

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 2/2014**

PRECAUTIONARY MEASURE No. 408-13

Matter of members of the "Movimiento Reconocido" from the Dominican Republic
January 30, 2014

I. INTRODUCTION

1. On November 14, 2013, the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission," "the Commission" or "the IACHR") received a request for precautionary measures filed by the Human Rights Clinic at the University of Santa Clara (hereinafter "the applicants") requesting the IACHR to require the Dominican Republic (hereinafter "the State") to protect the life and personal integrity of the members of the "Movimiento Reconocido" ("Recognized Movement"). According to the request, the members of the "Movimiento Reconocido" are allegedly subject to threats against their life and personal integrity as a consequence of the criticism and protest from said human rights defenders against Sentence No. 168/13 passed by the Constitutional Court of the Dominican Republic, which denationalizes thousands of Dominicans of Haitian descent.

2. After having requested more information from the applicants, who provided information on December 2, 2013 and January 23, 2014, information was requested to the State, which provided information on December 23, 2013.

3. After analyzing the arguments of fact and law submitted by the applicants, the Commission considers that the information presented shows prima facie that the members of "Movimiento Reconocido" are in a serious and urgent situation, since their lives and personal integrity are allegedly threatened and at risk. Consequently, in accordance with Article 25 of the Rules of Procedure of the Commission, the IACHR requests that the Dominican Republic: a) take the necessary measures to protect the life and personal integrity of the members of "Movimiento Reconocido"; b) take the necessary measures to ensure that the members of "Movimiento Reconocido" can perform their activities as human rights defenders without being subject to acts of violence and harassment because of their work; c) agree on the measures to be adopted with the beneficiaries and their representatives; and d) report on the actions taken to investigate the facts that gave rise to the adoption of this precautionary measure in order to prevent its repetition.

II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE APPLICANTS

4. "Movimiento Reconocido" is an organization from the Dominican Republic that works for "the recognition and guarantee of the rights of Dominicans affected by the policy of denationalization carried out by the Dominican State". This organization carries out activities to spread information about the problem and promote "the recognition of the right to citizenship of all Dominicans that had already been recognized as such by the State". In terms of context, according to the request for precautionary measures, Sentence No. 168/13 has resulted in an environment of hostility and public discrimination against the individuals and organizations that defend people of actual or perceived Haitian descent who already had the right to be recognized as a citizen of the Dominican Republic. In this sense, the applicant informs that many human rights defenders are reportedly being threatened to death in several ways, including messages through social networks, comments on online newspapers, chants in protests and demonstrations, as well as verbal threats by alleged military intelligence officials. The facts reported by

the applicant, which allegedly put the human rights defenders life and personal integrity at risk, are summarized below:

a) On September 24, 2013, on the occasion of the article “República Dominicana en el banquillo de los acusados” (“Dominican Republic in the Dock”) published in an online newspaper, a comment inciting to locate all human rights defenders supporting Dominicans of Haitian descent was allegedly spread. In this sense, comments such as the following were written: “Look for their pictures on the Internet, search for the places where they are conspiring against our homeland (...), they think we don’t know where and who they are (...), read very carefully who they are, those involved with and being paid by the international organizations seeking to destroy the country.”

b) According to the applicants, from September 28, 2013, Ana María Belique, member of the “Movimiento Reconocido”, had been receiving threats against her life and personal integrity. In this sense, the applicant reports that on November 4, 2013, Belique had received a message on her twitter account saying that they “[were] prepared for everything and anything, that if [they] want blood, that is what [they] will get.” On October 12, 2013, comments posted on a news portal such as the following were received: “and there’s still no one stopping that damn woman from interfering,” and “that parrot will keep on bugging and complaining to the international community. (...) One day she’ll be found dead.”

c) The applicants claimed that, on October 5, 2013, human rights defenders Estéfany Félix Pérez and Mayra Félix Pérez, members of the organization and Dominicans of Haitian descent, were arrested by alleged military intelligence officials, who had asked for their identity documents while they were travelling by public transportation on their way to the “Centro Bonó” (“Bonó Center”). Human rights defender Félix Pérez had allegedly given them copies of their birth certificates, since they did not have identity cards as a result of Sentence No. 168/13. According to their statements, the officers “threw [the copies of their birth certificates] to the ground,” claiming that they “[are] Haitian and that [their] situation will not be solved, we’re gonna put you down” (sic).

d) By the end of October, 2013, two men allegedly arrived to the “Centro Bonó” offices, where the premises of the “Movimiento Reconocido” are located, in a vehicle with military license plates and told the receptionist that the center’s staff “was speaking against the country” and that “one of these days [they] are going to get what [they] deserve.” In this sense, they claim that “Centro Bonó” had also received threats such as: i) “What the “Centro Bonó” deserves is to be burned down together with all those snakes betraying our nationality;” ii) “Roque Felix (from the “Centro Bonó”) is a traitor to our homeland (...) and that little game of his and the checks he receives from the nations supporting him to discredit our country will be over soon. Tie him down to three concrete blocks, take him to the Banco de la Plata and throw him into the depths of the sea, far from Dominican land, for being a traitor” (sic); iii) “If he shows up to the Centro Bonó we’ll hunt him down.”

e) On November 4, 2013, a crowd allegedly gathered at the Independence Park in Santo Domingo in order to express their support for Sentence No. 168/13. During this demonstration, with the alleged participation of members of congress and civil servants, the demonstrators yelled “Death to the traitors,” making reference to the advocates and organizations protecting the human rights of the Dominicans of Haitian descent. In addition, the applicants report that, in the framework of this demonstration, a poster entitled “The Album of Treason” was passed around by the “Committee for the Defense of our Nationality,” in which renowned journalists, members of congress, lawyers and human rights defenders were accused of committing treason to the homeland.

f) According to the applicants, on November 13, 2013, in the framework of a new demonstration by alleged “nationalists,” the phrase “Death to the traitors” was chanted again and the demonstrators declared themselves in “permanent protest,” giving all the “foreigners and NGOs” who criticize the sentence 90 days to leave the Dominican Republic or otherwise “the protest wouldn’t stop throughout the country.” On that same day, the members of the “Movimiento Reconocido” allegedly filed a claim before the Attorney General’s Office on Specialized Crimes and High-Tech Crime regarding the alleged threats they had received during different protests and by means of social networks.

g) Regarding the alleged threats received by the sisters Estéfany and Mayra Féliz Pérez, on December 17, 2013, members of the “Movimiento Reconocido” filed a claim with the Prosecutor of the Azua and Baharona provinces, requesting the authorities to investigate the facts and grant protection measures in favor of the complainants and other members of the “Movimiento Reconocido.” In this regard, the applicants emphasize that, despite the claims filed, the members of the “Movimiento Reconocido” did not receive a response from the relevant authorities and were not granted any protection measures by the State either.

III. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE STATE

5. On December 23, the State submitted its response, indicating that:

a) The Attorney General’s Office has “all the interest in preserving the life of the complainant and investigating in depth the alleged facts.” In this regard, the State has informed that they are waiting for “a report requested by the Human Rights Unit of the Attorney General’s Office [...] to the Attorney’s Office on Specialized Crimes and High Tech Crime concerning some of the allegations made to against the members of that movement”.

b) “[I]n light of the provisions of the American Convention on Human Rights, Article 46, [...] given the dates of occurrence of the alleged facts, it is clear that the domestic remedies have not been exhausted.”

c) Regarding allegations of a complaint presented by the applicants, the State indicates that: “there is no complaint or any claim regarding such allegations [...] registered in the Unit for Human Rights mentioned above.”

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

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 Article 106 of the Organization of American States Charter. These general oversight functions are set forth in Article 41 (b) of the American Convention on Human Rights, 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.

7. 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 while 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 fulfill the final decision and, if necessary, to comply with the reparations ordered. 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 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.

8. In the present case, the Commission considers that the requirement of seriousness has been met, given the allegations of threats against the life and personal integrity of the members of "Movimiento Reconocido". The information especially suggests that the alleged situation supposedly arose as retaliation for the activities of the members of the organization in defense of the rights of Dominicans of Haitian descent, who had been affected by judgment 168/13 issued by the Constitutional Court of the Dominican Republic, which denationalizes them.

9. In its analysis of this requirement, the Commission notes that the information provided by applicants is supposedly consistent with the information, in general, that the Commission has received on the situation of human rights defenders of Dominicans of Haitian descent. In particular, during the visit to the Dominican Republic, from December 2 to December 6, the Commission received information about declarations against journalists, intellectuals, lawyers, politicians, legislators, human rights defenders, public figures and even highly-ranked public officers who had criticized the Constitutional Court judgment. These people have allegedly been labeled as "traitors" and have been subject to threats even by publicly been exposed to complaints stating "death to the traitors."

10. Taking into consideration the background that has been indicated and the specific characteristics of this matter, the Commission considers that it has been established *prima facie* that the rights to life and personal integrity of the members of the "Movimiento Reconocido" are in a situation of risk as a result of their activities.

11. Regarding the requirement of urgency, the IACHR believes that it is satisfied to the extent that the alleged acts of violence have increased consistently, over time, as part of an alleged climate of opposition, which could exacerbate situations and animosity against them and generate possible harm to the life and personal integrity of the members of the "Movimiento Reconocido". In this regard, the Commission notes

the report provided by the State in this proceeding. However, it notes that the report has not provided consistent information about the safety measures that are been implemented to protect the life and personal integrity of the members of the “Movimiento Reconocido” so that such organization can continue to perform their activities of defense, protest and protection of human rights under safety conditions.

12. On the requirement of irreparable harm, the Commission considers that it is accomplished to the extent that the possible infringement of the right to life and personal integrity is the highest irreparable situation.

13. The IACHR must reiterate that acts of violence and other attacks against human rights defenders not only affect the guarantees of every human being but also undermine the fundamental role that human rights defenders play in society and leave all those for whom they fight defenseless. The Commission also calls to mind that the work of human rights defenders is essential for the construction of a solid, lasting democratic society and rights defenders play a leading role in the process of pursuing the full attainment of the rule of law and the strengthening of democracy. 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 and complementary contribution to the efforts made by the State in its capacity as guarantor of the rights of individuals under its jurisdiction.”¹

IV. BENEFICIARIES

14. The request was presented in favor of the members of the “Movimiento Reconocido”, allegedly composed of approximately 17 people, fully identified in the lists submitted by the applicants.

V. DECISION

15. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of seriousness, urgency and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the Government of Dominican Republic:

a) adopt all the necessary measures to protect the life and personal integrity of the members of the “Movimiento Reconocido”;

b) take the necessary measures to ensure that members of the “Movimiento Reconocido” can perform their activities as human rights defenders without being subject to acts of violence and harassment because of the performance of their duties,

¹ 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 America”* GA/RES. 1671 (XXIX-O/99) June 7 1999; GA/Res. 1711 (XXX-O/00) June 5, 2000, and GA/Res. 2412 (XXXVIII-O/08) June 3, 2008

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

d) report on the actions taken to investigate the facts that gave rise to the adoption of this precautionary measure in order to prevent its repetition.

16. The Commission also requests the Government of the Dominican Republic to inform the IACHR, within 15 days from the date of this resolution, on the adoption of the precautionary measures requested and to 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 Rights or other applicable instruments.

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

19. Approved on the 30 day of January, 2014 by: José de Jesús Orozco, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Commissioners Felipe González, Rose-Marie Belle Antoine, James Cavallaro and Paulo Vannuchi.