
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 20/2021**

Precautionary Measure No. 196-14
Julio Ernesto Alvarado regarding Honduras
March 02, 2021

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) has decided to lift these precautionary measures in view of the death of the beneficiary in July 2020. Inasmuch as the IACHR is not called upon through the present proceeding to render a decision on the international responsibility of the State, nor to find any violations of the human rights alleged, it should be recalled that the Commission will have the opportunity to analyze the relevant allegations in the framework of petition 1414-14 related to the present proceeding.

II. BACKGROUND

2. On November 5, 2014, the Inter-American Commission on Human Rights (IACHR) requested the adoption of precautionary measures in favor of Julio Ernesto Alvarado, in Honduras. The request for precautionary measures was filed in the context of individual petition P-1414-14, which alleges violations of the rights enshrined in Articles 8 (right to fair trial), 13 (freedom of thought and expression), and 25 (judicial protection), in light of the general obligations established in Articles 1.1 and 2 of the American Convention on Human Rights. Having analyzed the submissions of fact and law, the Commission considered that the information showed *prima facie* that the rights of Julio Ernesto Alvarado were at serious and urgent risk of irreparable harm. Therefore, pursuant to Article 25 of its Rules of Procedure, the Commission requested that the State of Honduras suspend the implementation of the conviction dated December 9, 2013 of the Supreme Court, and refrain from taking any action to disable journalist Julio Ernesto Alvarado in the exercise of his profession until the Commission has ruled on petition P- 1414-14.¹

III. INFORMATION PROVIDED DURING THE TIME THE MEASURES WERE IN FORCE

3. During the time the precautionary measures were in force, the Commission has followed up on the situation of these precautionary measures through requests for information from the parties. The Commission has made the corresponding transfers between the parties, and on May 9, 2017, the IACHR asked the representatives for their observations on what was reported by the State. The IACHR received no response from the representatives. Furthermore, on October 8, 2020, the IACHR proceeded to request updated information from the parties after learning that, according to public information, the beneficiary has died. On that occasion, the representatives did not provide any response to that request. For its part, the State reported on October 22, 2020 that the beneficiary died on July 10, 2020.

A. Information provided by the State

4. In January 2015, the State reported that the Office of the Attorney General of the Republic (*Procuraduría General de la República*, PGR) presented a written statement in the requests for

¹ IACHR, Resolution 33/2014, PM-196-14, Matter of Julio Ernesto Alvarado regarding Honduras. Available (in Spanish) at <http://www.oas.org/es/cidh/decisiones/pdf/2014/MC196-14-ES.pdf>

"Guarantee of Amparo" filed in favor of the beneficiary before the Constitutional Chamber of the Supreme Court of Justice. That statement was allegedly aimed at seeking that the Court granted the suspension of the act alleged that is the subject of this matter. The State indicated that the original file of the judgment issued on December 9, 2013 was sent by the Execution Court to the Constitutional Chamber. The State added that, in practice, the judges do not execute sentences in which the guarantees of amparo are pending, as in this case. Therefore, the State requested that the measures be lifted as the seriousness, urgency and irreparable harm requirements were not met.

5. Additionally, the State carried out an account of the different legal actions taken as a result of the conviction dated December 9, 2013.² In particular, the State stressed that on April 22, 2014, the defense of the beneficiary filed before the Criminal Execution Court a "request to commute the prison sentence for payment in cash," proceeding on April 28, 2014 with the request. An apology was expressed to the plaintiff and later the final release letter was issued in favor of the beneficiary. On May 2, 2014, the charging party filed an appeal against the decision issued by the Criminal Execution Court. That appeal was declared admitted on August 22, 2014 by the Criminal Appeals Court, ordering the modification of the sentence, not admitting to the commutation of the accessory penalties of the sentence and confirming the commutation of the prison sentence. Faced with this action, on October 9, 2014, the defense of the beneficiary proceeded to file an appeal for protection of constitutional rights (*amparo*) and on August 31, 2015, the Constitutional Chamber denied the appeal. In relation to the possible violation of the beneficiary's right to work, the Chamber did not consider that right affected, given that, as a consequence of the sentence imposed, the right was purportedly only partially restricted. The State indicated that, despite the existence of a final judgment, the beneficiary has always been in the exercise of his profession.

6. In November 2015, the State indicated that, after the working meeting held on October 21, 2015 during the 156th period of sessions of the IACHR, the PGR appeared before the Execution Judge, presenting the arguments to request the suspension of the execution of the sentences established in the judgment, in accordance with the resolution issued by the IACHR. Subsequently, in February 2016, the state authorities reported that on December 11, 2015, the Execution Court, at the request of the PGR, decided to temporarily suspend the execution of the accessory penalties.

7. In March 2017, the State indicated that regarding the prohibition of the beneficiary from leaving the country, the National Migration Institute alleged that on October 20, 2015,³ the beneficiary was informed about the registration of a current immigration alert held against him due to an accusation for the alleged commission of the crime of wrongful death. However, the immigration alert was deactivated by order of the Criminal Court of First Instance on April 19, 2016.

B. Information provided by the representatives

² According to the information provided, the judgment of conviction was issued by the Criminal Chamber of the Supreme Court for the commission of the crime of defamation for expressions constituting insults to the detriment of Ms. Belinda Flores, being the beneficiary sentenced to the penalty of 1 year and 4 months of imprisonment and the accessory penalties of special disqualification and civil interdiction for the time of the main sentence, in addition to the corresponding civil liability.

³ According to the information provided, on that date the beneficiary had planned to travel to attend the 156th session of the IACHR, but he was informed about the immigration alert. Notwithstanding, the immigration authorities authorized, in an exceptional and conditional manner, the beneficiary's departure from the country so that he could attend only and exclusively the hearing that would be held on October 21, 2015 in Washington, D.C., rising for this purpose, an affidavit and releasing the Migration Institute from responsibility when committing to return to the country. However, when the beneficiary went to the airline to continue his trip, it was already closed and therefore the beneficiary canceled his trip because he could not find an alternative route.

8. For their part, the representatives reported in November 2014 that the defense of the beneficiary requested that the Deputy Office of the Attorney General of the Republic (*Subprocuraduría de la República*) send a communication to the Execution Court so that it could proceed to suspend the enforcement of the judgment in accordance with the IACHR resolution. In 2015, the representatives reported on the filing of an appeal for protection of constitutional rights in favor of the beneficiary on June 12, 2015. The representatives alleged that the State refused to implement the precautionary measures.

9. The representatives specifically indicated that on September 4, 2015, the Constitutional Chamber resolved the appeal for protection of constitutional rights filed in October 2014, declaring the guarantee of amparo inadmissible, under the argument that “freedom of expression is not an absolute right, that it finds its limits when it conflicts with other rights.” Additionally, the Supreme Court of Justice recognized that the suspension of the profession is a violation of the right to work, given that the special disqualification limits the exercise of the profession, adding that “this limitation to the Constitutional Right to work is only in a partial way, it is not total or absolute either.” Despite the above, the representatives consider that the Constitutional Chamber did not take into account Article 127 of the Constitution, by limiting the beneficiary in the exercise of the profession that he chose as a means of subsistence, placing him in a precarious labor situation. They also stated that the Constitutional Chamber did not make any assessment of the context in which the events that led to the beneficiary’s conviction occurred.

10. After the working meeting of October 21, 2015 within the framework of the 156th period of sessions, the representatives indicated that on October 29, 2015 a female officer of the Execution Court notified the beneficiary about the suspension of his journalistic exercise. They further state that the judicial officer went to the Radio Globo facilities and demanded that the beneficiary signed the notification, but in view of his refusal, she proceeded to stick it on the door. Due to what happened, the representatives went to the PGR to request an emergency meeting with the Attorney General (*Procurador General*).

11. In November 2015, the representatives expressed their concern over the lack of implementation of the precautionary measures granted to the beneficiary. In their opinion, the PGR has failed to comply with the commitments assumed at the working meeting held on October 2015. Additionally, the representatives indicated that they were informed of the request for suspension of the sentence sent by the PGR to the Execution Court on November 2, 2015. However, they considered that the execution judge was not obliged to comply with that request. Notwithstanding, they indicated that the steps taken have been inappropriate given that the professional disqualification of the beneficiary has entered into force.

12. In March 2016, the representatives indicated that the beneficiary has been banned from leaving the country, which, according to the State, has been so since 1986 because of the alleged crime of wrongful death. However, the representatives sustain that there is no judicial file against the beneficiary for such allegations. Due to the foregoing, they requested that the Criminal Court of First Instance issue an official letter ordering the elimination of the immigration alert, given that he was never summoned by any immigration authority or by any judicial authority, and he did not participate in the commission of any crime either.

C. Recent information

13. On October 8, 2020, the IACHR requested information from the parties upon learning that, according to public information, the beneficiary has died. The representatives did not provide any response to that request. For its part, the State reported on October 22, 2020 that the beneficiary died on July 10, 2020 due to natural causes as a result of cancer.

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

14. 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 Rules of Procedure of the Commission. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm to persons.

15. 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 precautionary and protective. As regards the protective nature, these measures seek to avoid irreparable harm and preserve the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving legal situations while they are being considered by the IACHR. Regarding the process of decision making, and 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.

16. With respect to the foregoing, Article 25.7 of the Commission's Rules of Procedure establishes that "the decisions granting, extending, modifying or lifting precautionary measures shall be adopted through reasoned resolutions." Article 25.9 establishes 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 must assess whether the urgent and serious situation and the possible generation of irreparable harm, which led to the adoption of precautionary measures, persist. Moreover, the Commission should consider if new situations that might meet the requirements set forth in Article 25 of the Rules of Procedure have subsequently arisen.

17. As a preliminary matter, the Commission recalls that these precautionary measures were granted seeking that the State suspend the implementation of the conviction dated December 9, 2013 of the Supreme Court, and refrain from taking any action to disable journalist Julio Ernesto Alvarado in the exercise of his profession until the Commission has ruled on petition P- 1414-14. After that granting, the Commission takes note of the proceedings reported by the State through its reports concerning the implementation of this precautionary measure (see *supra* paras. 3-7). For their part, the representatives provided observations on the implementation of the precautionary measure (see *supra* paras. 8-12).

18. In this regard, the Commission observes that the parties raised various questions about judicial initiatives, actions and decisions adopted during the time these precautionary measures were in force. Given the analysis on the merits that is required, and insofar as it exceeds the precautionary measures mechanism, the IACHR will analyze them in the framework of the petition related to this matter, as appropriate. However, the Commission observes that the beneficiary's sentence to prison was commuted and the accessory sentence temporarily suspended, and the State specified that the beneficiary continued with his journalistic work. Notwithstanding, at present, such allegations should be analyzed within the framework of the petition and the allegations regarding violations of the applicable instruments should be assessed.

19. Furthermore, given that the representatives did not provide information since 2017, and taking into account that the IACHR was informed in 2020 that the beneficiary had died, information was requested from the parties in this regard. In this regard, the IACHR observes that the State confirmed that the beneficiary died of natural causes as a result of cancer. Various media also reported this news.⁴

20. Therefore, taking into account that temporality and exceptionality are characteristics of precautionary measures,⁵ the Commission notes that the current situation reflects that the matter has become devoid of purpose. In this regard, the Commission considers that the requirements established in Article 25 of its Rules of Procedure have not been met in view of the death of the beneficiary of these measures. Therefore, the Commission deems it appropriate to lift these precautionary measures.

V. DECISION

21. The Commission decides to lift the precautionary measures granted to Mr. Julio Ernesto Alvarado.

22. The Commission instructs its Executive Secretariat to notify this resolution to the State of Honduras and the representatives.

23. Approved on March 02, 2021 by: Joel Hernández, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Margarette May Macaulay, Esmeralda Arosemena de Troitiño, Edgar Stuardo Ralón Orellana and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary

⁴ LA TRIBUNA, Journalist Julio Ernesto Alvarado dies, July 10, 2020. Available (in Spanish) at <https://www.latribuna.hn/2020/07/10/fallece-el-periodista-julio-ernesto-alvarado/>

⁵ I/A Court H.R., Matter of Adrián Meléndez Quijano et al. Provisional Measures regarding El Salvador. Order of the Court of August 21, 2013, para. 22, and Matter Galdámez Álvarez et al. Provisional Measures regarding Honduras. Order of the Inter-American Court of Human Rights of November 23, 2016, para. 24