

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 65/2019**

Precautionary measures No. 793-19

Committee of Victims of La Saline regarding Haiti
December 31, 2019

I. INTRODUCTION

1. On August 15, 2019, the Inter-American Commission on Human Rights (“the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for precautionary measures presented by Jacques Letang and another lawyer from the “Bureau des Droits Humains en Haïti (BDHH)”, Sonel Jean-François, from the “Cabinet Jean-François & Associés” and Jaccéus Joseph, from the “Bureau des Organizations of Défense des Droits Humains” (“the applicants”), urging the Commission to protect the rights of the members of the Victims Committee of La Saline and the inhabitants of that neighborhood, located in the capital city of Port-au-Prince.

2. On August 23, 2019, the Commission requested information from both parties, within a period of ten days, in accordance with Article 25 of the Rules of Procedure. Applicants replied on September 3 and 20 and on October 22; to date, no response has been received from the State, despite the fact that the request was repeated on September 16 and December 16.

3. In the week of December 16-21, 2019, the Commission carried out an on-site visit in Haiti, during which it had the opportunity to meet with several non-governmental organizations, alleged victims of human rights violations and law enforcement authorities. State. The delegation has received several testimonies, including people who lived in La Saline and were subject to the acts of violence indicated in this application.

4. After analyzing the allegations of fact and law provided by the applicants, the Commission considers, from the applicable prima facie standard, that the members of the Victims Committee of La Saline are in a situation of seriousness and urgency, since their rights to life and personal integrity face a risk of irreparable harm. Therefore, based on article 25 of its Regulations, it requests Haiti to: a) take the necessary measures to protect the rights to life and personal integrity of the members of the Victims Committee of La Saline; b) take the necessary measures to ensure that beneficiaries may carry out their work as human rights defenders without being subjected to threats, harassment or acts of violence in the exercise of their functions; c) agree on the measures to be taken with the beneficiaries and their representatives; and d) report on the actions taken in order to investigate the facts that led to the adoption of this precautionary measure and thus prevent its recurrence.

II. SUMMARY OF FACTS AND ARGUMENTS

1. Information provided by applicants

5. On November 13, 2018, in La Saline, a neighborhood of Port-au-Prince, criminal gangs allegedly perpetuated a series of attacks that resulted in “[...] an incalculable number of victims [...]” more than seventy dead, at minus eleven raped women or girls, dozens of looting and fire or destruction, adding to the above numerous neighbors who had to move. According to the applicants, this neighborhood is a scene of recurring clashes between gangs seeking control over the area, but the events allegedly occurred on that occasion surpassed all the precedents of violence. Additionally, they cited a report prepared by the “Réseau National de Défense des Droits Humains (RNDDH),” which suggests a link

between the attack and government authorities, under the understanding that La Saline houses members of the political opposition.

6. According to the request, on March 8 and 13, 2019, the gang members returned to La Saline with the aim of intimidating the population and pressuring them to remain silent and not go to court; on that occasion, a mob allegedly killed at least six people by means of firearms and blunt or bladed weapons, it being supposedly impossible to know the exact number of victims because the alleged perpetrators burned several bodies. These acts of violence happened again between April 13 and May 2, 2019, continuing reprisal actions against the families of the victims who dared to file a complaint and meet as part of a group of victims. Similarly, between July 5 and 13 of this year, new attacks occurred with a balance of at least twenty dead, three missing and six injured. The applicants denounced the alleged impunity of these events, despite their national and international media coverage.

7. On September 7, those who were displaced in the Wharf-Jérémie were reportedly forced to leave the area by a group of unidentified armed persons, who used blows, kicks and intimidation. This caused the return of the displaced to the neighborhood of La Saline where they came from, settling in precarious conditions on the remains of their old houses. That same night, about thirty women were allegedly sexually assaulted by the aforementioned criminal group in La Saline. In fact, on September 18, a 19-year-old girl and her 7-year-old brother drowned when they were swept away by heavy rains. Applicants indicated that they did not have access to a solid roof since their house was destroyed on November 13, 2018. By mid and late October 2019, there were reportedly more deaths by firearm as a result of the presence of these criminal groups in the market sector of Croix des Bossales and in a neighborhood of La Saline, without further details about the circumstances or motives of the deaths.

8. The applicants provided relatively detailed information and stories regarding at least twenty-eight people, of which six are part of the Victims Committee of La Saline. Regarding the members of this group, they explained that the threats are “[...] constant and almost daily [...],” while for the rest of the proposed beneficiaries the frequency is irregular. These people were being subject to death threats, were brutally assaulted, tortured and intimidated, both in person and through messages or phone calls. The members of the Committee are apparently being seen as “[...] a threat and ‘a problem’ [...]” by the criminal groups of La Saline, since they are eyewitnesses and survivors who organized to demand justice. As for the women, the applicants indicated that they are subject to systematic harassment and that those who have been sexually assaulted are being stigmatized, insulted and indicated by the neighbors when they go out. In general, the applicants claimed that all the proposed beneficiaries also face health risks due to their habitability conditions in the Wharf-Jérémie and La Saline, highlighting that during the rainy and cyclone season they cannot be adequately housed, all of which would increase from considerable way of getting sick, especially about five hundred children and the most vulnerable people.

9. In relation to this point, the applicants stated that the physical and mental health of the proposed beneficiaries and their families is “[...] very precarious and alarming [...].” Due to their economic precariousness or unemployment, they have great difficulty feeding themselves and are not receiving any humanitarian or state aid. Having no fixed addresses, they are said to be sleeping on the ground near the filth, without access to drinking water or toilets in conditions. Regarding access to medicines and medical treatments, the applicants indicated that there are several difficulties; first, because in La Saline there are no functional hospitals; second, because those that are closest are not cost-free and the proposed beneficiaries could not afford the service or transportation. Of particular concern is the situation of children and women who were sexually assaulted, having not had access to adequate and timely medical treatment.

10. Finally, the applicants indicated that despite the complaints filed before the competent authorities, the investigation of the facts by the investigating judge, initiated in April 2019, is currently

paralyzed due to certain pressures and an incident of challenge, whose decision by the Court of Cassation could take years. Meanwhile, the authorities are allegedly using people - qualified as “human shields” by the applicants - to supposedly make the population who come from La Saline believe that they are being treated properly, giving thus the impression that the consequences of the alleged massacre last November are being assumed.

2. State response

11. The Commission requested information from the State on August 23, 2019 within a period of ten days. On September 16 and December 16, said request was reiterated, prompting it to answer within seven and four days, respectively. To date, no response has been received from the State.

III. ANALYSIS OF THE ELEMENTS OF GRAVITY, URGENCY AND IRREPARABILITY

12. The precautionary measures mechanism is part of the Commission’s function of overseeing Member State compliance with human rights obligations established in Article 106 of the Charter of the Organization of the American States. These general oversight functions are set forth in Article 41 (b) of the American Convention on Human Rights and Article 18 (b) of the Statute of the IACHR. Furthermore, the precautionary measures mechanism is described in Article 25 of the Commission’s Rules of Procedure. Pursuant to this article, the Commission grants precautionary measures in serious and urgent situations, and when these measures are necessary to prevent an irreparable harm.

13. The Inter-American Commission and the Inter-American Court on Human Rights (“the Inter-American Court” or “IAHR Court”) have established repeatedly that precautionary and provisional measures have a dual nature, both precautionary and protective. Regarding the protective nature, these measures seek to avoid irreparable harm and to protect the exercise of human rights. Regarding their precautionary nature, the measures have the purpose of preserving legal situations while the IACHR analyzes a petition or case. The precautionary nature of the mechanism seeks to protect those rights that are potentially at risk until the resolution of the petition brought to the Inter-American system. Their objective 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 *effet utile* of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations. For such purposes, 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” is determined through the information provided and 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.

14. In the analysis of the requirements mentioned above, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose

of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists¹.

15. Preliminarily, the Commission understands that the facts described by the applicants are framed within a context of violence that has been repeatedly verified, as did other international organizations. Although it is important to take this into account when analyzing the risk situation faced by the proposed beneficiaries, it should be noted that the purpose of this measure is not to rule on the events allegedly occurred in November 2018 and successive months to determine the eventual State responsibility, being the appropriate mechanism for this the system of petitions and cases. Nor can the Commission examine whether the manner in which the investigation of the alleged facts in this matter is being carried out involves a violation of the rights to due process and judicial protection, established in Articles 8 and 25 of the American Convention. In this sense, it is only appropriate to verify compliance with the regulatory requirements for the granting of a precautionary measure, in the light of the information available, without entering into assessments as to the merits of the matter.

16. In relation to the seriousness requirement, the Commission observes that the risk situation of the proposed beneficiaries is manifested by the materialization of damage to their rights to life and personal integrity, the tenor of the threats received and the continuity of the various acts of harassment that reportedly occurred. In addition, the evidence provided suggests that this violence is characterized by the will on the part of the alleged perpetrators to silence those who, like the members of the Victims Committee of La Saline, mobilized and organized in order to claim justice for the facts allegedly occurred in November 2018. That is, although initially, according to the applicants, the violence may have had a political character, during these last months the repeated aggressions and threats served mainly as reprisals against the relatives of the alleged victims. In accordance with the information obtained during the recent on-site visit, the Commission was also able to verify that the risk situation remains up to date, thanks to the testimony of the survivors and the President of the Victims Committee of La Saline. In early December, there even more murders in this context happened.

17. The Commission understands that the situation in La Saline raises complex challenges in terms of security and public order, not only because of the presence of armed actors or organized criminal gangs, but also because of the lack of basic services, food, health and employment, which in turn feed the mentioned cycle of violence. In this sense, although it is likely that any inhabitant of the neighborhood of La Saline may be exposed to an act of indiscriminate violence, the information provided allows the Commission to identify in a more accurate way a situation of risk in relation to the members of the Victims Committee of La Saline. Indeed, by being persecuted for the work carried out as human rights defenders, under the terms of Article 25 of the Rules of Procedure, the requirement of seriousness can be discerned on the basis of the higher level of aggression carried out against them, therefore making it possible to consider the likelihood of further damages taking place again in the near future.

18. The Commission regrets that the State has not responded to the request for information. Although the lack of response does not justify *per se* the granting of a precautionary measure, it prevents from knowing whether the authorities are taking actions in order to protect the rights of the proposed beneficiaries and therefore assess whether the alleged situation of risk was dealt with or not.

¹ In this regard, for instance, regarding precautionary measures, the Inter-American Court has considered that this standard requires a minimum level of detail and information to determine *prima facie* that a serious and urgent situation exists. IACHR, *Matter of the children and adolescents deprived of their liberty in the "Complexo do Tatuapé" of the Fundação CASA*. Request for extension of precautionary measures. Provisional Measures regarding Brazil. Resolution of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

19. In these circumstances, from the *prima facie* parameter applicable to the precautionary measures mechanism, the Commission concludes that the existence of a situation of serious risk to the rights to life and personal integrity of the members of the Committee of Victims of La Saline is determinable.

20. Regarding the requirement of urgency, the Commission considers that it is fulfilled, since the information provided by the applicants suggests that the acts of violence committed by the alleged perpetrators occur in a relatively recurring manner, also emphasizing that their presence or alleged control over the area in question may allow them to attempt more easily against the rights of the proposed beneficiaries. In addition, the persistence of the proposed beneficiaries in demanding the clarification of what happened and the prosecution of the alleged perpetrators may perpetuate the commission of reprisals against them. Under these conditions, adding the alleged lack of protection from the State, the materialization of further damage is likely to occur repeatedly.

21. As regards the irreparability requirement, the Commission maintains that it is fulfilled, insofar as the potential impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARIES

22. The Commission declares that the beneficiaries of this precautionary measure are the members of the Victims Committee of La Saline, who are determinable in accordance with Article 25.3 of the Rules of Procedure.

V. DECISION

23. The Commission considers that this case meets *prima facie* the requirements of seriousness, urgency and irreparability contained in Article 25 of its Rules of Procedure. Consequently, it requests Haiti to:

- a) take the necessary measures to protect the rights to life and personal integrity of the members of the Victims Committee of La Saline;
- b) take the necessary measures to ensure that beneficiaries may carry out their work as human rights defenders without being subjected to threats, harassment or acts of violence in the exercise of their functions;
- c) agree on the measures to be taken with the beneficiaries and their representatives; and
- d) report on the actions taken in order to investigate the facts that led to the adoption of this precautionary measure and thus prevent its recurrence.

24. The Commission requests Haiti to report, within the period of 15 days, counted from the date of this resolution, on the adoption of the precautionary measures required and update said information periodically.

25. The Commission emphasizes that, in accordance with Article 25 (8) of its Rules of Procedure, the granting of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected in the American Convention on Human Rights and other applicable instruments.

26. The Commission instructs its Executive Secretariat to notify this resolution to Haiti and to the applicants.

27. Approved on December 31, 2019, by: Esmeralda Arosemena de Troitiño, President; Joel Hernández García, First Vice-President; Antonia Urrejola Noguera, Second Vice-President; Margarete May Macaulay; Francisco José Eguiguren Praeli; Luis Ernesto Vargas Silva; Flávia Piovesan, members of the IACHR.

Paulo Abrão
Executive Secretary