

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 37/2014**

PRECAUTIONARY MEASURE No. 455/14
Matter of Dubán Celiano Díaz Cristancho regarding Colombia
December 24, 2014

I. INTRODUCTION

1. On October 31, 2014, the Inter-American Commission on Human Rights (hereinafter, 'the Inter-American Commission,' 'the Commission' or 'the IACHR') received a request for precautionary measures submitted by William Roa (hereinafter 'the applicant') in favor of Dubán Celiano Díaz (hereinafter 'the proposed beneficiary'), whose life and personal integrity would face serious risk, in light of the absence of information on his location and whereabouts since October 16, 2014. According to the request, Dubán Celiano Díaz Cristancho was arbitrarily detained by purported illegal groups.

2. After analyzing the factual and legal arguments put forth by the applicants and the State, the last information within the framework of the confidential report according to article XIV of the 'Inter-American Convention on Forced Disappearance of Persons,'¹ the Commission considers that the information presented showed *prima facie* that Mr. Dubán Celiano Díaz Cristancho faces a situation of seriousness and urgency, in the sense that his life and personal integrity face serious risk, since to date there is no information on his location or whereabouts. Consequently, according to article 25 of the Rules of the IACHR, the Commission requires the State of Colombia to: a) Adopt the necessary measures to determine the situation and whereabouts of Dubán Celiano Díaz Cristancho, with the purpose of safeguarding his life and personal integrity; and b) Inform on the actions implemented to investigate the fact that gave rise to the adoption of the present precautionary measure.

II. SUMMARY OF FACTS AND ARGUMENTS SUBMITTED BY THE APPLICANT

3. According to the applicant, Dubán Celiano Díaz Cristancho worked 'as a watchman in the Santa Rosa integral consortium of the aqueduct company' and had a farm in which he dedicated himself to agricultural labors, cultivating cocoa and coffee. According to the applicant, on October 16, 2014, in the municipality of Santa Rosa, Department of Bolívar, Colombia, the proposed beneficiary was arbitrarily detained by illegal groups and was forcibly carried into a vehicle, with no trace on his whereabouts to present date. The applicant alleged that the proposed beneficiary has been disappeared because he allegedly was a police informant and for that reason 'the paramilitaries of the region had given \$500,000 to the uniformed men for him to be delivered to the armed group and disappeared by it.' According to the request, a few days before the authorities dismantled a laboratory that processed cocaine, which was located close to the proposed beneficiary's farm. In light of the purported proposed beneficiary's disappearance, his relatives went to the National Police, the Ombudsman, and the Municipality to file the respective claim. However, they informed that no satisfactory response was provided. The applicant mentioned that in the area where the facts had occurred 'the National Army is present' so that the proposed beneficiary's family fears that Mr. Dubán 'might appear as a false positive.'

4. On November 22, 2014, within the framework of article XIV of the 'Inter-American Convention on Forced Disappearance of Persons,' the Commission transferred the information submitted to the State and required the confidential report referred by the said article. The State responded through a report presented on December 1, 2014.

5. On December 6, 2014, the applicant presented additional information stating that:

¹ Article XIV of the 'Inter-American Convention on Forced Disappearance of Persons' states that: when the Inter-American Commission [...] receives a petition or communication regarding an alleged forced disappearance, its Executive Secretariat shall urgently and confidentially address the respective government, and shall request that government to provide as soon as possible information as to the whereabouts of the allegedly disappeared person together with any other information it considers pertinent, and such request shall be without prejudice as to the admissibility of the petition.

- a) The proposed beneficiary was arbitrarily detained by a purported illegal group and to date there is no information on his whereabouts. According to the applicant, two agents from the SIJIN together with Mr. Pablo Acevedo, alias 'Twisted Pablo' and Henry Riápira, as well as two non-identified individuals, gave proposed beneficiary 'a soda with a substance that left him defenseless' to drink. Two purported agents from SIJIN were present when the facts occurred. The applicant affirms that, once the proposed beneficiary was defenseless, they carried him to a white van, which is owned by Mr. Pablo and Henry, purported drug dealers and members of illegal groups, who claimed that the proposed beneficiary was an informant to the authorities. Since then, there would be no information on the proposed beneficiary's location.
- b) The proposed beneficiary's family went to the police, the National Army, the SIJIN and the municipal administration led by the Mayor, requesting help without allegedly receiving information from the authorities on the investigations that were being carried out. According to the applicant, the respective claims were presented but no satisfactory response was given to date 'or indications that suggested that the necessary and adequate mechanisms were being carried out so as to find the [proposed beneficiary] alive.'
- c) A search was conducted through fluvial and land transport, 'the land where the farmers presumed that Mr. Díaz was buried has been dug, known places were explored as well as hostile and risky ones due to the topography and public order, but with no result.' The proposed beneficiary's relatives launched a search through many media, unsuccessfully. According to the applicant, 'no one dares to provide information for fear of retaliations.'
- d) The proposed beneficiary's family together with a group of persons traveled to the farm owned by the proposed beneficiary. While they were in the said place, they allegedly received a phone call from an individual who refused to identify himself and who mentioned that the proposed beneficiary's body was purportedly 'buried next to the laboratory which was used to process illegal drugs and was owned by alias 'Twisted Pablo.' Supposedly, the persons found a burned area which ended up being 'a cocaine processing laboratory' with evidence of intentional fire, but with no trace of the body. The applicant alleges that 'unidentified individuals still keep calling the family and tell them that a body is buried in the place.'
- e) He indicated that national and local authorities such as the National Police, the National Army, the Office of the Prosecutor, the Municipality, the Ombudsman and the Secretary of the Interior did not pronounce themselves on the stage of the investigations that were being carried out.

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

6. The mechanism of precautionary measures is a 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 set out 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 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 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 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.

8. In the present matter, the Commission considers that the requirement of seriousness is met, since Dubán Celiano Díaz Cristancho is reportedly disappeared and, according to the information presented by his relatives, the said person participated as a police informant within the framework of an investigation related to purported drug dealers' operations in the area. According to the information, on October 16, 2014, in the Municipality of Santa Rosa, Department of Bolívar, Colombia, Dubán Celiano Díaz Cristancho was arbitrarily detained by illegal groups who forcibly carried him into a vehicle, with no trace on his whereabouts to date. The applicants affirm that the army was present in the area where the facts purportedly occurred.

9. Taking into consideration the specific characteristics of the present matter, as well as the context in which it was presented and in light of the *prima facie* appreciation criterion of the precautionary measures mechanism, the Commission considers that Dubán Celiano Díaz Cristancho's rights to life and personal integrity face serious risk, in the sense that his location or whereabouts is unknown to date.

10. Concerning the requirement of urgency, the IACHR considers that it is met, in light of the necessity of immediate protection which is inherent to the nature of the precautionary measures' mechanism. The information submitted suggests that the lack of information on the whereabouts and fate of Dubán Celiano Díaz Cristancho has been prolonged for more than 69 days, without receiving substantial information on the relevant actions carried out by the local authorities to locate him, in spite of the claims that were filed. The Commission considers that the present matter requires immediate protective actions by the State authorities, for the purpose of avoiding that the elapse of time causes harm to Dubán Celiano Díaz Cristancho's rights.

11. Regarding the requirement of irreparable harm, the Commission considers that it is fulfilled, to the extent that the possible effect to the right to life and personal integrity represents the highest irreparable situation.

IV. BENEFICIARIES

12. The request has been presented in favor of Dubán Celiano Díaz Cristancho, who is duly identified within the documents submitted in the present procedure.

V. DECISION

13. In view of the above-mentioned information, the Commission considers that this matter *prima facie* meets the requirements of seriousness, urgency and irreparable harm contained in article 25 of its Rules of Procedure. Consequently, the Commission requests the Republic of Colombia to:

- a) Adopt the necessary measures to determine the situation and whereabouts of Dubán Celiano Díaz Cristancho, with the purpose of safeguarding his life and personal integrity; and
- b) Inform on the actions implemented to investigate the fact that gave rise to the adoption of the present precautionary measure.

14. The Commission also requests that the Government of His Excellency provide information within a time limit of 10 days from the date that the present resolution is issued, on the adoption of precautionary measures and provide updated information periodically.

15. 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 Convention on Human Rights or any other applicable instrument.

16. The Commission requests that the Executive Secretariat of the IACHR notify the present resolution to the State of Colombia and to the petitioners.

17. Approved on December 24, 2014, by: Tracy Robinson, President; Rose-Marie Belle Antoine, First Vice-President; Felipe Gonzalez, Second Vice-President; Commissioners Jose de Jesus Orozco, Rosa Maria Ortiz, James Cavallaro and Paulo Vannucchi.