

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 1/2013**

Precautionary Measure No. 457-13  
Matter of "members of the Association for a Better Life" in Honduras  
January 22, 2014

**I. INTRODUCTION**

1. On December 24, 2013, 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 the Association for a Better Life – Asociación para una Vida Mejor – (hereinafter "the applicants", "APUVIMEH members" or "intended beneficiaries"), requesting that the Commission require the Republic of Honduras (hereinafter "Honduras" or "the State") to protect the life and personal integrity of its members. According to the application, due to the activities of support, advocacy, protest and protection of human rights of lesbian, gay, bisexual, trans and intersex people (LGBTI) in Honduras, its members are presumably been subject of assassinations, threats, acts of harassment and violence against them, as a retaliation for their activities.

2. 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 the Association for a Better Life are in a serious and urgent situation, as 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 Honduras: a) take necessary measures to protect the life and personal integrity of the members of the Association for a Better Life; b) agree on the measures to be adopted with the beneficiaries and their representatives; and c) 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 ALLEGED BY THE APPLICANTS**

3. According to the request, the Association for a Better Life is composed of human rights defenders of LGBTI people in Honduras, who, in addition to awareness and protection activities, manage a shelter called "Casa Renacer" for the care of people with HIV and other sexually transmitted diseases. According to the applicants, since 2009, members of the LGBTI community in Honduras, especially the members of APUVIMEH, have been subject to assassinations, threats, acts of aggression and harassment as a result of their activities in defense of the rights of the LGBTI community. Such circumstances, within the context of alleged violence against the LGBTI community, which presumably left a balance of approximately 115 people assassinated in recent years, whose cases are allegedly still unpunished. In particular, applicants note that on December 13, 2009, Walter Trochez, human rights defender of the LGBTI community and former Secretary General of APUVIMEH, was assassinated. In the request for Precautionary Measures, the following alleged facts are stated:

a) On August 9, 2013, while a group of human rights defenders of APUVIMEH came out of a meeting at the Secretariat for Justice and Human Rights (Secretaría de Justicia y Derechos Humanos), they listened to two men on a motorcycle who allegedly shouted "here come the drag queens - shoot, shoot." Although the group of defenders had escaped unharmed from the alleged accident, minutes later, in the surroundings of the Secretariat for Justice and Human Rights, human rights defender Arely Victoria Gomez<sup>1</sup> was attacked by four men who "brutally" beat her and stole all her belongings, including her shoes.

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<sup>1</sup> Arely Victoria Gomez is a trans activist that was born and legally registered with the name Jonathan Cruz Rafael Escobar.

b) On October 16, 2013, alleged members of the military broke into the home of José Zambrano, chairman of APUVIMEH who "exhorted that [they were] looking for a person and that if he moved [they would] shoot him."

c) On October 17, 2013, Ivan Geraldo Artola was followed by two men near the offices of the organization, forcing him to hide in the house of a relative.

d) On November 13, 2013, after a vigil in memory of the assassination of Walter Trochez and 115 LGBTI people during the last years, defenders Frank Ortiz Velázquez and Oscar Rodríguez Ortiz were persecuted by unknown men who beat them up and stole their cell phones, saying that such acts were a "result of their protest actions."

e) On December 15, 2013, while they were celebrating a "Christmas Party" at the premises of APUVIMEH, a young man, allegedly carrying a gun, assaulted the offices, threatening to kill all people present unless they paid 13000 lempiras. According to the application, Sandra Zambrano, a member of APUVIMEH, asked the alleged perpetrator to return at another time, in view of the presence of children at the premises of the organization. After successfully evacuating all families present in the "Christmas Party", the alleged perpetrator returned with another individual and forced Sandra Zambrano to listen, through a mobile phone, to a man who allegedly threatened to assassinate all members of APUVIMEH, if the 13000 lempiras were not paid. In this regard, it is noted that members of APUVIMEH had to leave the premises of the organization, unable to return to their daily activities in view of the threats received.

f) Applicants emphasize that the alleged acts of violence are presumably carried out by individual members of the security forces of the State. They also indicate that, to date, no state authority has provided them with any kind of protection despite the alleged complaints that have been supposedly filed.

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

4. 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 and 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.

5. 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.

6. In the present situation, the Commission considers that the requirement of seriousness has been met, given the allegations of assassinations, threats, harassment, intimidation and violence against members of the Association for a Better Life. Especially, the information suggests that the alleged situation supposedly exists as a direct consequence of the activities regarding the human rights defense and protection of lesbian, gay, bisexual, trans and intersex (LGBTI) people in Honduras.

7. In its analysis of this requirement, the Commission notes that the information provided by the applicants is purportedly consistent with the information, in general, which the IACHR has received in public hearings of the Commission, in particular, the hearings on "Hate Crimes against Members of the LGBTI Community and Impunity in Central America" (140<sup>th</sup> Period of Sessions)<sup>2</sup> and "Status of Persons Belonging to Vulnerable Groups in Honduras" (122<sup>nd</sup> Period of Sessions)<sup>3</sup>, describing an alleged violent environment against members of the LGBTI community in Honduras. In particular, in the “Second Report on Human Rights Defenders in the Americas”<sup>4</sup>, the IACHR noted the large amount of information received concerning alleged murders, threats and criminalization of the activities of defenders of LGBTI people, as well as the absence of a differentiated approach to the investigation of the alleged events in Honduras. Also, in the Report regarding Honduras, titled: “Human Rights and Coup D’État”<sup>5</sup>, the Commission confirmed the increasing discrimination and risk against members of the lesbian, gay, bisexual, transgender and intersex community in such country. Moreover, it presented information resulting from the monitoring of other precautionary measures related to LGBTI people.

8. 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 Association for a Better Life are in a situation of risk as a result of their activities.

9. 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 and the members of the Association for a Better Life have not received any measures to protect their rights. Under these circumstances, the Commission considers that, in this situation, various factors converge - related to the situation of members of a specific group, such as LGBTI people, and human rights defenders - which merit immediate adoption of special protection measures in order to avert

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<sup>2</sup> See: IACHR. “Hate Crimes against Members of the LGBTI Community and Impunity in Central America”, 140<sup>o</sup> Period of Sessions, October 26, 2010.

<sup>3</sup> See: IACHR. “Status of Persons Belonging to Vulnerable Groups in Honduras”, 122<sup>o</sup> Period of Sessions, March 4, 2005.

<sup>4</sup> See: IACHR. “Second Report on Human Rights Defenders in the Americas”, December 31, 2011.

<sup>5</sup> See: IACHR. “Human Rights and Coup D’État”, December 30, 2009.

the various risk scenarios to which they are allegedly exposed so that they can safely continue with the defense, protection and support of LGBTI people.

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

11. Under Article 25.5, the Commission normally requests information from the State before taking a decision on a request for precautionary measures except in matters as in the present situation, where the immediacy of the potential harm allows for no delay<sup>6</sup>.

12. The IACHR must recall 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 that rights defenders play a leading role in the process of pursuing the full attainment of the rule of law and the strengthening of democracy. In this sense, the General Assembly of the OAS, in its resolution GA/RES 2632 (XLI-0/11), has established that state parties must “ensure adequate protection of human rights defenders working on issues related to acts of violence and violations of human rights perpetrated against individuals because of their sexual orientation and gender identity”<sup>7</sup>.

#### **IV. BENEFICIARIES**

13. The request was presented in favor of the members of the Association for a Better Life, approximately 19 people, fully identified in the lists submitted by the applicants.

#### **V. DECISION**

14. 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 Honduras:

- a) adopt all necessary measures to protect the life and personal integrity of the members of the Association for a Better Life;
- b) agree on the measures to be adopted with the beneficiaries and their representatives; and
- c) 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.

15. The Commission also requests the Government of Honduras 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.

16 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.

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<sup>6</sup> IACHR, Rules of Procedure, Article 25.5, <http://www.oas.org/en/iachr/mandate/Basics/rulesiachr.asp>

<sup>7</sup> OAS General Assembly, Human Rights, Sexual Orientation and Gender Identity, GA/ RES. 2635 (XLI-0/11), adopted at the fourth plenary session held on June 7, 2011.

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

18. Approved on January 22, 2014 by: Jesús Orozco, President; Tracy Robinson, First Vice-President; Rosa María Ortiz, Second Vice-President; Commissioners, James Cavallaro, Paulo Vannuchi and Rose-Marie Belle Antoine.