.1.b of the American Convention on Human Rights and in Article 42.1 of the IACHR Rules of Procedure.

Follow-up on Recommendations. Once the Commission has published a report on the merits in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties or holding hearings or working meetings, in order to verify compliance with the recommendations. The follow-up stage is described in Article 48 of the IACHR Rules of Procedure.

Follow-up on Friendly Settlement. Once the Commission has published a report on a friendly settlement in which it has made recommendations, it may adopt the follow-up measures it deems appropriate, such as requesting information from the parties or holding hearings or working meetings, in order to verify compliance with the friendly settlement agreements. The follow-up stage is described in Article 48 of the IACHR Rules of Procedure.

PRECAUTIONARY MEASURES

Under Study. Initial review stage to determine whether the request for precautionary measures meets the requirements established in Article 25 of the IACHR Rules of Procedure. During this stage, the petitioners may be requested to clarify or complete certain relevant aspects of the request. This stage ends with the Commission's decision to grant the request for precautionary measures, request information from the State, or deny the request.

Request rejected. After its examination of the information provided, the Commission has concluded that the request for precautionary measures does not meet the requirements established in Article 25 of its Rules of Procedure. If appropriate, additional information may be submitted on the factors of seriousness, urgency, and the need to prevent irreparable harm. In addition, if the situation presented is deemed to constitute a violation of protected rights, an individual petition may be filed in accordance with Article 28 of the Rules of Procedure of the Commission.

Lifted. The situations in this stage have been considered by the Commission, which has determined that the object of the precautionary measures no longer exists or has validity. Nonetheless, if the circumstances change, a new request may be presented on the basis of elements of seriousness, urgency, and the need to prevent irreparable harm.

Contact Information

- While the request may be made personally, it is not necessary to come to the Commission, as the request may be sent by any of the following means:

- ◆ Email: **cidhdenuncias@oas.org**

- ◆ Electronic form: **www.cidh.org**

- ◆ Fax: **+1(202) 458-3992** or **6215**

- ◆ Mail:

Inter-American Commission on Human Rights

1889 F Street, N.W.

Washington, D.C. 20006

United States

- If the documents are sent electronically, it is not necessary to resend them in hard copy.
- Every petition or communication sent should be addressed to the Inter-American Commission on Human Rights.



White: States that signed the American Declaration of the Rights and Duties of Man.

Blue: States that signed the American Declaration of the Rights and Duties of Man and ratified the American Convention on Human Rights. As of June 30, 2010, Dominica, Grenada and Jamaica have not recognized the jurisdiction of the Inter-American Court of Human Rights. All of the other OAS States that have ratified the American Convention on Human Rights have also recognized the jurisdiction of the Court.



Organization of American States