

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 10/2013**

PRECAUTIONARY MEASURE No. 304-13

Regarding the Republic of Haiti
November 27, 2013

I. INTRODUCTION

1. On September 12, 2013, the Inter-American Commission on Human Rights (hereinafter "Inter-American Commission" "Commission" or "IACHR") received a request for precautionary measures presented by the "*Bureau des Avocats Internationaux*" (hereinafter "BAI" or "the petitioners") and by the "*Institut pour la Justice et la Démocratie en Haïti*" (hereinafter "IJDH" or "the petitioners"), requesting that the Republic of Haiti (hereinafter "Haiti" or "the State") protect the life and physical integrity of the lawyer Patrice Florvilus and the members of his organization "*Défense des Opprimés*" (hereinafter "DOP" or "the proposed beneficiaries"). The request alleges that the proposed beneficiaries are at risk due to a series of threats, acts of harassment and persecution in retaliation for their work in defense of human rights in Haiti.

2. On October 4, 2013, the IACHR requested additional information from the petitioners and from the State of Haiti regarding the allegations in the request. The petitioners submitted additional information on October 11 and November 6, 2013. As of the date of this Resolution, the State has not answered the request for information.

3. After analyzing the allegations of fact and law submitted by the petitioners, the Commission considers that the information presented demonstrates *prima facie* that Mr. Patrice Florvilus and the members of his organization, the DOP are in a serious and urgent situation because their life and physical integrity have been threatened and are at grave risk. As a consequence, according to Article 25 of the Rules of Procedure of the IACHR, the Commission requests that the State of Haiti: a) adopt the necessary measures to guarantee the life and physical integrity of Patrice Florvilus and the members and/or employees of DOP; b) adopt the necessary measures to guarantee that Patrice Florvilus and the members/employees of DOP can carry out their activities without being subject to threats or acts of intimidation because of their work as human rights defenders; c) agree on the measures to be adopted with the beneficiaries; and d) report on the actions adopted with the purpose of investigating the events that led to the adoption of this precautionary measure and thus avoid their repetition.

II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PETITIONERS

4. According to the request and the subsequent communications presented by the petitioners, there is currently a context of intimidation and continuous threats against the members of the DOP due to their work as human rights defenders in Haiti. The petitioners allege that Mr. Florvilus was a defense attorney before the Haitian courts representing several residents or inhabitants of the internally displaced persons' camps known as "Adoken ACRA" and "Grace Village", set up after the 2010 earthquake in Haiti.

5. The petitioners allege that on April 15, 2013 –after a fire at the "Adoken ACRA"— the residents carried out a number of demonstrations that led to police intervention. In this context, two inhabitants of the camp –Darlin Lexima and Meris Civil— were arrested. DOP's lawyers representing these two detainees requested that the Justice of the Peace of the city of Delmas look into the allegations of acts of torture allegedly suffered by Darlin Lexima and Meris Civil while under arrest. It is alleged that in response to this request, the Judge of the city of Delmas examined the claim and established that Mr. Meris Civil had died on April 15, 2013, as a result of the acts of torture he had been subjected to while in detention. It was also established that Darlin Lexima suffered "degrading treatment" and that he was released on April 16, 2013. It is alleged that Mr. Patrice Florvilus participated in a complaint filed before the Instruction Cabinet of the First-Instance Court of Port-au-Prince,

requesting justice and reparation for Meris Civil's family members, and that they have not received a response to date.

6. The petitioners allege that as a result of Patrice Florvilus's work in the case of Darlin Lexima he became the target of threats, persecution, and baseless judicial complaints, which can be summarized as follows:

- a) On April 15, 17 and 19, 2013: a car allegedly belonging to the National Police of Haiti (hereinafter PNH) license plate 1-493, followed Patrice Florvilus. Allegedly, the same vehicle was used during those three days to obstruct the path of the beneficiary and forced him to change his route.
- b) On May 7, 2013, after a press conference convened to expose the acts of torture against Darlin Lexima and Meris Civil, Patrice Florvilus was informed by an agent of the PNH that there was a plan to murder him, allegedly organized by a group of police officers.
- c) On May 28, 2013, two unidentified individuals broke into the DOP offices, leaving a threatening message against Patrice Florvilus with Nadie Joseph, an employee of DOP. Allegedly, the message warned Mr. Patrice Florvilus not to return to his work anymore.
- d) On August 11, 2013, four unidentified individuals attempted to break into the DOP's offices. Frena Florvilus, an employee of DOP and Mr. Patrice Florvilus' sister, prevented the break-in. The four above-mentioned individuals made death threats to DOP members because of their activities as human rights defenders.
- e) On August 12, 2013, Mr. Patrice Florvilus was summoned to appear before the Sheriff of the Government in the First-Instance Court of Port-au-Prince, on August 19, 2013. Allegedly, he was summoned to answer questions regarding his involvement vis-à-vis criminal charges relating to an "arson attack" and a "conspiracy to commit crimes." Mr. Florvilus decided not to attend the Palace of Justice on August 19, 2013. He received another judicial summons to appear before the Court on August 22, 2013. The beneficiary again decided not to appear before the Court. The beneficiary considered this situation as acts of intimidation. According to the information received on September 23, 2013, thanks to demonstrations of solidarity organized by civil society, the criminal charges against the beneficiary were withdrawn. According to the information received, although the complainant withdrew criminal accusations against Patrice Florvilus, he can still be accused by the Office of the Public Prosecutor, since the State has not relinquished the prosecution of criminal charges against Patrice Florvilus. According to the information provided, in Haiti's judicial system, the Sheriff of the Government has discretionary authority whether or not to proceed with accusations or criminal actions. According to the petitioners, it would seem that the State has not currently relinquished the possibility of advancing a criminal accusation against the proposed beneficiary.
- f) On August 20, 2013: Frena Florvilus, the proposed beneficiary's sister, received a series of telephoned threats against her and Patrice Florvilus. The petitioners indicate that on the same day, the beneficiary was informed that State authorities had ordered his arrest.
- g) In a submission dated November 6, 2013, the petitioners refer to the surveillance carried out against Patrice Florvilus and the offices of DOP relating to the work they have been doing; the use of employees of DOP to carry threats against Mr. Patrice Florvilus and DOP as an organization; and that the situation has created an environment of fear among DOP members and employees regarding their personal security.
- h) Because of the aforementioned, the petitioners indicate that DOP has been forced to relocate its offices.

7. On May 24, August 14, and August 18, 2013 the petitioners submitted copies of complaints before State authorities regarding the threats, acts of harassment, and intimidation or persecution perpetrated against Patrice

Florvilus. According to the information provided, on several occasions Patrice Florvilus requested protection from a number of judicial and State security authorities, without receiving a response.

III. ANALYSIS OF THE ELEMENTS OF GRAVITY, URGENCY AND IRREPARABILITY

8. The mechanism of precautionary measures is part of the Commission's function of overseeing Member State 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 set forth in Article 41 (b) of the American Convention on Human Rights, and Article 18 of the Commission's Statute. The mechanism of precautionary measures is detailed in Article 25 of the Commission's Rules of Procedure. According to this Article, the Commission issues precautionary measures in situations that are serious and urgent, and where such measures are necessary to prevent irreparable harm to persons.

9. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "I/A Court H.R.") have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding the protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding the precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR. The precautionary nature aims to preserve those rights at risk until the petition in the Inter-American system is resolved. Its object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, avoid infringement of the rights at issue, a situation that may adversely affect the useful purpose (*effet utile*) of the final decision. In this regard, precautionary measures or provisional measures thus enable the State concerned to comply with the final decision and, if necessary, to provide the reparations ordered. As such, for the purposes of making a decision, and in accordance with 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 a risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. "irreparable harm" refers to an injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

10. In the present matter, the Commission observes that the State has not replied to the request for information made by the IACHR on October 4, 2013, which was intended to obtain the State's observations regarding the request for precautionary measures, and the measures of protection which might have been implemented based on the situation alleged by the petitioners. In this scenario, even though the lack of response from a State is not enough to grant precautionary measures, it constitutes an element to be taken into consideration when making a decision. In this sense, the lack of information from the State makes it impossible for the Commission to be acquainted with any measures implemented, and in general, with the State's position on the allegations made.

11. The Commission considers that in the present matter the requirement of seriousness is met due to the death threats, acts of harassment, and persecution against the beneficiaries. Specifically, the information provided indicates that those behind the threats are aware of Patrice Florvilus's home address, as well as the route he takes from home to work, his work address. They also carry out surveillance on the activities he undertakes on behalf of DOP. Allegedly, these acts of retaliation are connected to DOP's work in defense of human rights and Patrice Florvilus's defense in the case of Darlin Lexima and Meris Civil. This suggests that their lives and physical integrity are at risk.

12. In that sense, the Commission notes that the information submitted by the petitioners is consistent with elements taken into account by the Commission when analyzing the granting of precautionary measures to protect the life and physical integrity of members of human rights organizations and advocates of civil society in Haiti.¹ In this scenario, the Commission observes that the information submitted in this precautionary measure request regarding alleged acts of aggression, threats and persecutions against the beneficiaries constitutes indicia that Patrice Florvilus and the members and/or employees of DOP are at risk.

13. With respect to the requirement of urgency, the IACHR considers that it is satisfied, inasmuch as the alleged threats have taken place continuously, and that they have not diminished with time. In this respect, the lack of response by the State with regard to the complaints and the absence of measures to address the situation, suggest that Patrice Florvilus and the members/employees of DOP find themselves in a situation of vulnerability.

14. Regarding the requirement of irreparability, the Commission considers that it has been met, to the extent that the possible harm to the right to life and physical integrity embodies the highest situation of irreparability.

15. The Commission reiterates the importance of the work of human rights defenders in the region. In this regard, the Commission has consistently pointed out the importance of the work carried out by persons engaged in the promotion, monitoring and advocacy of human rights and the organizations to which many of them are affiliated. For its part, the Court has stated “[t]hat the State has the specific duty to protect all people working in non-governmental organizations and other groups or individuals working for the defense of human rights, since their work constitutes a positive contribution supplementing the efforts made by the State in its capacity as guarantor of the rights of individuals under its jurisdiction.”² In these circumstances, the Commission considers that acts of violence and other attacks against human rights defenders not only affect the guarantees of any human being, but that such acts undermine the fundamental role human rights defenders play in society, and leave all those for whom they work defenseless.

IV. BENEFICIARIES

16. The request has been filed on behalf of Mr. Patrice Florvilus and the members and employees of DOP, who are fully identified in the documents submitted within this procedure.

V. DECISION

17. In view of the above-mentioned information, the IACHR considers that this matter *prima facie* meets the requirements of seriousness, urgency and irreparability provided for in Article 25 of its Rules of Procedure. Accordingly, the Commission requests that the Government of Haiti:

- a) adopt the necessary measures to ensure the right to life and physical integrity of Patrice Florvilus and the members and/or employees of DOP;
- b) adopt the necessary measures to ensure that Patrice Florvilus and the members or employees of DOP are in a position to carry out their activities as human rights defenders without being subject to threats and acts of intimidation due to their work;

¹ See IACHR Resolution 2/2013 Precautionary Measure No. 157-13, Republic of Haiti, September 23, 2013. MC 7/13 Vilasson Séraphin et al., Haiti, July 24 2013.

² Inter-American Court on Human Rights, *Matter of the Monagas Judicial Confinement Center (“la pica”)*. Provisional Measures Regarding the Bolivarian Republic of Venezuela. Order of the Inter-American Court of Human Rights of February 9, 2006, Considering number 14; Case of the Plan de Sánchez Massacre. Provisional Measures Regarding Guatemala. Order of the Inter-American Court of Human Rights of November 25, 2006, Considering number 12; *Matter of Gloria Giralte de Garcia-Prieto et al.* Provisional Measures Regarding El Salvador. Order of the Inter-American Court of Human Rights of September 26, 2006, Considering number 8. Similarly, see Organization of American States, *Human Rights Defenders in the Americas: Support for the Individuals, Groups, and Organizations of Civil Society Working to Promote and Protect Human Rights in the Americas* AG/RES. 1671 (XXIX-O/99) June 7 1999; AG/Res. 1711 (XXX-O/00) June 5, 2000, and AG/Res. 2412 (XXXVIII-O/08) June 3, 2008

c) agree on the measures to be adopted with the beneficiaries;

d) report on the actions adopted with the purpose of investigating the events that led to the adoption of this precautionary measure and thus avoid their repetition.

18. The Commission also requests the Government of Haiti to inform the IACHR, within 15 days from the date of this resolution, on the adoption of the precautionary measures requested and update such information regularly.

19. The Commission emphasizes that, according to Article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State shall not constitute a prejudgment on any possible violation of the rights protected in the American Convention on Human Right or other applicable instruments.

20. The Commission orders the Executive Secretariat of the Inter-American Commission on Human Rights to notify the Government of Haiti and the applicants of this resolution.

21. Approved on the 27th of November, 2013 by: José de Jesús Orozco, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Commissioners Felipe González, Dinah Shelton, Rodrigo Escobar Gil and Rose-Marie Belle Antoine.