

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 2/2013**

PRECAUTIONARY MEASURE No. 157-13  
Republic of Haiti  
September 23, 2013

**I. INTRODUCTION**

**Background and proceedings before the Commission**

1. On May 18, 2013, the Inter-American Commission on Human Rights (hereinafter "Inter-American Commission", "Commission" or "IACHR") received a request for precautionary measures submitted by the *Union des Citoyens Conséquents pour le Respect des Droits de l'Homme* ("Union of Consequent Citizens for the Respect of Human Rights", hereinafter "UCCRDH", "the petitioners" or "the Organization"), requiring that the Republic of Haiti (hereinafter "Haiti" or "the State") protect the life and physical integrity of all its members, some of whom have been identified in the request. Accordingly, the proposed beneficiaries claim to be at risk due to a number of threats, acts of harassment and violence, allegedly in retaliation for their work in defense of human rights in Haiti.
2. The petitioners provided additional information on June 25, August 7, and 21, and on September 2, 2013. On August 13, 2013, the IACHR requested information from the State. As of the date of the adoption of this resolution, the State has not responded to the request for information.
3. After analyzing the factual and legal arguments presented by the petitioners, the Commission considers that the information presented shows *prima facie* that the proposed beneficiaries would be in a serious and urgent situation, as their lives and physical integrity would be threatened and at severe risk. Consequently, in accordance with Article 25 of its Rules of Procedure, the Commission requests that the Government of Haiti take the necessary measures to protect the life and physical integrity of Jean Guernal Degand, Jimmy Simplis, Marieclaudé Marcelin, Réginald Henry and Saintilma Verdieu, all members of UCCRDH.

**II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PETITIONERS**

4. According to the request and subsequent information submitted by the petitioners, there currently exists a context of continuous intimidation and threats against UCCRDH members due to the work they have carried out for the past two years in defense of human rights. The petitioners state that their main activities include human rights training for young people and women, and the pursuit of justice for victims of human rights violations.
5. The petitioners' claim identifies a number of threats, acts of harassment and violence against the proposed beneficiaries, which are summarized below:
  - a) On April 30, 2011, as part of a training session in the city of Ganthier, Mr. Pierre Jean Denis and Mrs. Marieclaudé Marcelin, General Coordinator and President of the Department of Women's Affairs of the UCCRDH, respectively, were allegedly attacked with batons by unidentified agents from the *Unité Départementale de Maintien d'Ordre* ("Departmental Unit of Maintenance of Order", hereinafter "UDMO") of the *Police Nationale d'Haïti* ("National Police of Haiti" hereinafter "PNH"). The petitioners assert that both individuals have had to flee temporarily to the Dominican Republic to safeguard their lives. According to the information provided by the petitioners, Pierre Jean Denis is outside the country;
  - b) On May 29, 2012, Mr. Jimmy Simplis, Deputy Coordinator of UCCRDH, was the subject of an assassination attempt at his residence in Port-au-Prince, by four armed men, allegedly including a police officer. The petitioners state that they identified one of the aggressors in a complaint filed with the competent authorities;

c) On October 20, 2012, the headquarters of the UCCRDH was allegedly destroyed by a group of persons. The petitioners claim the possible involvement of members of the PNH in the these events;

d) On December 31, 2012, Mr. Jimmy Simplis was attacked, punched and struck repeatedly with a baton, allegedly by two police officers and a security officer as he was entering the *Ministère de l'Intérieur et des Collectivités Territoriales* ("Ministry of Interior and Local Governments") in Port-au-Prince. The petitioners indicate that they reported and identified one of the aggressors to the competent authorities. Additionally, the petitioners provided a medical certificate, presumably issued by a public hospital, dated January 8, 2013, in which it states that on December 31, 2012, the proposed beneficiary was treated for head injuries, allegedly caused by baton strikes;

e) On March 4, 2013, the residences of Mr. Saintilma Verdieu, a member of the Organization, Jean Guernal Degand, Secretary-General of the UCCRDH, and Jimmy Simplis were allegedly subjected to a warrantless search by hooded UDMO agents. The petitioners allege that in the context of this operation, the agents harassed, punched and attacked the proposed beneficiaries and their families with batons. Later, they were allegedly placed in a vehicle and taken to the Cité Soleil police station in Port -au-Prince, where they were detained for a few hours, presumably without any justification for their deprivation of liberty. The petitioners allege that they reported these facts to the competent authorities and identified the license plate of the vehicle in which they were taken;

f) On August 6, 2013, there was a demonstration at the Ministry of Justice and Public Security in Port-au-Prince, demanding the opening of an investigation into the death of Judge Joseph Jean Serge, former president of *Conseil Supérieur du Pouvoir Judiciaire* ("High Council of the Judicial Power"). In the context of this demonstration, six police officers approached the area in a vehicle, allegedly firing gunshots into the air to disperse the demonstration. Thereafter the police allegedly attacked and detained Réginald Henry and Saintilma Verdieu, UCCRDH members who were released two days later without any justification for their detention and without having been brought before a judicial authority. The petitioners indicated that they reported these facts and identified the license plate of the vehicle to the competent authorities; and

g) On August 7, 2013, the UCCRDH called a press conference for the purpose of reporting the alleged assault and deprivation of liberty of Henry and Verdieu. During the course of the conference, chaired by Mr. Jimmy Simplis, four police officers allegedly appeared, threatened to kill him, and tried to arrest him. The petitioners note that Mr. Jimmy Simplis and other UCCRDH members had to go into hiding for their own protection.

6. The petitioners submitted documentation on the complaints filed on June 6 and October 23, 2012; and on January 22, March 4, and August 14, 2013, regarding the supposed threats, acts of harassment and violence perpetrated against the proposed beneficiaries. According to the documentation provided, on several occasions the petitioners requested protection from various judicial entities and public security of the State. However, to date, such requests have not been answered.

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

7. 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.

8. 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.

9. In the present situation, the Commission notes that the State has not responded to the request for information made by the Commission, which was intended to receive observations on the request for precautionary measures and on the protective measures that have been implemented based on the situation alleged by the petitioners. In this scenario, although the lack of a State's response is not sufficient reason for granting precautionary measures, it does constitute an element of the assessment when making a decision. In this regard, the lack of information from the State prevents the Commission from learning about measures eventually implemented and, in general, the position of State with regard to the allegations.

10. The Commission considers that the requirement of gravity is met in this matter, given the allegations on the death threats made by agents of the State and the repeated acts of violence against members of the organization identified in this resolution. Specifically, the information provided indicates that the possible perpetrators know the addresses of several members of UCCRDH, their routines, and other activities of the organization. In these circumstances, the alleged retaliation caused by the continuous work of the organization in the defense of human rights, suggests that their rights are at risk.

11. Regarding the requirement of urgency, the Commission considers that it has been met, to the extent that the alleged acts of violence have increased on a continuous basis over time. In this respect, the allegations on the lack of response to complaints about these facts and the absence of measures to address the situation, suggest that the members of the organization would be in a situation of vulnerability.

12. On the requirement of irreparability, the Commission believes that it has been satisfied, to the extent that the risk to the rights to life and physical integrity embodies the highest situation of irreparability.

13. The Commission reiterates the importance of the work of human rights defenders in the region. In this sense, the Commission has consistently indicated 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 Inter-American Court has stated that "States have a particular duty to protect those working in non-governmental organizations, as well as provide effective and adequate guarantees to human rights defenders so that they conduct their activities freely avoiding actions that limit or hinder their work, since their work is a positive and complementary contribution to the efforts made by the State as the guarantor of the rights of persons under their jurisdiction."<sup>1</sup> In these circumstances, the Commission considers that acts of violence and other attacks

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<sup>1</sup> I/A Court H.R., Matter of Monagas Judicial Confinement Center ("La Pica"). Provisional Measures with respect to Venezuela. Resolution of the Inter-American Court of February 9, 2006, 14<sup>th</sup> Hearing; Case of Plan de Sánchez Massacre. Provisional Measures with respect to Guatemala. Resolution of the Inter-American Court of November 25, 2006, 12<sup>th</sup> Hearing; Case of Gloria Giralte de García Prieto and others. Provisional Measures with regard to El Salvador. Resolution of the Inter-American Court of September 26, 2006, 8<sup>th</sup> Hearing. See also: Organization of American States, Human Rights Defenders in the Americas, Support for the individuals, groups, And organizations of civil society working to

against human rights defenders not only affect the guarantees of every human being, but they undermine their fundamental role in society and leave all those for whom they work defenseless.

#### **IV. BENEFICIARIES**

14. The request has been submitted on behalf of the UCCRDH members, including Jean Guernal Degand, Jimmy Simplis, Marieclaude Marcelin, Reginald Henry and Saintilma Verdieu, according to the documentation provided to the Commission. The Commission has no additional information as to the identity of any UCCRDH members who might have left the country due to the alleged risk.

#### **V. DECISION**

15. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of gravity, urgency and irreparability contained in Article 25 of its Regulations. Consequently, the Committee requests that the Government of Haiti:

a) adopt all necessary measures to ensure the right to life and physical integrity of Jean Guernal Degand, Jimmy Simplis, Marieclaude Marcelin, Reginald Henry and Saintilma Verdieu;

b) agree on the measures to be adopted with the beneficiaries, and

c) report on the actions taken to investigate the facts that gave rise to the precautionary measures.

16. 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.

17. 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.

18. 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.

19. Approved on the 23<sup>rd</sup> of September, 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.