

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION TO LIFT PRECAUTIONARY MEASURES  
60/2024**

Precautionary Measure No. 271-06

Marc-Arthur Mésidort and members of his family unit regarding Haiti

August 27, 2024

Original: Spanish

**I. SUMMARY**

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Marc-Arthur Mésidort regarding Haiti. When making its decision, the Commission observes that the representation has not replied to the IACHR in the last 11 years. According to the last information sent in 2013, the representation reported that the beneficiary and his family were living abroad. The Commission notes with concern that the State has not provided a written response to the requests for information. Given the lack of information needed to meet procedural requirements, the IACHR has decided to lift these measures.

**II. BACKGROUND INFORMATION**

2. On January 25, 2007, the IACHR granted precautionary measures in favor of Marc-Arthur Mésidort, president of the *Groupe d'Action pour la Défense des Droits Humains* (GADH), and members of his family unit, in Haiti. It was alleged that since January 2005, the beneficiary had been receiving threats and harassment and was unable to report these incidents because the aggressors' co-religionists had alleged influence among local police and judicial officials. It was stated that his wife and children did not sleep at their residence because of the threats they had received. In view of the situation, the Commission requested that the State adopt the measures necessary to guarantee the life and integrity of the beneficiaries, and to report on the actions taken to investigate judicially the facts that gave rise to the precautionary measure.<sup>1</sup>

3. The beneficiary himself exerts representation before the Commission.

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

4. During the time the precautionary measures were in force, the Commission followed up on the situation by requesting information from the parties. In recent years, communications have been received from the parties and sent from the IACHR on the following dates:

	<b>Representation</b>	<b>State</b>	<b>IACHR</b>
2012	September 10, December 10	No communications	August 17, November 27
2013	February 9, May 17	No communications	March 7, April 4, June 11
2019	No communications	No communications	October 31

<sup>1</sup> Inter-American Commission on Human Rights (IACHR), Precautionary Measures 2007, [Precautionary Measures granted by the IACHR in 2007](#), Haiti.

2022	No communications	No communications	March 31
2023	No communications	No communications	December 20
2024	No communications	No communications	June 26

5. On June 26, 2024, the IACHR requested information from both parties in order to evaluate keeping the precautionary measures in force. The IACHR did not receive a response to any of the requests, and all deadlines have since expired.

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

6. In September 2012, the representation stated that the threats were ongoing. The beneficiary spent five days in the Saint-Marc civilian prison in February 2010 and received death threats and harassment by the Police Commissioner of Saint-Marc. Due to the threats, the beneficiary sent his wife and two of his children to live in the United States, while he continued to reside in Haiti with his other five children. The beneficiary reported that he received ten threatening anonymous calls on June 25, 2012. On June 26, 2012, he again received calls with death threats. On August 30, 2012, the beneficiary received calls in which the individual threatened to make him disappear, which also happened on September 8, September 21, October 26, November 7 and 24, 2012.

7. In 2013, it was indicated that Marc-Arthur Mésidort had been subjected to threats since February 7, 2013, after participating in a radio station known for its criticism of the Executive Branch. In May 2013, the beneficiary reported that he was in the United States and was going to appear before an immigration officer to apply for asylum.

#### **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 Article 106 of the Charter of the Organization of American States. These general oversight functions are provided for in Article 41 (b) of the American Convention on Human Rights, as well as in Article 18 (b) of the IACHR Statute; while 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.

9. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have repeatedly established that precautionary and provisional measures have a dual nature, both protective and precautionary.<sup>2</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>3</sup> To do this, the IACHR shall assess the

<sup>2</sup> I/A Court H.R., Matter of the Yare I and Yare II Capital Region Penitentiary Center, Provisional Measures regarding the Bolivarian Republic of Venezuela, Order of March 30, 2006, considerandum 5; Case of Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of July 6, 2009, considerandum 16 (Available only in Spanish).

<sup>3</sup> Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center. Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; Case of Bámaca Velásquez, Provisional Measures regarding Guatemala, Order of January 27, 2009, considerandum 45; Matter of Fernández Ortega et al. Provisional Measures regarding Mexico. Order of April 30, 2009, considerandum 5 (Available only in Spanish); Matter of Milagro Sala, Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5, (Available only in Spanish).

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>4</sup> Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under study by the organs of the inter-American system. They aim to safeguard the 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. Regarding the process of decision making and, 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.

10. In this sense, 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 shall assess whether the serious and urgent situation and the risk of irreparable harm that gave rise to the adoption of the precautionary measures persist. Furthermore, it shall consider whether there are new situations that may meet the requirements outlined in Article 25 of its Rules of Procedure.

11. Similarly, the Commission recalls that while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard of review, keeping these measures in force requires a more rigorous evaluation.<sup>5</sup> In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.<sup>6</sup> The Inter-American Court has indicated that the passage of a reasonable period of time without threats or intimidation, added to the lack of imminent risk, may lead to the lifting of international protection measures.<sup>7</sup>

12. In this matter, the Commission recalls that the precautionary measures were granted in 2007 due to a series of threats and acts of harassment against the beneficiary in Haiti. After the measure was granted, the Commission continued to monitor the situation. In 2013, the representation reported that the beneficiary left Haiti and was in the United States seeking asylum. The representation ceased to provide information to the Commission since that date, and 11 years have elapsed since his last communication. Given that the beneficiary is no longer in Haiti, the Commission understands that the State does not have material possibilities to adopt protection measures in his favor.

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<sup>4</sup> I/A Court H.R., Matter of Milagro Sala, Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5 (Available only in Spanish); Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; Matter of the Criminal Institute of Plácido de Sá Carvalho, Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6 (Available only in Spanish).

<sup>5</sup> I/A Court H.R., [Fernandez Ortega et al.](#), Provisional Measures regarding Mexico, Order of February 7, 2017, considerandums 16 and 17 (Available only in Spanish).

<sup>6</sup> *Ibidem.*

<sup>7</sup> *Ibidem.*

13. Without prejudice to the previous assessments, and considering that the State has not responded to the IACHR during the time the precautionary measures were in force, the Commission notes with concern and recalls that, following the Inter-American Court, the failure of the State to report on all the measures adopted in compliance with its decisions is particularly serious, given the legal nature of these measures, which seek to prevent irreparable harm to persons in serious and urgent situations.<sup>8</sup> The duty to report constitutes a dual obligation that requires, for its effective fulfillment, the formal presentation of a document in due time and the specific, true, current, and detailed material reference to the matters related to such obligation.<sup>9</sup>

14. The Commission also recalls that the beneficiaries' representation that wish the measures to continue must provide proof of the reasons for doing so.<sup>10</sup> In this regard, the Commission notes that the representation has not responded since 2013, after announcing his departure from Haiti. This does not allow the Commission to know the representation's observations or to obtain information on the matter at hand. In 2024, the representation was notified that it would proceed with the analysis of keeping these precautionary measures in force. However, the beneficiary did not reply and the granted timelines have expired.

15. In this sense, and given the nature of the precautionary measures mechanism, the lack of information, and the analysis conducted, the Commission understands that it currently does not have the elements to support compliance with the requirements of Article 25 of its Rules of Procedure. In view of the above, and taking into account the exceptional and temporary nature of precautionary measures,<sup>11</sup> the Commission deems it appropriate to proceed with the lifting of these measures.

16. Lastly, and in line with what has been indicated by the Inter-American Court in various matters,<sup>12</sup> a decision to lift the precautionary measures does not imply considering, in any way, that the State has effectively complied with the precautionary measures ordered, nor can it imply that the State is relieved from its general protection obligations, in the framework of which 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 consequences that may be established. In the same way, also based on the assessment of the Inter-American Court, the lifting of the precautionary measures, or the declaration of non-compliance with them, does not imply an eventual decision on the merits of the dispute if the case were to be brought before the inter-American system through a petition, nor does it prejudice state responsibility for the events denounced.<sup>13</sup>

## V. DECISION

17. The Commission decides to lift the precautionary measures granted in favor of Marc-Arthur Mésidort and members of his family unit, in Haiti.

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<sup>8</sup> I/A Court H.R., [Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia](#), Provisional Measures, Order of February 7, 2006, considerandum 16; and Case of Luisiana Ríos et al. (Radio Caracas Televisión – RCTV), Provisional Measures, Order of September 12, 2005, considerandum 17 (Available only in Spanish).

<sup>9</sup>*Ibidem*.

<sup>10</sup> I/A Court H.R., [Case of Fernandez Ortega et al.](#), Provisional Measures regarding Mexico, Order of February 7, 2017, considerandums 16 and 17 (Available only in Spanish).

<sup>11</sup> I/A Court H.R., [Matter of Adrián Meléndez Quijano et al.](#), Provisional Measures regarding El Salvador, Order of August 21, 2013, para. 22; [Matter of Galdámez Álvarez et al.](#), Provisional Measures regarding Honduras, Order of November 23, 2016, para. 24 (Available only in Spanish).

<sup>12</sup> I/A Court H.R., [Case of Velásquez Rodríguez](#), Provisional Measures regarding Honduras, Order of January 15, 1988, considerandum 3 (Available only in Spanish); [Matter of Giraldo Cardona et al.](#), Provisional Measures regarding Colombia, Order of January 28, 2015, considerandum 40 (Available only in Spanish).

<sup>13</sup> I/A Court H.R., [Matter of Guerrero Larez](#), Provisional Measures regarding Venezuela, Order of August 19, 2013, considerandum 16; [Matter of Natera Balboa](#), Provisional Measures regarding Venezuela, Order of August 19, 2013, considerandum 16.

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18. The Commission emphasizes that regardless of the lifting of these measures, in accordance with Article 1(1) of the American Convention, it is the obligation of the State of Haiti to respect and guarantee the rights recognized therein, including the life and personal integrity of the beneficiaries.

19. The Commission recalls that the lifting of these measures does not prevent the representation from filing a new request for precautionary measures should they consider that there is a situation that meets the requirements established in Article 25 of its Rules of Procedure.

20. The Commission instructs its Executive Secretariat to notify the State of Haiti and its representatives of this Resolution.

21. Approved on August 27, 2024, by Roberta Clarke, President; Carlos Bernal Pulido, First Vice President; José Luis Caballero Ochoa, Second Vice President; Edgar Stuardo Ralón Orellana; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.

Jorge Meza Flores  
Deputy Executive Secretary