
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 91/2023**

Precautionary Measure No. 330-11
José Reynaldo Cruz Palma regarding Honduras
December 30, 2023
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of José Reynaldo Cruz Palma in Honduras. At the time of making the decision, the Commission notes that the beneficiary has been missing since August 30, 2011, and that his family is not in Honduran territory. In this regard, in view of the nature of the precautionary measures, the Commission verified that it is not possible to identify a situation that places the proposed beneficiary at risk in the terms of Article 25 of the Rules of Procedure, and that it is appropriate to analyze the allegations presented in the framework of the Petitions and Cases System. Upon not identifying compliance with the requirements set forth in Article 25 of the Rules of Procedure, the IACHR decided to lift these precautionary measures.

II. BACKGROUND INFORMATION

2. On October 3, 2011, the IACHR decided to grant precautionary measures in favor of José Reynaldo Cruz Palma in Honduras.¹ The request for precautionary measures alleged that Mr. Cruz Palma, who had served as President of the Board of Trustees of Colonia Planeta, in San Pedro Sula, disappeared on August 30, 2011. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requested that the State of Honduras: a) adopt the necessary measures to determine the situation and whereabouts of José Renaldo Cruz Palma, in order to protect his life and personal integrity; and b) report on the actions taken to investigate the facts that gave rise to the adoption of this precautionary measure.

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

3. During the time the precautionary measures were in force, the Commission followed up on the subject matter of these precautionary measures by requesting information from both parties.

4. The State submitted their observations on the following dates:

2011	October 26 and December 7
2015	December 16
2016	July 18, August 18 and October 3
2018	September 25
2020	December 9
2022	March 31
2023	January 14 and September 26

5. The representation submitted information on the following dates:

¹ See in this regard: <https://www.oas.org/es/CIDH/decisiones/MC/cautelares.asp?Year=2011&Country=HND>.

2011	November 8 and December 30
2013	August 21
2016	June 10 and November 4
2020	December 19
2022	December 20
2023	August 23 and November 28

6. The Commission requested information from the parties on October 12, October 25, November 3 and 23, and December 12, 2011; February 1 and February 29, 2012; April 29, and September 3 and 26, 2013; October 6 and November 11, 2015; February 12, June 10, July 28 and October 3, 2016; July 27, 2018; October 9, November 9 and December 17, 2020, January 6 and September 20, 2022; and June 1 and September 5, 2023. On October 30, 2023 the Commission requested information from the representation, in order to evaluate keeping these precautionary measures in force. The representation submitted its observations on November 28, 2023.

7. Representation is exercised by the Committee of Relatives of the Disappeared in Honduras (COFADEH).

A. Information provided by the State

8. In 2011, the State reported that on September 6, 2011, the Regional Coordination of the Human Rights Prosecutor’s Office of San Pedro Sula (*Coordinación Regional de la Fiscalía de los Derechos Humanos*) initiated an ex officio investigation into the disappearance of Mr. José Reynaldo Cruz Palma. On the same date, a police investigation order, which lists the investigative measures for this case, was issued. On September 20, 2011, the Prosecutor’s Office requested information from the National Directorate of Criminal Investigation (*Dirección Nacional de Investigación Criminal*, DNIC) on whether this unit is assigned the vehicle in which the agents who allegedly detained Mr. Cruz Palma were allegedly transported. On September 21, 2011, the DNIC indicated that they do not have registration of any vehicle with the indicated characteristics in this police institution. In September 2011, the Prosecutor’s Office received statements from three witnesses.

9. In 2015, the State reported proceedings it has carried out in the framework of the investigative file in relation to the disappearance of the beneficiary: on August 6, 2012, a visual inspection was conducted of the police station logbooks; on August 7, 2012, a visual inspection was conducted of the police headquarters logbooks; on March 11, 2014, additional statements were ordered; and on August 5, 2015, a report was requested on the vehicles assigned to DNIC between August and October 2011. The State indicated that the preliminary investigation had not been concluded.

10. In 2016, the State reported that it was taking internal steps to verify the possibility of incorporating the beneficiary’s relatives into the Protection System. In addition, it reiterated previous information, indicating that the investigations into the beneficiary’s disappearance had not been concluded.

11. In 2018, the State reported that the General Directorate of the Protection System requested information related to the beneficiary’s family members from the representative organization COFADEH on June 15, 2016. The aim was to determine whether they are included within the beneficiary population of the Law for the Protection of Human Rights Defenders, Journalists, Social Communicators and Justice Operators, and thus analyze their incorporation into the Protection Mechanism. However, it was indicated that to date the requested information has not been received given that the beneficiary’s family members have had to leave the country and were located in Spain at that time.

12. In 2020, the State reiterated the information that it has not received a response regarding the beneficiary's relatives, which had made it impossible for them to join the Protection Mechanism.

13. In 2022, the State indicated that the Prosecutor's Office carried out proceedings within the framework of the investigation of the disappearance of the beneficiary, such as official briefs to the Directorate of Investigation and Evaluation of the Police Career and the Directorate of Police Disciplinary Affairs, but have not received a response. In addition, the State indicated that it had recently sent a request to the Technical Agency of Criminal Investigation (*Agencia Técnica de Investigación Criminal*) to initiate new lines of investigation. It also reportedly requested the location of the family members in order to make progress in the investigation.

14. In 2023, the State reported that, regarding complaint number 331556-2011, against the Preventive Police for the forced disappearance of José Reynaldo Cruz Palma, the Regional Human Rights Prosecutor's Office in San Pedro Sula reported that it was able to identify Ms. Isaura Cruz Palma, sister of the beneficiary, and take her testimony on March 17, 2022. On March 9, 2022, information was requested from the Directorate of Forensic Medicine of San Pedro Sula regarding the beneficiary, but no record has been found. Information was also requested from the National Institute of Migration regarding the beneficiary, and no record has been found.

B. Information provided by the representation

15. In 2011, the representation reported that, regarding the proceedings ordered in the framework of the investigation in relation to the disappearance of Mr. José Reynaldo Cruz Palma, the State has not presented results or progress. In this sense, it was alleged that the proceedings were not effective in determining the destination of the beneficiary. It was also alleged that the State has not investigated the police officers of Colonia Planeta, who are allegedly responsible for constant harassment against the beneficiary. In addition, the representation indicated that the *writ of habeas corpus* action filed due to the disappearance had a procedural inactivity for more than six weeks and its result is allegedly unknown, which reflects the State's unwillingness to know the truth about the fate of the beneficiary.

16. On December 30, 2011, the representation reported incidents that put the beneficiary's relatives at risk. In this context, on September 21, 2011, the beneficiary's family and friends staged a sit-in in front of the Cathedral of San Pedro Sula. Upon returning to their residences, a gray vehicle with tinted glass and no license plates reportedly followed them. In addition, on October 15, 2011, during the reception of a wedding with friends and family of the beneficiary at a residence in Colonia Planeta, police officers allegedly entered the party, beat the guests, and temporarily detained 10 people. These events were reported to the authorities. On December 14, family and friends of the beneficiary went to the facilities of the Presidential House to hold a peaceful sit-in demanding that the beneficiary's location be determined. However, the people were allegedly violently repressed. The sisters, wife, and children of the beneficiary were allegedly temporarily detained by the Police. Due to their search efforts, the beneficiary's family is reportedly at risk and was forced to move for safety reasons.

17. In 2013, the representation indicated that on April 10, 2013, the Prosecutor's Office sent a report on the investigative proceedings, in which they are limited to listing proceedings, but did not provide information on the result of each of them. In addition, in response to the complaint of bodies found in clandestine graves in the Planeta Colony of San Pedro Sula, the representation requested preliminary information on the findings. The Regional Director of Forensic Medicine reported that one of the bodies had been recognized, and that they found two other bodies that would be exhumed at a later date. Regarding the beneficiary's relatives, it was indicated that on August 11, 2012, Lenar Joel Cruz Carbajal, son of the beneficiary,

was allegedly persecuted upon returning to his residence by unknown persons who allegedly shot him. One of the shots hit him in the side, requiring surgery. On August 12, 2012, a complaint was filed with the DNIC on the aforementioned facts. On February 22, 2013, Hubener Josué Cruz Carbajal, son of the beneficiary, was reportedly monitored upon returning to his residence. On May 19, 2013, Mr. Cruz Carbajal was allegedly forced into a van by unknown persons, where he was allegedly beaten and threatened.

18. In 2016, the representation reported that Nubia Liznet Cruz Carbajal, daughter of the beneficiary, returned to Honduras in December 2012. On August 31, 2013, Ms. Cruz Carbajal's husband was allegedly kidnapped, and on September 1, 2013, his body was found in the municipality of Progreso, located 20 minutes from Colonia Planeta. It was also indicated that in October 2014 an alleged clandestine cemetery was found in the La Planeta sector, municipality of La Lima, department of Cortés. The search for information from family members regarding possible findings allegedly gave rise to new acts of harassment against them. In this sense, after participating in a public presentation of a report by the representative organization COFADEH in October 2014, the beneficiary's family members allegedly experienced threats and being followed. On September 20, 2015, Lenar Joel Cruz Carbajal, son of the beneficiary, was allegedly detained for 24 hours by police officers from Colonia Planeta.

19. In 2020, the representation indicated that, despite state allegations that it has not received information from the representation, information was sent to the State indicating that the beneficiary's relatives have requested asylum in Spain, due to the safety concerns they faced in Honduras. In addition to the foregoing, the representation argued that the State has not presented any information regarding progress in the investigations into the disappearance of the beneficiary.

20. In 2022, the representation argued that the State has again not presented substantive progress in the investigation. The representation expressed its concern about the fact that, since 2017, no new proceedings have been carried out in the corresponding investigation. In addition, it was reported that the representation periodically goes to the Special Prosecutor's Office for Human Rights in San Pedro Sula in order to know the investigative progress, but does not receive any request to establish coordination with the victim's relatives.

21. In 2023, the representation argued that there is a reluctance of the state authorities to investigate the possible participation of police officers in the disappearance of the beneficiary, despite the existing indications and the statements of witnesses surrounding the facts. In this regard, 12 years after the disappearance of the beneficiary, no judicial investigation has been opened to establish what happened, and no steps have been taken to determine the whereabouts of the victim. It was also indicated that the beneficiary's family remains abroad to date.

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

22. 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.

23. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.² Regarding the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.³ To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.⁴ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the Inter-American system. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

- a. “serious situation” refers to a grave impact that an action or omission can have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the inter-American system;
- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

24. With regard to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that decisions “granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth that “the Commission shall evaluate periodically, at its own initiative or at the request of either party, whether to maintain, modify or lift the precautionary measures in force.” In this regard, the Commission should assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.

25. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation⁵. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.⁶ The Inter-American Court has indicated that the passage of a reasonable period of time without any

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

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

⁴ See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5; I/A Court [Matter of Internado Judicial Capital El Rodeo I y El Rodeo II](#) H.R. 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.

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

⁶ *Ibid.*

threats or intimidation, in addition to the lack of imminent risk, may lead to the lifting of international protection measures.⁷

26. In the matter at hand, the Commission notes that the precautionary measures were granted in 2011, following the disappearance of José Reynaldo Cruz Palma on August 30, 2011. At this time, the Commission considered that the procedural requirements of Article 25 of the Rules of Procedure were met, taking into account that the beneficiary had recently disappeared. Since the granting of these precautionary measures, approximately twelve years have elapsed since the beneficiary's disappearance.

27. The Commission observes that the State has reported that it has taken steps in the investigation of the disappearance of the beneficiary between 2011 and 2015, and subsequently in 2022, such as sending briefs to state institutions requesting information, taking statements from family members and witnesses, and visual inspection of police books (see *supra* paras. 8, 9, and 14). In this regard, the State indicated that the preliminary investigations have not been concluded to date and, in 2022, the Public Prosecutor's Office had requested the Technical Agency for Criminal Investigation to consider new lines of investigation (see *supra* para 14). Lastly, the State alleged that it failed to contact the beneficiary's relatives, who are in Spain (see *supra* paras. 11 to 13).

28. Regarding the investigation of the beneficiary's disappearance, the representation alleged that the State authorities did not carry out an exhaustive and effective investigation to determine his fate, taking into account that no criminal proceedings have been initiated into the facts, and no concrete steps have been taken to search for the beneficiary (see *supra* paras. 15, 19, 20, and 21). Moreover, the representation has reported incidents of risk against the beneficiary's relatives, related to his search for justice, between the years 2011 and 2014, which include acts of violence against relatives and being followed, in particular the beneficiary's children (see *supra* paras. 16 to 18). Due to the above, the beneficiary's family has decided to request asylum in Spain in 2020 and, to date, they remain abroad (see *supra* para. 19).

29. The Commission considers that in the analysis of compliance with the procedural requirements in cases where the individual's whereabouts are unknown, it is important to consider each specific case, assessing the time elapsed, the actions of the competent authorities, as well as the allegations of the representation. In this regard, in the matter at hand, the Commission notes that the beneficiary's disappearance occurred in 2011, twelve years ago. From the information provided by the parties, it is verified that the main allegations refer to the investigation in relation to the disappearance of the beneficiary. The Commission notes that the representation alleges that the authorities have not acted diligently to determine his whereabouts or destination, and that the State has not presented detailed information on substantive progress in the investigation regarding the beneficiary's disappearance over time. In addition, the Commission notes that the beneficiary's relatives left Honduras in 2020, and are not currently in the country.

30. In view of the foregoing considerations, considering the time that has elapsed since the disappearance and the current nature of the allegations, the Commission considers that it is necessary to make substantive assessments in the framework of a related petition, and not through the mechanism of precautionary measures.⁸

31. In this matter, taking into account the nature of the precautionary measures mechanism, in addition to the information available and the analysis carried out, the Commission understands that it has no elements to support compliance with the requirements of Article 25 of the Rules of Procedure. In view of the

⁷ *Ibid.*

⁸ IACHR. IACHR, José Fernando [Choto Choto et al. regarding El Salvador \(PM-240-15\)](#), Resolution to Lift 13/2021 of February 4, 2021, para. 32; [Luis Alberto Sabando Veliz regarding Ecuador. \(PM-1002-04\)](#), Resolution to Lift 2/2021 of January 4, 2021, para. 18.

above, and taking into account the exceptional and temporary nature of precautionary measures,⁹ the Commission considers that it is appropriate to lift these measures. In addition, the Commission considers that the corresponding allegations reportedly be assessed within the framework of the petition and case system.

32. In line with what was indicated by the Inter-American Court in various matters,¹⁰ a decision to lift cannot imply that the State is relieved from its general obligations of protection, contained in Article 1.1 of the Convention, within the framework of which the State is especially obliged to guarantee the rights of persons at risk and must promote the necessary investigations to clarify the facts, followed by the consequences that may be established. Furthermore, based on the assessment of the Inter-American Court, the lifting of the precautionary measures does not imply a possible decision on the merits of the dispute.¹¹

33. Lastly, it is up to the State to continue with the corresponding investigations, as well as the search actions, with the objective of clarifying the facts and circumstances of the disappearance of José Reynaldo Cruz Palma.

V. DECISION

34. The Commission decides to lift the precautionary measures granted in favor of José Reynaldo Cruz Palma in Honduras.

35. The Commission recalls that lifting these measures does not prevent the representatives from filing a new request for precautionary measures should they consider that there is a situation that meets the requirements established in Article 25 of the Rules of Procedure.

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

37. Approved on December 30, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Edgar Stuardo Ralón Orellana; Carlos Bernal Pulido; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi
Executive Secretary

⁹ I/A Court H.R. [Matter of Adrián Meléndez Quijano et al.](#) Provisional Measures regarding El Salvador. Order of August 21, 2013, para. 22; [Matter of Galdámez Álvarez et al.](#) Provisional Measures regarding Honduras. Order of November 23, 2016, para. 24.

¹⁰ I/A Court H.R. [Matter of Velasquez Rodriguez](#). Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988. Considerandum 3; [Matter of Giraldo Cardona et al.](#) Provisional measures regarding Colombia. Order of the Inter-American Court of Human Rights of January 28, 2015. Considerandum 40; and, I/A Court H.R. [Matter of Vélez Looor regarding Panama](#). Provisional Measures. Order of the Inter-American Court of Human Rights of May 25, 2022. Considerandum 62.

¹¹ I/A Court H.R. [Matter of Guerrero Larez](#). Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, Considerandum 16; [Matter of Natera Balboa](#). Provisional Measures regarding Venezuela. Order of the Inter-American Court of Human Rights of August 19, 2013, Considerandum 16.