

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 75/2020**

Precautionary Measure No. 240-11

**Pedro Rigoberto Moran and 6 other persons regarding Honduras**

October 26<sup>th</sup>, 2020

Original: Spanish

**I. BACKGROUND INFORMATION**

1. On September 8<sup>th</sup>, 2011, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission,” or “the IACHR”) received a request for precautionary measures in favor of the following members of the “*Movimiento Auténtico Reivindicador de Campesinos Aguán*” (MARCA): Pedro Rigoberto Moran, Junior López, Julián Hernández, Antonio Francisco Rodríguez Velásquez, Santos Misael Cáceres Espinales, Eduardo Antonio Fuentes Rossel and Santos Eliseo Pavón Ávila. The request alleged that on August 20<sup>th</sup>, 2011, Mr. Secundino Ruiz Vallecillos was killed and Mr. Eliseo Pavón was injured. According to the request, both persons were heading to the headquarters of *Cooperativa la Palma* when they were reportedly ambushed by hitmen who shot them. In addition, it was stated that the alleged events took place in a context of persecution of the members of MARCA. In light of the background information on the matter, the Commission requested that the government of Honduras: take the necessary measures to guarantee the life and physical integrity of Pedro Rigoberto Moran, Junior López, Julián Hernández, Antonio Francisco Rodríguez Velásquez, Santos Misael Cáceres Espinales, Eduardo Antonio Fuentes Rossel and Santos Eliseo Pavón Ávila; consult and agree upon the measures to be taken with the beneficiaries and their representatives; and 3. report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure.<sup>1</sup>

**II. INFORMATION PROVIDED DURING THE TIME THE MEASURE WAS IN FORCE**

2. The Commission has monitored this matter by requesting information from the parties. The last communication from the State is dated November 28<sup>th</sup>, 2011, whilst the representatives’ last communication was on September 24<sup>th</sup>, 2012. The IACHR has requested information from the representatives on December 13<sup>th</sup>, 2011, April 29<sup>th</sup>, 2013 and June 5<sup>th</sup>, 2013, and it has not received a due response to the requests to date.

3. On August 30<sup>th</sup>, 2011, the representatives reiterated the facts and indicated that those responsible were linked to alleged hitmen who were hired by businessmen in African palm production. In addition, the representatives mentioned that on the day of Secundino’s wake, reported hitmen hired by businessmen in African Palm production arrived at Julián Hernández’ house and shot it with the intention of getting him to come outside and riddle him with bullets.

4. For its part, on November 8<sup>th</sup>, 2011 the State claimed that it met with the beneficiaries on October 20<sup>th</sup>, 2011 at the Minister Director of the National Agrarian Institute’s office to agree on a protection measure. At that meeting, the parties agreed on the issuance of credentials for the beneficiaries so they could identify themselves as proposed beneficiaries before police authorities; the construction of a police post in the Ocote Alto village, municipality of Trujillo; the appointment by the beneficiaries of four liaisons who would present them to the peasant movement before the authorities in order to ensure effective compliance with the precautionary measure of protection; and the assignment

<sup>1</sup> Available [in Spanish] at <http://www.cidh.org/medidas/2006.sp.htm>

of telephone lines so that the beneficiaries could communicate in case of an emergency and receive appropriate assistance.

5. On June 5<sup>th</sup>, 2013, the IACHR requested additional and updated information from the representatives regarding the situation of the persons proposed as beneficiaries so that the IACHR can “examine the relevance of maintaining the precautionary measures in force.” To date, the Commission has not received any communication from the representatives and the timelines granted have expired. On August 28<sup>th</sup>, 2020, the State requested to lift these measures, taking into account the “procedural inactivity” of the representatives.

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

6. The precautionary measures mechanisms is part of the Commission’s function of overseeing compliance with human rights obligations set forth in the Charter of the Organization of American States and, in the case of the Member States which have not yet ratified the American Convention, the American Declaration of the Rights and Duties of Man. These general oversight functions are established in Article 18 of the Statute of the IACHR. The precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. In accordance with the aforementioned Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm to persons.

7. The Inter-American Commission and the Inter-American Court on Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving legal situations while being considered by the IACHR. Regarding the process of decision making and according to Article 25.2 of the 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.

8. With respect to the foregoing, Article 25.7 of the Commission’s Rules of Procedure establishes that “the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25.9 establishes 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 evaluate if the serious and urgent situation and the possible generation of irreparable harm, that caused the adoption of the precautionary measures, persist. Moreover, the Commission should consider if new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

9. The Commission notes that these precautionary measures were granted in light of the information that was received, according to which the beneficiaries were reportedly victims of acts of harassment, intimidation and aggression due to carrying out their duties as members of MARCA in 2011. In this regard, these precautionary measures were granted to 7 persons duly identified: Pedro Rigoberto

Moran, Junior López, Julián Hernández, Antonio Francisco Rodríguez Velásquez, Santos Misael Cáceres Espinales, Eduardo Antonio Fuentes Rossel, and Santos Eliseo Pavón Ávila.

10. In this regard, the Commission takes note of the protection measures that were allegedly taken in favor of the beneficiaries during the time these precautionary measures were in force (vid. *supra* para. 4). Such protection measures have not been disputed throughout the time these measures have been in force, despite the request for information from the representatives over the time. Between 2011 and 2013, the Commission requested information from the representatives; however, the timelines granted have already expired and they have not responded to date. In this regard, it is emphasized that since 2013 seven years have elapsed and the representatives have not provided information indicating that events of risk have transpired against the beneficiaries in the framework of this proceedings. In turn, the protection measures that the Stated indicated to have been implementing have not been questioned over the time either.

11. The Commission recalls that even though the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, the maintenance of such measures requires a more rigorous assessment.<sup>2</sup> In that sense, the burden of proof and argument increases as time passes and there is no imminent risk.<sup>3</sup> The Inter-American Court has indicated that the passage of a reasonable period of time without threats or intimidation, coupled with the lack of imminent risk, may lead to the lifting of international protective measures.<sup>4</sup>

12. In light of the aforementioned analysis, the Commission emphasizes that approximately 7 years have gone by and it does not have information provided by the parties which may be sufficient to consider that the beneficiaries identified are currently at serious and urgent risk of irreparable harm to their rights pursuant to Article 25 of the Rules of Procedure.

13. The Commission deems it pertinent to recall that the procedural activity of the representatives in the framework of the proceedings is necessary in order to analyze in a timely manner the observations that may be relevant and, in general, to provide concrete and detailed information to evaluate the precautionary measures taking into account their considerations.<sup>5</sup> Otherwise, the Commission does not have elements sufficient to analyze the maintenance of the precautionary measures. As the Inter-American Court has indicated, the representatives of the beneficiaries who wish the measures to continue must present evidence of the reasons why.<sup>6</sup> In view of the foregoing, together with the analysis carried out, taking into account the temporary and exceptional nature<sup>7</sup> of the precautionary measures mechanism, and considering that seven years have elapsed without a response from the representatives, the Commission considers that the present measures should be lifted.

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<sup>2</sup> I/A Court H.R. Provisional measures regarding Mexico. Order of February 7, 2017, paras. 16 and 17. Available [in Spanish] at [http://www.corteidh.or.cr/docs/medidas/fernandez\\_se\\_08.pdf](http://www.corteidh.or.cr/docs/medidas/fernandez_se_08.pdf)

<sup>3</sup> Ibid.

<sup>4</sup> Ibid.

<sup>5</sup> I/A Court H.R. Case of Coc Max *et al.* (Xamán Massacre) v. Guatemala. Provisional Measures. Resolution of the Inter-American Court of Human Rights of February 6, 2019. Considerandum 12. Available [in Spanish] at [http://www.corteidh.or.cr/docs/medidas/coc\\_se\\_02.pdf](http://www.corteidh.or.cr/docs/medidas/coc_se_02.pdf)

<sup>6</sup> I/A Court H.R. Matter of Luisiana Ríos *et al.* v. Venezuela. Provisional Measures. Resolution of the Inter-American Court of Human Rights of August 22, 2018. Considerandum 3. Available [in Spanish] at [http://www.corteidh.or.cr/docs/medidas/rios\\_se\\_10.pdf](http://www.corteidh.or.cr/docs/medidas/rios_se_10.pdf)

<sup>7</sup> I/A Court H.R., Matter of Adrián Meléndez Quijano *et al.* Provisional Measures regarding El Salvador. Judgment of the Court of August 21, 2013, para. 2013, para. 22, and Case of Galdámez Álvarez *et al.* Provisional Measures regarding Honduras. Resolution of the Inter-American Court of Human Rights of November 23, 2016, para. 24.

14. Lastly, the decision above is adopted notwithstanding the follow-up actions that are appropriate within the framework of the Resolution to Grant PM-50-14-HO dated May 8<sup>th</sup>, 2014,<sup>8</sup> and the extension through which precautionary measures were granted in favor of 32 persons identified of the “*Movimiento Auténtico Reivindicador Campesino del Aguán*,” among others.

#### **IV. DECISION**

15. The Commission has decided to lift the precautionary measures granted to Pedro Rigoberto Moran, Junior López, Julián Hernández, Antonio Francisco Rodríguez Velásquez, Santos Misael Cáceres Espinales, Eduardo Antonio Fuentes Rossel, and Santos Eliseo Pavón Ávila.

16. The Commission recalls that, pursuant to Articles 4 and 5 of the American Convention in relation to Article 1.1 of the same instrument, the State of Honduras is under the obligation to respect and guarantee the rights of Pedro Rigoberto Moran, Junior López, Julián Hernández, Antonio Francisco Rodríguez Velásquez, Santos Misael Cáceres Espinales, Eduardo Antonio Fuentes Rossel, and Santos Eliseo Pavón Ávila, notwithstanding the lift of these precautionary measures.

17. The Commission also recalls that the lift of the precautionary measures does not preclude the representatives from submitting a new request for precautionary measures should they consider that there is a situation that meets the requirements set out in Article 25 of the Rules of Procedure.

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

19. Approved on October 26<sup>th</sup>, 2020 by Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay; and Esmeralda Arosemena de Troitiño; members of the IACHR.

María Claudia Pulido  
Acting Executive Secretary

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<sup>8</sup> IACHR, PM 50/14 - Peasant [male and female] leaders of *Bajo Aguán*, Honduras, May 8, 2014. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2014/MC50-14-ES.pdf>. Subsequently, this resolution was extended in Resolution 60/2016, PM-50-14, Extension of beneficiaries in favor of members and [male and female] leaders of the *Bajo Aguán* region regarding Honduras, December 6, 2016. Available [in Spanish] at <http://www.oas.org/es/cidh/decisiones/pdf/2016/MC50-14-ES-ampliacion.pdf>