
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION TO LIFT PRECAUTIONARY MEASURES 26/2023**

Precautionary Measure No. 109-07
Marcos Bonifacio Castillo in Honduras
April 25, 2023
Original: Spanish

I. SUMMARY

1. The Inter-American Commission on Human Rights (IACHR) decides to lift these precautionary measures in favor of Marcos Bonifacio Castillo in Honduras. At the time of taking the decision, the Commission observes that the representation last provided information in 2013, and there is therefore no updated information on the beneficiary's current situation. Following the State's request, and upon not identifying compliance with the procedural requirements, the IACHR has decided to lift these measures.

II. BACKGROUND INFORMATION

2. On August 20, 2007, the IACHR granted precautionary measures in favor of Marcos Bonifacio Castillo, a member of the Garífuna community of Punta Piedra. The request for precautionary measures alleged that the inhabitants of the community of Río Miel had attacked the beneficiary. He was also a reported eyewitness to the murder of Mr. Félix Ordóñez Suazo on June 11, 2007, for which he had received death threats. Upon analyzing the submissions of fact and law, the Commission considered that the information showed, *prima facie*, that the beneficiary and his family were facing a situation of risk, in accordance with Article 25 of the IACHR Rules of Procedure. Therefore, the Commission requested that the State of Honduras take the necessary measures to guarantee the life and physical integrity of the beneficiary and report on the actions taken in order to judicially investigate the murder of Mr. Ordoñez Suazo and the death threats received by Marcos Bonifacio Castillo.¹

3. These precautionary measures are related to Case 12.761 of the IACHR. On March 21, 2013, the IACHR approved Merits Report No. 30/13, on the Matter of the Garífuna Community of Punta Piedra and its members regarding Honduras. On October 8, 2015, the Inter-American Court issued the judgment on the *Matter of the Garífuna Community of Punta Piedra and its members vs. Honduras*.² Currently, this matter is in the stage of monitoring compliance with the judgment before the Inter-American Court.³

4. On September 2, 2020, the Inter-American Court granted provisional measures in the Matter of the Garífunas Communities of Triunfo de la Cruz and Punta Piedra regarding Honduras.⁴ In the resolution of provisional measures, the Inter-American Court requested that the State of Honduras "adopt appropriate measures to effectively protect the rights to life, and personal integrity of community leaders and leaders who collectively carry out actions in defense of the rights of the Garífuna people."⁵

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

¹ IACHR. Precautionary measures granted by the IACHR in 2007. Available at <http://www.cidh.org/medidas/2007.eng.htm>.
² I/A Court H.R. [Case Garífuna Community of Punta Piedra and its members vs. Honduras](#). Judgment: Preliminary Objections, Merits, Reparations and Costs October 8, 2015 (Available only in Spanish).
³ See: https://www.corteidh.or.cr/casos_en_supervision_por_pais.cfm.
⁴ I/A Court [Asunto Caso Comunidades Garífunas de Triunfo de la Cruz y Punta Piedra](#). H.R. Provisional Measures regarding Honduras. Decision of the Inter-American Court of September 2, 2020.
⁵ I/A Court [Asunto Caso Comunidades Garífunas de Triunfo de la Cruz y Punta Piedra](#). H.R. Provisional Measures regarding Honduras. Decision of the Inter-American Court of September 2, 2020, para. 3 and resolution point 2.

5. During the time the precautionary measures were in force, the Commission followed up on the subject matter of these precautionary measures by requesting information from the parties.

6. The State submitted observations on the following dates:

2013	September 6, 2013
2020	August 31, 2020

7. The representation has submitted information on the following dates:

2012	November 20, 2012
2013	May 22, 2013

8. On December 28, 2011, the Commission requested an update from the representation. On April 29, 2013, the Commission requested information from the State and the representation. On July 2, 2013, the Commission forwarded the representation’s communication to the State and requested its observations. On July 29, 2013, the Commission granted the State an extension of time to submit its observations. On October 3, 2013, the Commission forwarded a report submitted by the State and requested information from the representation. On August 31, 2020, the State requested that the precautionary measures be lifted. On October 21, 2022, the Commission forwarded a report presented by the State and requested information from the representation in order to analyze keeping these precautionary measures in force. This request was reiterated on February 24, 2023. The IACHR has not received a response from the representation.

A. Information provided by the State

9. On September 6, 2013, the State reported that the Special Prosecutor’s Office for the Protection of Ethnicities and Cultural Heritage (*Fiscalía Especial de Protección a las Etnias y Patrimonio Cultural*), which has competence to investigate the events reported by the representation, reported that there is no complaint registered in the prosecutor’s office, nor in the Local Prosecutor’s Office of Trujillo, regarding the events that allegedly took place on April 29, 2013. On that occasion, the State requested the representation to ensure that the members of the Garífuna community of Punta Piedra file complaints with the Public Prosecutor’s Office and/or the National Directorate of Criminal Investigation, in the event of being the subject of an illegal act. Regarding the measures adopted by the State authorities to implement the precautionary measures, the State informed that the Security Secretariat would summon the beneficiary, his representatives, and the National Police to a meeting to monitor and follow up on the protection measures. In order to establish open communication with the beneficiary, it was requested that the beneficiary’s contact information be provided.

10. On August 31, 2020, the State requested that the precautionary measures be lifted considering the representation’s lack of updated information regarding the proposed beneficiary’s situation.

B. Information provided by the representation

11. On November 20, 2012, the representation presented a communication in which it alleged that the Garífuna people have reportedly been undergoing a decade-long process of deterritorialization. In addition, the situation of the Garífuna people was allegedly aggravated by the coup d’état of 2009, and in the context of the creation of the Law of Special Development Regions (*Ley de Regiones Especiales de Desarrollo, RED*). It was further indicated that, in view of the “vertiginous loss of Garífuna territory” due to a series of megaprojects in the region that caused evictions, human rights violations were denounced before the Public Prosecutor’s Office. Despite the numerous complaints filed by the representation, the Office of the Prosecutor

for Ethnic Groups has not proceeded to address the demands of the Garífuna communities. On May 23, 2013, the representation indicated that, on April 18, 2013, it met with the Inter-institutional Commission on Human Rights (*Comisión Interinstitucional de Derechos Humanos*), with members of the National Agrarian Institute (INA), the Attorney General's Office (*Procuraduría General de la República*) and the Public Prosecutor's Office. It was indicated that on the same day the state delegation had gone to visit the community.

12. The representation reported that, on April 29, 2013, about 15 or 20 heavily armed members of the Río Miel community were present in the community, allegedly to hold a meeting with the municipal mayor. The representation reiterated that the Punta Piedra community is reportedly vulnerable to invaders and that existing territorial conflicts are allegedly unresolved due to “decades of state inertia.”

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

13. 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 established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. 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.

14. The Inter-American Commission and the Inter-American Court of Human Rights (hereinafter “the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary.⁶ Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights⁷. To do this, the IACHR shall assess the 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.⁸ Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while under consideration 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. In the process of reaching a decision, according to Article 25(2) of its Rules of Procedure, the Commission considers that:

⁶ See in this regard: I/A Court H.R. [Matter of the Yare I and Yare II Capital Region Penitentiary Center](#). Request for Provisional Measures submitted by the IACHR regarding the Bolivarian Republic of Venezuela, Order of the Inter-American Court of Human Rights of March 30, 2006, considerandum 5; I/A Court H.R. [Case of Carpio Nicolle et al. v. Guatemala](#). Interim measures, Order of the Inter-American Court of Human Rights of 6 July 2009, considerandum 16.

⁷ 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.

⁸ See in this regard: I/A Court [Asunto Milagro Sala](#) H.R. Request for Provisional Measures regarding Argentina, Order of the Inter-American Court of Human Rights of November 23, 2017, considerandum 5; I/A Court [Asunto del Internado Judicial Capital El R Rodeo I y El Rodeo II](#) H.R. Provisional Measures regarding Venezuela, Order of the Court of February 8, 2008, considerandum 8; I/A Court H.R. [Matter of the Criminal Institute of Plácido de Sá Carvalho](#). Provisional Measures regarding Brazil, Order of the Inter-American Court of Human Rights of February 13, 2017, considerandum 6.

- 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.

15. 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) establishes 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 should assess if the serious and urgent situation and possible irreparable harm that caused the adoption of the precautionary measures persist. Moreover, the Commission shall consider if new situations have arisen that might meet the requirements set forth in Article 25 of the Rules of Procedure.

16. Similarly, while the assessment of the procedural requirements when adopting precautionary measures is carried out from a *prima facie* standard, keeping such measures in force requires a more rigorous evaluation⁹. In this sense, when no imminent risk is identified, the burden of proof and argument increases over time.¹⁰ The Inter-American Court has indicated that the passage of a reasonable period of time without any threats or intimidation, in addition to the lack of imminent risk, may lead to the international protection measures being lifted.¹¹

17. The Commission recalls that when a State requests the lifting of a precautionary measure, it must present sufficient evidence and arguments to support its request.¹² By the same token, the representatives of the beneficiaries that want the measures to continue must present evidence of any reasons why.¹³ In this sense, the granting and keeping precautionary measures in force are of a precautionary or protective nature, and are therefore subject to compliance with the requirements established in Article 25 of the Rules of Procedure.

18. As a preliminary matter, the Commission considers it relevant to rule on the nature of the interim measures mechanism. In this regard, the Commission recalls that, in this proceeding, it is not relevant to determine violations to the rights acknowledged in the American Convention, such as violations of the right to property and judicial guarantees. The Commission recalls that, by its own mandate, it is not called upon to make any determination on any individual criminal liabilities for the facts alleged. The analysis performed hereinbelow by the Commission is exclusively related with the requirements of seriousness, urgency and risk of irreparable harm set forth in Article 25 of its Rules of Procedure, which can be resolved without addressing determinations on the merits relevant to a petition or case. When considering this matter, the Commission recalls that there is a judgment of the Inter-American Court in the *Matter of the Garífuna Community of Punta Piedra and its members regarding Honduras*.¹⁴

⁹ I/A Court H.R. [Matter of Fernández Ortega et al.](#) Provisional measures regarding Mexico. Order of the Inter-American Court of Human Rights of February 7, 2017. 16 and 17.

¹⁰ *Ibid.*

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ I/A Court H.R. [Matter of the Garífuna Punta Piedra Community and its members v. Honduras](#). Judgment: Preliminary Objections, Merits, Reparations and Costs October 8, 2015.

19. In this matter, the Commission observes that the precautionary measures were granted in 2007. The Commission noted that the information available indicated, *prima facie*, that Mr. Marcos Bonifacio Castillo, who was a member of the Punta Piedra Garífuna community, was at risk of receiving threats and attacks by inhabitants of another community called Río Miel, and was also at risk due to being an eyewitness to a murder. In the light of the information available, the Commission will proceed to analyze whether the procedural requirements continue to be met, in the light of the request to lift submitted by the State of Honduras.

20. The Commission notes that it does not have up-to-date information on the beneficiary's situation, taking into account that the last information submitted by the representation was in May 2013, almost ten years ago. The Commission also notes that, after the precautionary measures were granted, the information presented in 2013 referred to general issues related to the property right of the Garífuna community and an alleged event on April 29, 2013, but did not present any specific facts or specific information regarding the beneficiary. According to information available in the representation's channels, Mr. Marcos Bonifacio Castillo left the community in 2013.¹⁵ The Commission has no information to indicate whether the beneficiary returned to the community. As indicated, the Commission was not informed about the beneficiary's subsequent situation and during the time these precautionary measures were in force.

21. Regarding the observations presented by the representation, the State has indicated that no complaint was reportedly filed in relation to the event reported on April 29, 2013. It additionally requested the contact details of the beneficiary in order to establish dialogue to implement the precautionary measures. The Commission appreciates the State's initiative to establish spaces for consultation. However, given the absence of information in this file, it is not possible to assess subsequent protection measures that could have been implemented in favor of Mr. Marcos Bonifacio Castillo. Similarly, the Commission considers that it is also not possible to verify if the risk situation that has given rise to the adoption of these precautionary measures still persists to date, particularly as regards Mr. Marcos Bonifacio Castillo's particular situation.

22. The Commission recalls that updated information has been requested from the representation in 2013 and, recently, in October 2022. This request for information was reiterated on February 24, 2023, and no response was received. On August 31, 2020, the State requested that the precautionary measures be lifted. Consequently, the request to lift was forwarded to the representation pursuant to Article 25.9 of the Rules of Procedure. However, the representation has not submitted its observations. Given the above, the Commission states that, since 2013, it has not received information on a situation of serious and urgent risk that may cause irreparable damage to the beneficiary's rights. Since that moment, approximately 10 years have elapsed without relevant information in this regard.

23. The Commission notes that the situation of the Garífuna community of Punta Piedra continues to be monitored by the Commission through its monitoring mechanisms. In this regard, within the framework of the 186th Session, a thematic hearing was held on the human rights situation of the Garífuna people in Honduras, with the participation of the representation of these precautionary measures.¹⁶

24. Regarding the security situation of the members of the Punta Piedra Community in Honduras, the Commission notes that provisional measures have been adopted by the Inter-American Court since 2020. These measures are aimed at adopting measures to determine the whereabouts of four persons and to protect the right to life and personal integrity of community leaders and leaders of the Garífuna communities of Triunfo de la Cruz and Punta Piedra. Although it is not possible to verify if Mr. Marcos Bonifacio Castillo is currently facing a situation that places him at risk in the context of these proceedings, the Commission notes that the

¹⁵ OFRANEH. Honduras: IACHR transfers case from the Garífuna community of Punta Piedra to the Inter-American Court of Human Rights, October 7, 2013. Available [in Spanish] at <https://ofraneh.wordpress.com/2013/10/07/honduras-cidh-transfiere-caso-de-la-comunidad-garifuna-de-punta-piedra-a-la-corte-interamericana-de-derechos-humanos/>

¹⁶ See in this regard: https://www.oas.org/en/cidh/prensa/comunicados/2023/186PS_ResumenAudencias.PDF.

situation of other members of the Garífuna community of Punta Piedra is being monitored by the Inter-American Court, in the framework of the provisional measures, which are related to the *Matter of the Garífuna Community of Triunfo de la Cruz and its members*.

25. Considering the analysis which has been carried out, and in response to the State's request to lift, the Commission understands that the information available does not allow it to identify a situation to support compliance with the requirements of Article 25 of the Rules of Procedure at this time, since approximately ten years have passed without any new information regarding facts against the beneficiary. In view of the above, and taking into account the exceptional and temporary nature of precautionary measures,¹⁷ the Commission deems it appropriate to lift these measures.

V. DECISION

26. The Commission decides to lift the precautionary measures granted in favor of Marcos Bonifacio Castillo in Honduras.

27. The Commission recalls that lifting these measures does not prevent the representatives 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 the Rules of Procedure.

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

29. Approved on April 25, 2023, by Margarette May Macaulay, President; Esmeralda Arosemena de Troitino, First Vice-President; Roberta Clarke, Second Vice-President; Joel Hernández García; Julissa Mantilla Falcón; and Carlos Bernal Pulido, members of the IACHR.

Norma Colledani Toranzo
By authorization of the Executive Secretary

¹⁷ I/A Court H.R., [Matter of Adrián Meléndez Quijano et al.](#) Provisional Measures regarding El Salvador. Judgment of the Court of August 21, 2013, para. 22, and [Matter of Galdámez Álvarez y otros.](#) Provisional Measures regarding Honduras. Resolution of the Inter-American Court of Human Rights of November 23, 2016, para. 24