
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 14/2023**

Precautionary Measures No. 18-09
Paul Pierre regarding the United States of America
March 22, 2023
Original: English

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift the precautionary measures in favor of Paul Pierre regarding the United States of America. At the time of taking the decision, the Commission observes that the beneficiary's representatives have not provided information since March 12th, 2012, and the State since March 2nd, 2012, despite several requests from the Commission. The IACHR recalled that the State must comply with the corresponding obligations under the American Declaration despite the lifting of these precautionary measures.

II. BACKGROUND INFORMATION

2. On December 22nd, 2011, the IACHR granted precautionary measures for Mr. Paul Pierre, of Haitian origin, who were in risk of deportation at any time. According to the party seeking the precautionary measures, Mr. Pierre suffers from "esophageal dysplasia" and was on a liquid diet ingested through a tube. The Commission therefore asked the United States not to deport Mr. Paul Pierre back to Haiti until the Commission issues its decision on petition P-1431-08, which was being processed with the Commission¹.

III. RELEVANT INFORMATION PROVIDED DURING THE TIME THE PRECAUTIONARY MEASURE WAS IN FORCE

3. After granting the precautionary measures, the Commission received information from the State alleging that the IACHR lacked binding authority to issue precautionary measures with regards to the United States due to the State not having ratified the American Convention on Human Rights. The present precautionary measures granted, in accordance with the State's submission, had a recommendation character.

4. With specific regard to the beneficiary, the State indicated that it could not provide information on his individual case due to domestic legislation on privacy – the Privacy Act of 1974 - and requested him to provide the pertinent waivers so the State could provide information to the Commission.

5. On March 12th, 2012, the IACHR received information from the representatives indicating that the beneficiary had signed the respective waiver and that his medical conditions had not changed. At that moment, he still required the use of a feeding tube for his nutrition and the material situation in Haiti had not varied. In this manner, they alleged that his life would be threatened if he was to be deported there.

6. On October 31st, 2017, the Commission informed the beneficiary's representative of the possibility of archiving his petition P-1431-08 due to lack of response. On February 7th, 2019, the Commission informed both parties of the archiving of said petition.

¹ IACHR. [PM 18-09 - Paul Pierre, United States](#). 2011.

7. On November 17th, 2022, in compliance with item 9 of Article 25 of the IACHR's Rules of Procedure, the Commission requested the representatives to provide updated information regarding the implementation of the present precautionary measures in order to evaluate if the Article 25 requirements were still in force. The Commission has not received a reply to present date.

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

8. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in the Charter of the Organization of American States, and in the case of the Member States that have not yet ratified the American Convention, the Declaration of the Rights and Duties of Man. These general oversight functions are established in Article 18 of the Statute of the IACHR, and the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. In accordance with this Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid irreparable harm to persons.

9. The Inter-American Commission and the Inter-American Court of Human Rights have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding their protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights.² Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are under consideration by the IACHR. In the process of reaching a decision, according to Article 25(2) of the 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.

10. With respect to the foregoing, Article 25(7) of the Commission's Rules of Procedure establishes that "[t]he decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions." Article 25(9) sets forth that "[t]he 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 shall assess whether the serious and urgent situation and the risk of 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.

² 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.

11. Preliminarily, the IACHR recalls that granting precautionary or other protective measures is a common feature in international law. It allows international human rights mechanisms to fulfill its mandates effectively, ensuring its decisions will not be rendered abstract³. In addition, precautionary or other protective measures under international human rights law are connected to States' duties to protect individuals or identified groups from irreparable human rights violations⁴. In this manner, non-compliance with said measures may entail States' responsibility for human rights violations and prevent due reparation.

12. Particularly regarding the present matter, the Commission reaffirms that "OAS member States, by creating the Commission and mandating it through the OAS Charter and the Commission's Statute to promote the observance and protection of human rights of the American peoples, have implicitly undertaken to implement measures of this nature where they are essential to preserving the Commission's mandate"⁵. As the Inter-American Commission is an organ created by the OAS Charter, in cases in which member States have not yet ratified the American Convention on Human Rights, "the [American Declaration of The Rights and Duties Of Man] is the text that defines the human rights referred to in the Charter"⁶, as cited above.

13. Entering in the analysis of the present precautionary measures, the Commission notes that it requested the State not to deport Mr. Paul Pierre back to Haiti until the Commission issues its decision on petition P-1431-08, allowing the IACHR to analyze the alleged violations of the American Declaration presented by the beneficiary's representatives. Due to the lack of response from the beneficiary's representatives, the Commission archived his petition on February 7th, 2019.

14. Consequently, given the archiving of the petition, the Commission understands that the precautionary nature of the present measure is no longer applicable⁷. In addition, in light of the lack of updated information provided by the parties, the Commission adverts that it is not possible to identify any situation that currently fulfills the requirements of Article 25 of the Rules of Procedure. Particularly, the IACHR lacks the elements of assessment to conclude that the beneficiary is currently in a situation of "imminent" risk in accordance with Article 25. To indicate that the Commission takes into consideration that while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard of review, keeping such measures in force requires a more rigorous evaluation⁸. The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures⁹.

15. Furthermore, the Commission recalls that, according to the Inter-American Court, failure to comply with the duties to report on all the measures adopted in the implementation of its decisions is particularly serious, given the legal nature of these measures that seek to prevent irreparable harm to persons in serious and urgent situations¹⁰. The duty to inform constitutes a dual obligation that, for its

³ I/A Court H.R., [Case of Wong Ho Wing v. Peru](#). Provisional Measures. Order of the Inter-American Court of Human Rights of March 31, 2014, para. 10.

⁴ See: IACHR, [Report No. 35/17](#), Case 12.713, Jose Rusbel Lara et al. March 21st, 2017.

⁵ IACHR, [Report No. 52/01](#), Case 12.243, Juan Raul Garza, United States, April 4, 2001, para. 117.

⁶ I/A Court H.R., [Interpretation of the American Declaration of the Rights and Duties of Man within the Framework of Article 64 of the American Convention on Human Rights](#). Advisory Opinion OC-10/89 of July 14, 1989. Series A No.10, para. 45. See also: IACHR, [Statute of the IACHR](#), 1979, Article 1.2.b.

⁷ See IACHR, [Rules of Procedure](#). 2013. Article 42.

⁸ I/A Court H.R., [Provisional Measures regarding Mexico](#). Order of February 7, 2017, para. 16 and 17.

⁹ Ibid.

¹⁰ I/A Court H.R. [Matter of Communities of Iguamiandó and Curvaradó regarding Colombia](#). Provisional Measures. Order of the Inter-American Court of Human Rights of February 7, 2006. Considerandum 16; I/A Court H.R. [Case of Luisiana Ríos et al. \(Radio](#)

effective fulfillment, requires the formal presentation of a document in due time and the specific, true, current and detailed material reference to the subjects on which such obligation falls¹¹. In this matter, the Commission identifies that it cannot continue monitoring the situation of the beneficiary given the absence of information from the parties for a period of more than 10 years. Despite the requests for information made by the Commission, the lack of information has persisted over time.

16. Thus, considering archiving of the petition P-1431-08 and the lack of updated information of risk provided by the parties, the Commission considers that the precautionary measures should be lifted.

17. Lastly, and as noted by the Inter-American Court in various matters¹², the lifting of measures by no means implies that the State has effectively implemented the precautionary measures issued, nor does it imply that the State is relieved of its general protection obligations. In this framework, the State is especially obliged to guarantee the rights of persons at risk and must promote the necessary investigations to clarify the facts, followed by the established consequences.

V. DECISION

18. The Commission decides to lift the precautionary measures granted in favor of Paul Pierre regarding the United States of America.

19. The Commission instructs the Executive Secretariat of the IACHR to notify the United States of America and the representatives of this Resolution.

20. Approved on March 22, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitiño, First Vice-President; Roberta Clarke, Second Vice-President; Joel Hernández García; and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Assistant Executive Secretary

[Caracas Televisión – RCTV](#). Provisional Measures. Resolution of the Inter-American Court of Human Rights of September 12, 2005. Considerandum 17.

¹¹ Ibid.

¹² See: I/A Court H.R. [Case of Velásquez Rodríguez](#). Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of January 15, 1988, Considerandum 3; I/A Court H.R. [Matter of Giraldo Cardona et al.](#) Provisional measures regarding Colombia. Order of the Inter-American Court of Human Rights of January 28, 2015, Considerandum 40.