

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF MAY 26, 2001**

**PROVISIONAL MEASURES REQUESTED BY THE
INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
IN THE MATTER OF THE DOMINICAN REPUBLIC¹**

**THE CASE OF HAITIANS AND DOMINICANS OF HAITIAN ORIGIN
IN THE DOMINICAN REPUBLIC**

HAVING SEEN:

1. The order of the Inter-American Court of Human Rights (hereinafter "the Inter-American Court" or "the Court") of August 18, 2000, in which it was decided:

1. To require the State of the Dominican Republic to adopt, forthwith, whatever measures are necessary to protect the lives and personal integrity of Benito Tide Méndez, Antonio Sension, Andrea Alezy, Janty Fils-Aime and William Medina Ferreras[;]
2. To require the Inter-American Commission on Human Rights to urgently submit a detailed report to the Inter-American Court of Human Rights, no later than August 31, 2000, on the current situation of Rafaelito Pérez Charles and Berson Gelim with regard to the diverging statements of the parties on these two persons[;]
3. To require the State of the Dominican Republic to refrain from deporting or expelling Benito Tide Méndez and Antonio Sension from its territory[;]
4. To require the State of the Dominican Republic to allow the immediate return to its territory of Janty Fils-Aime and William Medina Ferreras[;]
5. To require the State of the Dominican Republic to allow, as soon as possible, the family reunification of Antonio Sension and Andrea Alezy with their under-age children in the Dominican Republic[;]
6. To require that the State of the Dominican Republic collaborate with Antonio Sension to obtain information on the whereabouts of his next of kin, either in Haiti or in the Dominican Republic[;]
7. To require the State of the Dominican Republic, within the framework of the relevant cooperation agreements between the Dominican Republic and Haiti, to investigate the situation of Janty Fils-Aime and William Medina Ferreras, under the supervision of the Inter-American Commission on Human Rights, to expedite the outcome of the said investigations[;]
8. To require the State of the Dominican Republic to continue to follow up on the investigations already started by its competent authorities with regard to Benito Tide Méndez, Rafaelito Pérez Charles, Antonio Sension, Andrea Alezy and Berson Gelim[;]

¹ Judge Máximo Pacheco Gómez informed the Court that, due to circumstances beyond his control, he was unable to attend the Fifty-first Regular Session of the Court; therefore, he did not take part in the deliberation and signature of this order. Due to circumstances beyond his control, Judge Sergio García Ramírez was also unable to take part in the deliberation and signature of this order.

9. To require the State of the Dominican Republic to adopt, forthwith, the necessary measures to protect the lives and personal integrity of Father Pedro Ruquoy and Solange Pierre, witnesses at the public hearing of August 8, 2000[;]

10. To require the State of the Dominican Republic and the Inter-American Commission on Human Rights to provide the Inter-American Court of Human Rights with detailed information on the situation of members of the border communities or "bateys" who may be subject to forced repatriation, deportation or expulsion[;]

11. To require the State of the Dominican Republic to report to the Inter-American Court of Human Rights every two months as of the notification of this order, on the provisional measures that it has adopted in compliance with it[; and]

12. To require the Inter-American Commission on Human Rights to submit its comments on the reports of the State of the Dominican Republic within six weeks of receiving them.

2. The order of the Inter-American Court of November 12, 2000, in which it was decided:

1. To ratify the order of the President of the Inter-American Court of Human Rights of September 14, 2000, and, therefore, to require the State of the Dominican Republic to adopt, forthwith, the necessary measures to protect the life and personal integrity of Rafaelito Pérez Charles and Berson Gelim[;]

2. To require the State of the Dominican Republic to refrain from deporting or expelling Rafaelito Pérez Charles from its territory[;]

3. To require the State of the Dominican Republic to allow the immediate return of Berson Gelim to its territory, even making it possible for him to meet with his son[;]

4. To require the State of the Dominican Republic to continue the follow-up of the investigations that were already initiated by the competent authorities regarding Rafaelito Pérez Charles and Berson Gelim[;]

5. To require the State of the Dominican Republic, in its reports on the provisional measures ordered by the Inter-American Court of Human Rights on August 18, 2000, to also report on the urgent measures it has adopted in compliance with this Order[; and]

6. To require the Inter-American Commission on Human Rights to submit its remarks on the report of the State of the Dominican Republic within six weeks of receiving them.

3. The communication of the Inter-American Commission on Human Rights (hereinafter "the Inter-American Commission" or "the Commission") of December 14, 2000, in which it asks the Court to request the State of the Dominican Republic (hereinafter "the State" or "the Dominican Republic"):

1. [...to provide] assurances that Father Ruquoy can return to the Dominican Republic as a legal resident, after visiting his ailing mother in Belgium;

2. [...] that the Government emit a public declaration distancing itself from the attacks on Father Ruquoy and Solange Pierre, and confirming that the former is a permanent resident and the latter a Dominican citizen, and also that both [were] the subjects of a provisional measures of the Honorable Court protecting their lives and physical integrity[.]

Finally, it requested the Inter-American Court to remind the State that all the provisional measures that it had issued were fully in force.

4. The State's second report of January 2, 2001, in which it stated that the Directorate of Migration had still not been able to locate Rafaelito Pérez Charles and Berson Gelim, and had therefore requested the help of the *Red de Encuentro*

Dominico-Haitiano (Dominican-Haitian Meeting Network), with whom it had met on November 27, 2000. It also advised that "the situation of Father Ruquoy and Solange Pier[r]e [was] normal, nobody [was] restricting their freedom of movement" and that there was no "information that their rights ha[d] been violated."

5. The comments of the Commission of March 12, 2001, indicating that, with regard to Rafaelito Pérez Charles, Benito Tide Méndez and Antonio Sension, the State should issue a decree prohibiting their expulsion and extend them a "special document" indicating that they were subject to international protection. It also indicated that the Government had not responded to their request that it issue a formal public directive recognizing the legitimacy of appearing as a witness in cases before the Inter-American Court and that it extend this legitimacy to Father Pedro Ruquoy and Solange Pierre.

6. The communication of the Inter-American Commission of April 18, 2001, advising that Solange Pierre and Father Pedro Ruquoy had declared that they felt isolated and under attack owing to their participation in the instant case, in the face of which, the State had only indicated that their situation "[was] normal", although the Court, in an order of August 18, 2000, had ordered that their lives and physical integrity should be protected. In view of the foregoing, it requested that:

1. The Government of the Dominican Republic should be called on to make effective the provisional measures to protect the life and physical integrity of Father Ruquoy and Mrs. Pierre in order to avoid irreparable damage[; and,]

2. The Government of the Dominican Republic should be asked [to meet] with [the said persons] in order to reach agreement on the type of measures that would be appropriate to ensure their safety.

7. The Dominican Republic's communication of April 27, 2001, advising that it was organizing a meeting with Father Ruquoy and Solange Pierre on May 1, 2001, in order to reach agreement on the measures they considered necessary to ensure their safety.

8. The State's report of May 2, 2001, in which it stated that the above-mentioned meeting had been held the previous day (*supra* 7), and advised that the Dominican Republic was willing to grant whatever measures Father Pedro Ruquoy and Solange Pierre believed pertinent. However, the said persons requested a week to meet with their respective committees and submit a proposal in this respect.

9. The Commission's report of May 14, 2001, in which it repeated that, in order to make the measures ordered by the Court effective it was necessary:

a. with regard to Benito Tide Méndez, Rafaelito Pérez Charles, Antonio Sension, William Medina Ferreras, Janty Fils-Aimé and Berson Gelim, that the State transmit a written decree to all its officials, immigration agents and members of the armed forces ordering that they should not be expelled, because they were the beneficiaries of provisional measures of protection ordered by the Inter-American Court.

b. with regard to the said persons, that the State extend them "special documents" indicating that they are beneficiaries of provisional measures of protection ordered by the Inter-American Court.

c. with regard to Antonio Sension, that the Dominican State ensure adequate resources so that he may conduct an exhaustive search for his family in Haiti and in the Dominican Republic.

d. to establish a high-level committee to coordinate and monitor the implementation of all the above-mentioned measures.

Lastly, with regard to Father Pedro Ruquoy and Solange Pierre, the Commission indicated that "the Government has not issued a declaration asserting the legitimacy of [their] participation [...] in case No. 12,271", nor has it taken any measure to investigate and punish the verbal and physical attacks that they have both suffered.

CONSIDERING:

1. That the Dominican Republic has been a State Party to the American Convention on Human Rights (hereinafter "the American Convention" or "the Convention") since April 19, 1978, and recognized the jurisdiction of the Court, pursuant to Article 62 of the Convention, on March 25, 1999.

2. That Article 63(2) of the American Convention establishes that, in cases of "extreme gravity and urgency, and when necessary to avoid irreparable damage to persons", the Court may, in matters not yet submitted to its consideration, adopt such provisional measures as it deems pertinent, at the request of the Commission.

3. That, according to Article 25(1) of the Rules of Procedure of the Court:

At any stage of the proceedings involving cases of extreme gravity and urgency, and when necessary to avoid irreparable damage to persons, the Court may, at the request of a party or on its own motion, order such provisional measures as it deems pertinent, pursuant to Article 63(2) of the Convention.

4. That Article 1(1) of the Convention indicates the obligation of States Parties to respect the rights and freedoms recognized therein and to ensure their free and full exercise to all persons subject to their jurisdiction.

5. That the information submitted by the Commission shows *prima facie* that the situation of "extreme gravity and urgency" subsists with regard to the rights to life, to humane treatment, to the special protection of the child by its family, and to the freedom of movement and residence of the beneficiaries of these measures.

6. That, in general, the purpose of provisional measures, under national legal systems (internal procedural law) is to preserve the rights of the parties to a dispute, ensuring that the future judgment on merits will not be prejudiced by their actions *pendente lite*.

7. That the purpose of provisional measures in international human rights law goes further, because, in addition to their essentially preventive nature, they effectively protect fundamental rights, since they seek to avoid irreparable damage to persons.

8. That it is the responsibility of the Dominican Republic to adopt effective safety measures to protect all the persons who are subject to its jurisdiction; this obligation

is even more evident in relation to those who are involved in proceedings before the supervisory organs of the American Convention.

9. That, in accordance with the orders of the Court of August 18 and November 12, 2000, the Dominican Republic is obliged to investigate and provide detailed information to the Inter-American Court on the situation of the protected persons. In particular, the State has the obligation to adopt the necessary measures in order to fully comply with the decisions of this Court in the first to tenth operative paragraphs of its order of August 18, 2000 (*supra* having seen 1), and in the first to fourth operative paragraphs of its order of November 12, 2000 (*supra* having seen 2).

10. That, according to the Commission's declarations, Father Pedro Ruquoy and Solange Pierre continue to be harassed in the Dominican Republic following their statements before this Court, so that provisional measures must be maintained in order to avoid irreparable damage.

11. That it has been the practice of this Court to protect witnesses who have made statements before the Court by adopting provisional measures².

THEREFORE:

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of the authority conferred on it by Article 63(2) of the American Convention on Human Rights and Article 25 of its Rules of Procedure,

DECIDES:

1. To request the State of the Dominican Republic to maintain the measures ordered by the Inter-American Court of Human Rights in its orders of August 18 and November 12, 2000, in favor of Benito Tide Méndez, Antonio Sension, Andrea Alezy, Janty Fils-Aime, William Medina Ferreras, Rafaelito Pérez Charles, Berson Gelim, Father Pedro Ruquoy and Solange Pierre.

2. To request the State of the Dominican Republic to submit detailed information on the status of the provisional measures and the situation of all the protected persons, by June 11, 2001, at the latest; and the Inter-American Commission on Human Rights to submit its comments on this report within 15 days of receiving it.

3. To request the State of the Dominican Republic, in compliance with the orders of the Inter-American Court of Human Rights of August 18 and November 12, 2000:

a. to refrain from deporting or expelling Benito Tide Méndez, Antonio Sension and Rafaelito Pérez Charles from its territory;

² *cf.*, *Velásquez Rodríguez, Fairén Garbi and Solís Corrales, and Godínez Cruz cases*, Provisional Measures. Order of January 15, 1988. Series E No. 1; *Caballero Delgado and Santana case*, Provisional Measures. Order of December 7, 1994. Series E No. 1; *Blake case*, Provisional Measures. Orders of September 22, 1995, and April 18, 1997. Series E Nos. 1 and 2; *Bámaca Velásquez case*, Provisional Measures. Orders of June 30, 1998, and August 29, 1998. Series E No. 2; *Paniagua Morales et al. and Vásquez et al. cases*, Provisional Measures. Orders of February 10, 1998, and June 19, 1998. Series E No. 2; *The case of Haitians and Dominicans of Haitian Origin in the Dominican Republic*, Provisional Measures. Order of August 18, 2000.

- b. to allow the immediate return to its territory of Janty Fils-Aime, William Medina Ferreras and Berson Gelim;
 - c. to allow the family reunification of Antonio Sension, Andrea Alezy and Berson Gelim with their under-age children in the Dominican Republic, as soon as possible;
 - d. to collaborate with Antonio Sension in obtaining information about the whereabouts of his next of kin in Haiti or in the Dominican Republic; and
 - e. to adopt special measures to protect the life and physical integrity of Father Pedro Ruquoy and Solange Pierre, witnesses at the public hearing on August 8, 2000.
4. To request the State of the Dominican Republic:
- a. to notify the competent authorities in writing that Benito Tide Méndez, Antonio Sension, Rafaelito Pérez Charles, Janty Fils-Aime, William Medina Ferreras and Berson Gelim are beneficiaries of provisional measures of protection ordered by the Inter-American Court of Human Rights to prevent them from being deported or expelled from the Dominican Republic;
 - b. to grant Benito Tide Méndez, Antonio Sension, Rafaelito Pérez Charles, Janty Fils-Aime, William Medina Ferreras and Berson Gelim identification documents indicating that they are beneficiaries of provisional measures of protection ordered by the Inter-American Court of Human Rights to prevent them from being deported or expelled from the Dominican Republic; and
 - c. to continue following up on the investigations that have already been initiated by the competent authorities with regard to the persons protected by these provisional measures.
5. To request the State of the Dominican Republic and the Inter-American Commission on Human Rights to take the necessary steps to create appropriate mechanisms to coordinate and monitor the above-mentioned measures by June 28, 2001, at the latest.
6. To request the State of the Dominican Republic that, in the reports on provisional measures required by the Inter-American Court of Human Rights in its orders of August 18 and November 12, 2000, it also provide information on the provisional measures that it adopts in compliance with this order.
7. To request the Inter-American Commission on Human Rights to submit its comments on the reports of the State of the Dominican Republic within six weeks of receiving them.

Antônio A. Cançado Trindade
President

Hernán Salgado Pesantes

Oliver Jackman

Alirio Abreu Burelli

Carlos Vicente de Roux Rengifo

Manuel E. Ventura Robles
Secretary

So ordered,

Antônio A. Cançado Trindade
President

Manuel E. Ventura Robles
Secretary