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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 87/2023**

Precautionary Measure No. 304-05  
San Juan Garifuna Community in Honduras  
December 27, 2023  
Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of the San Juan Garifuna Community in Honduras. At the time of making its decision, the Commission observes that it had the opportunity to express its opinion on the *Matter of the San Juan Community in Honduras* in 2020. That same year, it referred the case to the Inter-American Court of Human Rights. The Inter-American Court of Human Rights issued a judgment in this case in 2023. Furthermore, the Commission notes that the last information from the representation was received in 2019, and no updated information has been presented despite the State's request to lift and requests for information from the IACHR. Upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these measures.

**II. BACKGROUND INFORMATION**

2. On July 7, 2006, the IACHR granted precautionary measures in favor of the San Juan Garifuna Community in Honduras. According to the request, the indigenous community is reportedly facing conflicts related to the ownership of their ancestral lands. The Commission therefore requested the State of Honduras to adopt the necessary measures to protect and respect the rights over the ancestral lands that belong to the San Juan Community. In particular, it requested that the State take the necessary measures to avoid or suspend the execution of any judicial or administrative action that affects the ancestral property rights of the Triunfo de la Cruz Community, until the Inter-American Human Rights System adopts a final decision in Case No.<sup>1</sup> The Commission also requested that the necessary measures be adopted to protect the life and personal integrity of the community leaders, particularly Jessica García, Wilfredo Guerrero, and Ellis Marín.

3. These precautionary measures are linked to Case 12.949 of the IACHR. On March 3, 2020, the IACHR approved Report on Merits No. 12/20, on the *Matter of the San Juan Garifuna Community and its members vs. Honduras*.<sup>2</sup> On August 12, 2020, the IACHR submitted this case to the jurisdiction of the Inter-American Court.<sup>3</sup> On August 29, 2023, the Inter-American Court issued its judgment in the Case of the Garífuna Community of San Juan and its members vs. Honduras.<sup>4</sup> This case is currently in the compliance monitoring stage at the Inter-American Court.<sup>5</sup>

4. The representation of the precautionary measures is exercised by the Black Fraternal Organization of Honduras (*Organización Fraternal Negra de Honduras*, OFRANEH).

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<sup>1</sup> IACHR. Precautionary measures granted by the IACHR in 2006. Available [in Spanish] at <http://www.cidh.org/medidas/2006.sp.htm>

<sup>2</sup> IACHR. Merits Report 12/20. Case 12.949. [Matter of the San Juan Garifuna Community and its members vs. Honduras](#). March 3, 2020.

<sup>3</sup> Available at: [https://www.oas.org/es/cidh/decisiones/corte/2020/HN\\_12.949\\_NdeREs.PDF](https://www.oas.org/es/cidh/decisiones/corte/2020/HN_12.949_NdeREs.PDF).

<sup>4</sup> I/A Court H.R., Case of the Garífuna Community of San Juan and its members v. Honduras. Case of the Garífuna Community of San Juan and its members v. Honduras. Judgment on Preliminary Objections, Merits, Reparations and Costs, Reparations and Costs. August 29, 2023.

<sup>5</sup> See: [https://www.corteidh.or.cr/casos\\_en\\_supervision\\_por\\_pais.cfm?lang=pt](https://www.corteidh.or.cr/casos_en_supervision_por_pais.cfm?lang=pt)

**III. INFORMATION PROVIDED DURING THE TIME THESE MEASURES WERE IN FORCE**

5. During the time the precautionary measures were in force, the Commission followed up on the subject matter of these precautionary measures by requesting information from both parties.

6. The State submitted observations on the following dates:

2010	October 13
2011	October 7; November 16 and 18
2014	February 13
2020	August 31

7. The representation has submitted information on the following dates:

2010	July 21
2011	July 25; October 26
2012	March 28; November 20
2013	February 15
2014	January 13
2019	January 15

8. The Commission issued requests for information to the parties on August 3 and November 23, 2010; July 27, October 3 and 13, November 14, and December 13, 2011; April 24 and June 11, July 13, 2012; July 6, 2013; February 13 and December 12, 2014; October 28, 2022; and March 1, 2023. The State issued the request to lift the precautionary measures on August 31, 2020, and the Commission forwarded this request to the representation on October 28, 2022 for its comments. On March 1, 2023, the Commission reiterated its request for information to the representation in order to evaluate keeping these precautionary measures in force. However, no response has been received from the representation to date.

**A. Information provided by the State**

9. On October 13, 2010, the State indicated that meetings were held with the Garifuna Communities of San Juan and Triunfo de la Cruz in 2008 and 2009. The aim was to consult and agree upon measures through the Inter-institutional Working Group on Human Rights and the Black Fraternal Organization of Honduras (OFRANEH), in its capacity as the legal representative of these communities. The proposed measures contemplated the scheduling of several actions to improve the protection of the life and personal integrity of the directors of the Board and the Committee for the Defense of the Land (*Comité de Defensa de Tierra*) of the San Juan Garifuna Community, particularly Jessica García, Wilfredo Guerrero, and Ellis Marín. In this regard, the National Preventive Police Directorate reported that it conducted daily monitoring visits to the residences of the aforementioned persons from May 27 to June 29, 2010.

10. On October 7 and November 16 and 18, 2011, the State informed that the National Police of Tela, Department of Atlántida, reported that the security measures in favor of Ellis Marín, Jessica García, and Wilfredo Guerrero were being effectively enforced. They reportedly added that no new developments in the enforcement of these measures have been reported, as recorded in the control book of visits made daily to the San Juan Garifuna Community. The State indicated that it summoned the individuals to a monitoring meeting on May 26, and that they and their representation did not attend the meeting. Furthermore, in relation to the suspension of judicial and administrative actions affecting ancestral properties, a certification was recorded in the Register of Degrees of the National Agrarian Institute dated August 1, 2008, which states the prohibition to enter into such acts and contracts.

11. On February 13, 2014, the State indicated that it continued to implement security measures in favor of Elías Marín, Jessica García, and Wilfredo Guerrero via daily visits by the National Police at their residences in the Community of San Juan, and recorded in the visitors' control book.

12. On August 31, 2020, the State requested that these precautionary measures be lifted, given the lack of updated information from the representation regarding the beneficiaries' situation.

### **B. Information provided by the representation**

13. On July 21, 2010, the representation indicated that state authorities were promoting a castrato process, which represents alleged territorial pressure on the members of the San Juan Garifuna Community and a breach of the precautionary measures at hand. Additionally, the representation indicated that the leaders of the Garifuna communities have not been duly consulted in relation to the Caribbean Biological Corridor (*Corredor Biológico del Caribe*) project, in accordance with Convention 169 of the International Labor Organization (ILO). In this regard, it was alleged that on June 10, 2010, representatives of the Garifuna communities met with representatives of the project. They reportedly agreed to continue the dialogue to reach consensus on the project execution procedure, based on respect for the cosmovision and ancestral rights of the Garifuna communities. In addition, the leaders of these communities demanded the suspension of the land-use planning procedures requested by the municipalities until the titling and regulation of communal titles in favor of the Garifuna communities has been resolved.

14. On July 25 and November 1, 2011, the representation indicated that these parties are promoting projects regarding energy and tourism and which put the ancestral rights of the Garifuna community at risk. In particular, community members became aware of an alleged transaction involving community land by the Ulua Company. In this regard, it was indicated that the General Assembly of the Garifuna Community of San Juan was held. During this General Assembly, it was declared that any transaction of a person or organization that does not have community authority over community lands would be challenged. The representation also indicated that territorial pressures are being reactivated due to the construction of the Laguna de Micos & Beach Resort Project. In addition, the representation stated that the National Police arrested Mr. Wilfredo Guerrero was arrested on October 4, 2007, without an arrest warrant and on a false accusation of illegal possession of weapons. Mr. Wilfredo Guerrero was reportedly transferred to the Tela Police, where the Tela authorities indicated that "they had never been notified of the operation", and it had been verified that the police agents were violating territorial jurisdiction. In this regard, they expressed concern regarding the objectives of this police action. These events were reported on October 18, 2007 to the Regional Prosecutor's Office of Tela.

15. On March 28 and November 20, 2012, the representation indicated that the authorities had not adopted effective measures to address the agrarian problems faced by the San Juan Garifuna Community, and that police patrols were inefficient. According to the representation, despite the record of prohibition of celebrating acts and contracts outside the registration of the title of the Community of San Juan, the State did not carry out the corresponding public criminal or civil nullity actions. Despite several complaints filed with the Office of the Prosecutor for Ethnic Groups and Cultural Heritage (*Fiscalía de las Etnias y del Patrimonio Cultural*), reportedly no progress has been made with the demands of the Garifuna communities. Due to the above, on October 17, 2012, a complaint was filed against the head of the aforementioned Prosecutor's Office for violation of the duties of public officials. In addition, concerns were expressed about the alleged connection of police officers with events that put the community at risk.

16. On January 13, 2014, the representation indicated that on November 11, 2013, Mr. Robert Alfredo Pitio García was shot, by a National Police officer, while accompanying a person claiming to be the owner of a community land. These events were reported to the Local Prosecutor's Office of Tela. The

representation also indicated that on January 6, 2014, members of the Board of Trustees of the Community of San Juan received a call from an engineer who insistently referred to the possible construction of a wall on the community's beach and, following the Boards's denial of permission, allegedly threatened members of the community claiming that "the community wants war". As a result, the community's residents are experiencing anxiety due to the intensifying territorial pressures against them.

17. On January 15, 2019, the representation reiterated that the San Juan Garifuna Community continues to face various territorial conflicts. Since 2009, dispossession against the Garifuna communities has intensified. In recent years, the Municipality of Tela had granted more than 120 construction permits to third parties, and had granted about 60 full ownership documents within the territory of the San Juan Community. In addition, the Property Institute reportedly registered more than 100 public deeds within the territory of the San Juan Community. The representation argued that the authorities of the Municipality of Tela allegedly participated in dispossession. On July 8, 2016, the General Assembly of the Community of San Juan was held, during which the prohibition of land sales within the ancestral territory was ratified. In addition, it was alleged that the illegal sales have had an environmental impact, given that they have occupied land in the reserve area of Jeannete Kawas Park.

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

18. The precautionary measures mechanism is part of the Commission's function of overseeing 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 established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with this Article, the IACHR grants precautionary measures in urgent and serious situations in which these measures are necessary to avoid irreparable harm to persons or to the subject matter of a petition or case before the organs of the inter-American system.

19. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "I/A Court H.R.") have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.<sup>6</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>7</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and the vulnerability to which the persons proposed as beneficiaries would be exposed if the measures are not adopted.<sup>8</sup> Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration by the organs of the Inter-American system. They aim to safeguard the

<sup>6</sup> See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Interim measures, Order of the Inter-American Court of Human Rights of July 6, 2009, considerandum 16.

<sup>7</sup> See in this regard: I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Case of Bámaca Velásquez](#). Provisional measures regarding Guatemala, Order of the Court of January 27, 2009, considerandum 45; I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional Measures regarding Mexico, Order of the Court of April 30, 2009, considerandum 5; I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5.

<sup>8</sup> See in this regard: I/A Court H.R. [Matter of Milagro Sala](#). Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5; I/A Court H.R. [Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center](#). Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6.

rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to implement the ordered reparations. In the process of reaching a decision, according to 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.

20. With regard to the foregoing, Article 25(7) of the Commission’s Rules of Procedure establishes that decisions “granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions.” Article 25(9) sets forth 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 assess whether the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may comply with the requirements set forth in Article 25 of the Rules of Procedure.

21. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation<sup>9</sup>. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.<sup>10</sup> The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.<sup>11</sup>

22. The Commission recalls that when a State requests the lifting of a precautionary measure, it must present sufficient evidence and arguments to support its request.<sup>12</sup> By the same token, the representatives of the beneficiaries that want the measures to continue must present evidence of any reasons why.<sup>13</sup> In this sense, the granting and keeping precautionary measures in force are of a precautionary or protective nature, and are therefore subject to compliance with the requirements established in Article 25 of the Rules of Procedure.

23. As a preliminary matter, the Commission considers it relevant to rule on the nature of the interim measures mechanism. In this regard, the Commission recalls that, in this proceeding, it is not relevant to determine violations to the rights acknowledged in the American Convention, such as violations of the right to property. The Commission recalls that, by its own mandate, it is not called upon to make any determination on any individual criminal liabilities for the facts alleged. The analysis performed hereinbelow by the Commission is exclusively related with the requirements set forth in Article 25 of its Rules of Procedure, which can be resolved without addressing determinations on the merits relevant to a petition or case.

<sup>9</sup> I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional measures regarding Mexico. Order of the Inter-American Court of Human Rights of February 7, 2017. 16 and 17.

<sup>10</sup> *Ibid.*

<sup>11</sup> *Ibid.*

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*



24. In this matter, the Commission observes that the precautionary measures were granted in 2006. The Commission observes that the precautionary measures were granted through the precautionary mechanism, in order to preserve a legal situation that was brought to the attention of the IACHR in a petition or case, as well as through the protective mechanism, in order to protect the life and integrity of community leaders.

25. Considering the foregoing, the Commission will proceed to analyze whether the requirements of Article 25 of the IACHR Rules of Procedure continue to be met.

26. Firstly, the Commission observes that the State requested that the precautionary measures be lifted on August 31, 2020. This request was forwarded to the representation. However, no response has been received to date, despite the reiteration of the request for information by the IACHR sent on March 1, 2023.

27. The Commission notes that on March 3, 2020, the IACHR approved Merits Report no. 12/20, regarding Case 12.949 - Garifuna Community of San Juan and its members vs. 12/20, regarding Case 12.949 - Garifuna Community of San Juan and its members v. Honduras.<sup>14</sup> Subsequently, on August 12, 2020, the case was referred to the Inter-American Court and, on August 29, 2023, the Inter-American Court issued judgment in the Case of the Garífuna Community of San Juan and its members v. Honduras.<sup>15</sup> In view of the foregoing, the Commission verifies that Case 12.949 has already been the subject of a merits report by the IACHR, as well as a judgment by the Inter-American Court. Therefore, the situation that originated the granting of the precautionary measures is not maintained to date, considering that the Inter-American System has had the opportunity to express itself on the affected rights of the Garifuna San Juan community to date.

28. On the other hand, with regard to the protective mechanism of these precautionary measures, the Commission notes that it does not have updated information on the beneficiaries' situation since January 2019. In this regard, regarding the protection of the rights to life and personal integrity of the community leaders of the San Juan Garifuna Community, the Commission observes that the State has reported that security measures have been provided by the National Civil Police to community leaders Jessica García, Wilfredo Guerrero, and Ellis Marín over the years (see *supra* paras. 10-13). The last available information regarding risks faces by members of the beneficiary community was presented in 2014. This indicated threats and aggression suffered in the context of territorial conflicts (see *supra* para. 17). In its communication submitted in 2019, the representation only referred to problems related to the titling of communal lands, but did not present updated information on the alleged situation of risk to the life and integrity of members of the community (see *supra* para. 18). In this regard, the Commission warns that it has not received information from the representation during the last four years, despite requests for information, and that the last specific information on risks was in 2014, eight years ago.

29. Considering the State's request for information, the Commission identifies that it has not had any information from the representation during the last four years, despite the requests for information. Consequently, upon analyzing keeping these precautionary measures in force, the Commission notes that, to date, it does not have information to determine the existence of a situation of serious and urgent risk to the beneficiaries, in accordance with Article 25 of the Rules of Procedure.

30. The Commission notes that the situation of the San Juan Garifuna community continues to be monitored by the Commission through its monitoring mechanisms. In this regard, within the framework of the

<sup>14</sup> IACHR. Merits Report 12/20. Case 12.949. [Matter of the San Juan Garifuna Community and its members vs. Honduras](#). March 3, 2020.

<sup>15</sup> I/A Court H.R., Case of the Garífuna Community of San Juan and its members v. Honduras. Case of the Garífuna Community of San Juan and its members v. Honduras. Judgment on Preliminary Objections, Merits, Reparations and Costs, Reparations and Costs. August 29, 2023.

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186th Session, a thematic hearing was held on the human rights situation of the Garífuna people in Honduras, with the participation of OFRAHNEH, organization acting as representation in these precautionary measures.<sup>16</sup>

31. Considering the analysis carried out, the Commission understands that the object of the precautionary measures is not ongoing to date, taking into account that the case related to the precautionary measures obtained a pronouncement from the IACHR's Petitions and Cases Section in 2020, and has been sentenced before the Inter-American Court. Moreover, taking into account the temporary nature of the precautionary measures and the lack of sufficient elements, it is not possible to conclude the existence of a situation of serious and urgent risk to the community leaders. The Commission also recalls that the situation of the San Juan Community continues to be monitored through the monitoring mechanisms of the IACHR.

32. Due to the aforementioned, the Commission assesses that, that present, it is not possible to identify a situation that identifies a situation that would support compliance with the requirements of Article 25 of the Rules of Procedure, given that approximately four years have elapsed without information from the representation. In view of the above, and taking into account the exceptional and temporary nature of precautionary measures,<sup>17</sup> the Commission deems it appropriate to lift these measures.

## **V. DECISION**

33. The Commission decides to lift the precautionary measures granted in favor of the San Juan Garífuna Community, Jessica García, Wilfredo Guerrero and Ellis Marín in Honduras.

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

35. Approved on December 27, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Julissa Mantilla Falcón; Edgar Stuardo Ralón Orellana; Carlos Bernal Pulido; and José Luis Caballero Ochoa, members of the IACHR.

Tania Reneaum Panszi  
Executive Secretary

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<sup>16</sup> See in this regard: [https://www.oas.org/en/cidh/prensa/comunicados/2023/186PS\\_ResumeAudiencias.PDF](https://www.oas.org/en/cidh/prensa/comunicados/2023/186PS_ResumeAudiencias.PDF).

<sup>17</sup> I/A Court H.R., [Matter Adrián Meléndez Quijano et al.](#) Provisional Measures regarding El Salvador. Order of the Court of 21 August 2013, para. 22, and [Matter Galdá Álvarez et al.](#) Provisional Measures regarding Honduras. Resolution of the Inter-American Court of Human Rights of November 23, 2016, para. 24.