

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 9/2017
Precautionary Measure N° 156-17**

William Charles Morva regarding the United States of America¹
March 16, 2017

I. INTRODUCTION

1. On March 6, 2017, the Inter-American Commission on Human Rights (hereinafter, “the IACHR,” “the Commission,” or “the Inter-American Commission”) received a request for precautionary measures from the “Virginia Capital Representation Resource Center” (hereinafter, “the applicants”), in order to safeguard the rights to life and personal integrity of Mr. William Charles Morva, a U.S. citizen who has been sentenced to the death penalty. According to the request, Mr. Morva, who is currently on death row, faces an imminent execution since all domestic remedies were exhausted, despite alleged flaws during his trial. In this regard, the applicants also filed a petition P-388-17, which contains allegations concerning violations of Articles I (right to life, liberty and personal security), XVIII (right to a fair trial) and XXVI (right to due process of law) of the American Declaration of Rights and Duties of Man. The applicants asked the Commission to request a stay of the execution of Mr. Morva and to review the alleged due process violations in his conviction and sentence.
2. After analyzing the legal arguments and facts presented by the applicants, the Commission considers that in the event Mr. Morva is executed before it has had an opportunity to examine the merits of this matter, any eventual decision would be rendered moot in respect of the effectiveness of potential remedies resulting in irreparable harm. Consequently, pursuant to Article 25.1 of its Rules of Procedure, the Commission hereby requests that the United States take the necessary measures to preserve the life and physical integrity of Mr. William Charles Morva until the IACHR has ruled on his petition, so as not to render ineffective the processing of his case before the Inter-American system.

II. SUMMARY OF FACTS AND LEGAL ARGUMENTS SUBMITTED BY THE APPLICANTS

1. Information contained in the initial request for precautionary measures

3. Mr. Morva is a dual American and Hungarian citizen who was sentenced to death on March 13, 2008, for the murder of two persons. According to the applicants, Mr. Morva – who had been raised in an abusive family – presented signs of mental illness since an early age, which is also related to an extensive family history of mental illness.² In particular, Mr. Morva “[...] believed that ‘the White Buffalo came to him in spirit form and informed him that he was going to be the next savior of the Native American people.’ He believed that he had superhuman combat abilities and that he was assembling a special team to carry out a plan to save the world [...]” Moreover, Mr. Morva believed that the police department and President of the United States were conspiring to thwart his mission and that the government had placed him under constant surveillance. Within this context, Mr. Morva was arrested for attempting to commit robbery and, being convinced that the government was

¹ According to the Rules of Procedure of the IACHR, President James Cavallaro, a U.S. citizen, did not participate in the debate and decision of this matter.

² According to the request, his maternal grandmother and uncle were both diagnosed with schizophrenia; his maternal aunt was diagnosed with obsessive compulsive disorder and depression; his maternal cousin has obsessive compulsive disorder, and his brother suffers from delusional disorder and depression.

hunting him and fearing for his life in jail, “[...] Mr. Morva thought it necessary to take drastic measures and escaped, killing a hospital security guard and later a sheriff’s deputy.”

4. The applicants further indicate that signs of mental illness were equally patent during his trial. For instance, when addressing the court, Mr. Morva stated: “[o]ne, my name is not William Morva. My name is Nemo. Two, you people, your whole society, you go and you sleep at night with these huge smiles on your faces because you get away with all the evil things that you do to each other and to the whole planet, the whole earth. You get away with it because no one stops you and you think that you will always get away with it. You believe this because you always have for a thousand years.” In addition, Mr. Morva allegedly believed that his attorneys were bribed to intentionally sabotage his case, and even accused them of wanting to kill him.
5. During the trial, the mental health experts appointed by the Virginia state court believed that Mr. Morva had a schizotypal personality disorder. However, “[...] [after] a more extensive investigation of Mr. Morva’s history that took place during post-conviction habeas proceedings, a forensic psychologist concluded that because prior experts had not had access to enough information about Mr. Morva and his background, the existing evaluations did not take into account significant evidence as to his delusional beliefs.” Ultimately, a forensic psychiatrist determined that Mr. Morva suffered from delusional disorder, characterized by “[...] the presence of one (or more) delusions that persist for at least one month.” In this regard, the applicants indicate that Mr. Morva does not believe that he has a mental illness, thus limiting his defense possibilities, and while he spent 105 months on death row, the State allegedly never treated him.
6. After the jury convicted Mr. Morva for the murder of both persons, according to the applicants, the prosecution sought to show that he posed a future threat to society, in order to obtain the death sentence. To respond to these allegations, Mr. Morva’s counsel tried to present counter-evidence – including a forensic assessment on his future dangerousness in prison – but the court denied the request. Consequently, the jury, deprived of an accurate diagnosis of Mr. Morva’s mental condition, sentenced him to death.
7. As for the internal remedies, the applicants affirmed that once his conviction became final on direct appeal, Mr. Morva filed a state habeas corpus against his capital murder conviction and death penalty sentence. In April 2013, the Supreme Court of Virginia dismissed the petition as well as requests to supplement the record with additional evidence. Thereafter, Mr. Morva filed a federal habeas corpus arguing that his rights under the U.S. Constitution’s Eighth and Fourteenth Amendment were violated. The U.S. District Court Judge dismissed Mr. Morva’s federal habeas petition, but apparently imposed a stay on his execution so that Mr. Morva could continue pursuing his appeals. The U.S. Court of Appeals for the Fourth Circuit affirmed the decision and, on February 21, 2017, the Supreme Court of the United States decided not to grant Mr. Morva’s request for an appeal. Consequently, according to the applicants, Mr. Morva exhausted all domestic options at both the state and federal level, allowing for the Virginia Attorney General to request that an execution date be set within 70 days.
8. In relation to the underlying petition P-388-17, the applicants mainly claim that Mr. Morva’s right to fair trial was violated, and that in the event he is executed, his right to life would also be violated. In this sense, they argue that “[...] imposing the death penalty upon an individual with a mental illness violates rights recognized in the Articles I and XXVI of the American Declaration of the Rights and Duties of Man.” Quoting the case of *Tamayo Arias v. United States*, they refer to the Inter-American Commission’s findings, according to which: “it is a principle of international law that persons with mental and intellectual disabilities, either at the time of the commission of the crime or during trial, cannot be sentenced to the death penalty. Likewise, international law also prohibits the execution of a person sentenced to death if that person has a mental or intellectual disability at the time of the

execution.”³ In addition, they consider that Articles XVIII and XXVI of the American Declaration were breached since due process was not respected given that he was allegedly denied access to effective counsel and the State of Hungary was not notified of Mr. Morva’s arrest.

III. ANALYSIS ON THE ELEMENTS OF SERIOUSNESS, URGENCY AND IRREPARABLE HARM

9. 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 the OAS Charter, and in the case of Member States that have yet to ratify the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man. These general oversight functions are set forth in Article 18 of the Commission’s Statute, and 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.
10. The Inter-American Commission and the Inter-American Court of Human Rights have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective. Regarding their protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR. Their precautionary nature aims at preserving 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 fulfill the final decision and, if necessary, to comply with the ordered reparations. 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 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.
11. As a preliminary observation, the Commission considers it necessary to point out that, according to its mandate, it is not called to rule on individuals’ responsibilities in relation to the alleged commission of crimes or offenses. Moreover, it is not competent to review internal decisions on the basis of compliance with internal law or assessment of facts. In this sense, the Commission will hereby analyze the present request for precautionary measures under Article 25 of its Rule of Procedures. As for the underlying petition P-388-17, which denounces alleged violations of the American Declaration of Rights and Duties of Man, the Commission will analyze such claims under the specific provisions related to the Petition and Case System, according to its Rules of Procedure.
12. In this regard, the Inter-American Commission recalls that the death penalty has been subject to a strict scrutiny within the Inter-American System. Despite the tendency observed in OAS Member

³ IACHR. Case of Tamayo Arias v. United States, n° 12.873, Report No. 44/14, paragraph 159.

States in favor of the gradual abolition of death penalty,⁴ for States that maintain the death penalty, there are a number of restrictions and limitations established in the regional human rights instruments which States are bound to comply with under international law.⁵ Those limitations are based upon the acknowledgment of the right to life as the supreme right of the human being, and the condition *sine qua non* for the enjoyment of all other rights, thus calling for a heightened scrutiny test so as to ensure that any deprivation of life which may occur through the application of the death penalty complies strictly with the requirements of the applicable instruments.⁶ In this sense, the Commission has stressed that the right to due process plays a significant role in ensuring the protection of the rights of persons who have been sentenced to death. Indeed, among due process guarantees, States are bound to ensure the exercise of the right to a fair trial, ensure the strictest compliance with the right to defense, and guarantee the right to equality and non-discrimination.⁷

13. Considering the present matter, the Inter-American Commission finds that the requirement of seriousness is met, under both its precautionary and protective aspects. In this sense, although the imposition of the death penalty is not prohibited under the American Declaration,⁸ the Commission recalls that individuals have the right to submit petitions as well as requests for precautionary measures under the relevant provisions in order to protect their rights and obtain an effective remedy. In this matter, the applicants claim that Mr. Morva was convicted and sentenced to the death penalty without the rights to due process and a fair trial having been guaranteed and thus disregarding international obligations proscribing the execution of individuals with intellectual disability. In this regard, the Commission has consistently declared that the possibility of an execution in such circumstances is sufficiently serious to allow for the granting of precautionary measures.⁹

⁴ IACHR. Report on The Death Penalty in the Inter-American Human Rights System: From Restrictions to Abolition, OEA/Ser.L/V/II; Doc. 68, 31 December 2011, para. 12 and 138, available at: <http://www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf>

⁵ IACHR. Report on The Death Penalty in the Inter-American Human Rights System : From Restrictions to Abolition, OEA/Ser.L/V/II; Doc. 68, 31 December 2011, para. 139, available at: <http://www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf>

⁶ IACHR, Report No. 90/09, Case 12.644, Admissibility and Merits (Publication), Medellín, Ramírez Cardenas and Leal García, United States, August 7, 2009, para. 122.

⁷ IACHR. Report on The Death Penalty in the Inter-American Human Rights System : From Restrictions to Abolition, OEA/Ser.L/V/II; Doc. 68, 31 December 2011, para. 141, available at: <http://www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf>

⁸ IACHR. Report on The Death Penalty in the Inter-American Human Rights System : From Restrictions to Abolition, OEA/Ser.L/V/II; Doc. 68, 31 December 2011, para. 2, available at: <http://www.oas.org/en/iachr/docs/pdf/deathpenalty.pdf>

⁹ IACHR. Matter of Alfredo Rolando Prieto regarding the United States (MC-498-15), Resolution 32/2015, September 29, 2015, available at: <http://www.oas.org/en/iachr/decisions/pdf/2015/PM489-15-EN.pdf>.

Matter of José Trinidad Loza Ventura regarding the United States (MC-304-15), Resolution 27/2015, August 11, 2015, available at: <http://www.oas.org/en/iachr/decisions/pdf/2015/PM304-15-EN.pdf>.

Matter of Samuel Moreland regarding the United States (MC-37-14), Resolution 32/2014, available at: <http://www.oas.org/en/iachr/decisions/pdf/2014/PM37-14-EN.pdf>.

Matter of John Winfield regarding the United States (MC-204-14), Resolution 16/2014, June 6, 2014, available at: <http://www.oas.org/en/iachr/decisions/pdf/2014/PM204-14-EN.pdf>.

Matter of Russell Bucklew and Charles Warmer regarding the United States (MC-177-14), Resolution 14/2014, May 20, 2014, available at: <http://www.oas.org/en/iachr/decisions/pdf/2014/MC177-14-EN.pdf>.

Matter of Keron López and Garvin Sookram regarding Trinidad and Tobago (MC-83-14), Resolution 13/2014, May 19, 2014, available at: <http://www.oas.org/en/iachr/decisions/pdf/2014/PM83-14-EN.pdf>.

Matter of Ramiro Hernández Llanas regarding the United States (MC-110-14), Resolution 7/2014, March 31, 2014, available at: <http://www.oas.org/en/iachr/decisions/pdf/2014/PM110-14-EN.pdf>.

Matter of Pete Carl Rogovich regarding the United States (MC-57-14), Resolution 4/2014, March 4, 2014, available at: <http://www.oas.org/es/cidh/decisiones/pdf/2014/MC57-14-EN.pdf>.

Matter of Robert Gene Garza regarding the United States (MC-255-13), Resolution 1/2013, August 16, 2013, available at: <http://www.oas.org/en/iachr/decisions/pdf/pmres1-2013.pdf>; among others.

14. Consequently, the Commission concludes that Mr. Morva's rights under the American Declaration are *prima facie* in a situation of risk, considering the possible imposition of the death sentence and its subsequent effects in relation to the underlying petition that is currently being analyzed by the Commission.
15. As for the requirement of urgency, the Commission considers that it is fulfilled to the extent that, given the apparent exhaustion of domestic remedies and the applicants' allegations concerning the determination of an execution date in the near future, the potential for the penalty to be applied, causing irreparable harm calls for immediate intervention in the present matter.
16. Regarding the requirement of irreparable harm, the Commission deems the risk to the right to life to be evident in light of the imminent implementation of the death penalty, since the loss of life imposes the most extreme and irreversible situation possible. Regarding the precautionary nature, the Commission considers that if Mr. Morva is executed before the Commission has had an opportunity to fully examine this matter through the petition, any eventual decision would be rendered moot in respect of the efficacy of potential remedies, resulting in a situation of irreparable harm.
17. The Commission points out that, according to Article 25.5 of its Rules of Procedure, "[p]rior to the adoption of precautionary measures, the Commission shall request relevant information to the State concerned, except where the immediacy of the threatened harm admits of no delay." Indeed, considering the nature of the potential damage and its effect to the rights in question, as well as the applicants' allegations concerning the exhaustion of domestic judicial remedies, the Commission understands that immediate action must be taken in order to safeguard the rights of Mr. Morva, so as not to render moot the eventual decision regarding the underlying petition.

IV. BENEFICIARIES

18. The Commission establishes that the beneficiary of the present precautionary measure is Mr. William Charles Morva, who is fully identified within this procedure.

V. DECISION

19. In view of the above-mentioned information, taking into account the human rights obligations of the United States as a member of the OAS, and as part of the Commission's function of overseeing Member State compliance with the human rights obligations set forth in the OAS Charter, and in the case of Member States that have yet to ratify the American Convention on Human Rights, the American Declaration of the Rights and Duties of Man, the Commission considers that this matter meets *prima facie* the requirements of gravity, urgency and irreparability set forth in Article 25 of its Rules of Procedure. Consequently, the Commission hereby requests that the United States take the necessary measures to preserve the life and physical integrity of Mr. William Charles Morva until the IACHR has ruled on his petition, so as not to render ineffective the processing of his case before the Inter-American system.
20. The Commission also requests that the Government provide information within a period of 15 days from the date that the present resolution is issued on the adoption of precautionary measures and provide updated information periodically.
21. The Commission wishes to point out that, in accordance with Article 25(8) of its Regulations, the granting of precautionary measures and their adoption by the State shall not constitute a prejudging of any violation of the rights protected in the American Declaration on the Rights and Duties of Man or any other applicable instrument.

22. The Commission requests that the Executive Secretariat of the IACHR notify the present resolution to the United States of America and to the petitioners.
23. Approved on March 16, 2017, by: Francisco José Eguiguren Praeli, President; Margarete May Macaulay, First Vice-President; Esmeralda Arosemena de Troitiño, Second Vice-President; José de Jesús Orozco Henríquez; Paulo Vannuchi, members of the IACHR.

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