

INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 41/2015
PRECAUTIONARY MEASURE No. 110-14^[1]

Matter of Ramiro Hernández Llanas regarding the United States of America
October 26, 2015

I. Background

1. On March 19, 2014 the Inter-American Commission on Human Rights (hereinafter "Commission" or "IACHR") received a request for precautionary measures presented by Sheri L. Johnson and Naomi E. Terr, in favor of Ramiro Hernández Llanas (hereinafter "the beneficiary"), a Mexican national, sentenced to the death penalty and scheduled to be executed on April 9, 2014 in the state of Texas in the United States. The application was submitted in the context of individual petition P-455-14, which alleges violations of Articles I (right to life), XVIII (right to a fair trial), and XXVI (right to due process) of the American Declaration of the Rights and Duties of Man (hereinafter "the American Declaration" or "the Declaration"). The applicants requested the Commission to require the United States of America (hereinafter "the State," "United States" or "U.S.") to suspend the execution to ensure that the Commission has an opportunity to rule on the merits of the petition and to avoid irreparable harm to the proposed beneficiary.

2. On March 31, the IACHR granted precautionary measures in favor of Ramiro Hernández Llanas, and requested the United States to adopt the necessary measures to preserve the life and physical integrity of Mr. Hernández until the IACHR could decide on the individual petition, in order for the processing of his case before the Inter-American System not to be rendered moot. In this regard, the Commission also requested the United States Government to inform the Commission within 3 days from the day in which the resolution to grant precautionary measures was notified, about the adoption of the precautionary measures granted and to update this information on a regular basis.

II. Summary of the information provided after the granting of the precautionary measures

3. The Commission did not receive the State's response regarding the adoption of the precautionary measures to suspend the execution of Ramiro Hernández Llanas.

4. The beneficiary's representatives did not provide updated information to the IACHR concerning his situation.

5. The Commission has learned, through publicly available information, that Mr. Ramiro Hernández Llanas was executed on April 9, 2014. In this regard, on April 11, 2014 the IACHR issued a press release in which it "condemns the judicial execution of Ramiro Hernández Llanas, which took place on April 9, 2014, in Texas, United States, in violation of his fundamental rights."

III. Analysis of the requirements of gravity, urgency and irreparability

6. 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

^[1] In accordance with Article 17.2.a of the Rules of Procedure of the Commission, Commissioner James Cavallaro, a United State national, did not participate in the discussion or vote on this precautionary measure.

case of Member States that have yet to ratify the American Convention on Human Rights, the American Declaration of 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 harms to persons.

7. The Inter-American Commission and Court have repeatedly established that precautionary and provisional measures have a dual nature, precautionary and protective ^[2]. Regarding the protective nature, the measures seek to avoid irreparable harm and preserve the exercise of human rights.^[3] Regarding the precautionary nature, the measures have the purpose of preserving a legal situation being considered by the IACHR.^[4] As such, for the purposes of making a decision, and in accordance with article 25.2 of its Rules of Procedures, the Commission considers that:

- a. "serious situation" refers to a grave impact that an action or omission can have on a protected rights 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 injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

8. Regarding the foregoing, article 25.7 of the Commission's Rules of Procedure provides that "the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions." article 25.9 sets forth "[t]he Commission shall evaluate periodically, as 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 must evaluate whether the situation of gravity, urgency and possible generation of irreparable harm leading to the adoption of precautionary measures still persist today. Likewise, it must consider whether new situations arising in the follow-up of the precautionary measures meet the requirements under article 25 of its Rules of Procedure.

9. In the present situation, the IACHR has received information of public access about the execution of Mr. Ramiro Hernández Llanas, held on April 9, 2014.

10. The IACHR condemns the judicial execution of Ramiro Hernandez Llanas, which took place on April 9, 2014, in Texas, United States, in violation of his fundamental rights. The Inter-American Commission deplores the failure on the part of the United States and the state of Texas to comply with the precautionary measures issued by the IACHR. The failure of the United States to preserve Mr. Hernandez's life pending a petition before the IACHR contravenes its international legal obligations derived from the Charter of the Organization of American States and the American Declaration which are in force since the United States joined the OAS in 1951.

^[2] 2011 IACHR Annual Report, Chapter 3, petitions and cases before the IACHR, Parr. 11.

<http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp> ; Inter-American Court, Order of the Inter-American Court of October 25, 2012; Request of Provisional Measures regarding the Republic of Peru, Case of Cruz Florez, considering 5.

^[3] 2011 IACHR Annual Report, Chapter 3, petitions and cases before the IACHR, Parr. 11. <http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp>

^[4] 2011 IACHR Annual Report, Chapter 3, petitions and cases before the IACHR, Parr. 12.

<http://www.oas.org/en/iachr/docs/annual/2011/TOC.asp>

IV. Decision

11. The Commission considers that the precautionary measures granted in favor of Ramiro Hernández Llanas have lost their purpose, as a result of his execution by the United States. Therefore, the Commission decides to lift the present precautionary measures in favor of Ramiro Hernández Llanas.

12. The Commission orders the Executive Secretariat of the IACHR to notify this resolution to the United States and the representatives.

13. Approved on October 26, 2015 by: Rose-Marie Belle Antoine, President; Felipe González, Tracy Robinson, Paulo Vannuchi, members of the IACHR.

Débora Benchoam
By authorization of the Executive Secretary