

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS*
OF DECEMBER 1, 2011**

**PROVISIONAL MEASURES
REGARDING THE DOMINICAN REPUBLIC**

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

HAVING SEEN:

1. The brief of the Inter-American Commission on Human Rights (hereinafter "the Commission" or "the Inter-American Commission") of May 30, 2000, and its appendices whereby it submitted a request for provisional measures to the Inter-American Court of Human Rights (hereinafter "the Inter-American Court," "the Court," or "the Tribunal") to the benefit of Haitians and Dominicans of Haitian descent under the jurisdiction of the Dominican Republic (hereinafter "the State" or "the Dominican Republic") who face a risk of being "expelled" or "deported" as a group in connection with case No. 12.271. The case is currently being processed before the Commission.
2. The Orders of the Inter-American Court of Human Rights of June 16, August 7 and 18, September 14, and November 12, 2000; May 26, 2001; October 5, 2005, and February 2, 2006, whereby measures were adopted to the benefit of Benito Tide Méndez, Antonio Sension, Andrea Alezy, Janty Fils-Aime, William Medina Ferreras, Berson Gelim, Rafaelito Pérez Charles, del Padre Pedro Ruquoy, and Solain Pie or Solain Pierre or Solange Pierre and their children.*
3. The Order of the Court of July 8, 2009, whereby the Court ordered the lifting of the provisional measures to the benefit of Mr. Rafaelito Pérez Charles, Ms. Andrea Alezy, and Pedro Ruquoy, a priest.
4. The reports filed by the Dominican Republic on August 24 and November 30, 2009; February 12, April 30, July 20, and October 19, 2010; January 18, March 28, September 1 and November 4, 2011.
5. The comments of the representatives of the beneficiaries (hereinafter "the representatives") filed on October 16 and December 16, 2009; March 16, June 3, August 20, and November 20, 2010; and March 11, April 29, October 7, and November 30, 2011.
6. The comments of the Inter-American Commission on Human Rights of July 23, 2009; June 3 and July 21, 2010; and March 18, May 11, and October 20, 2011.

* Judge Rhadys Abreu Blondet, of Dominican nationality, recused herself from hearing the provisional measures in this case pursuant to articles 19(2) of the Statute and 19 and 21 of the Rules of Procedure of the Court.

* It should be noted that throughout this case, the parties have referred to Solain Pie or Solain Pierre or Solange Pierre. The Court observes that it is the same person, for which reason she will be referred to hereinafter as "Solange Pierre o señora Pierre."

7. The communication of the Secretariat of the Court (hereinafter “the Secretariat”) of July 17, 2009, whereby following instructions of the President of the Court at the time, it asked the State to present a detailed report on the facts alleged to have occurred with regard to Mr. Berson Gelin and the measures implemented in response by no later than July 23, 2009.

8. The Secretariat’s communication of August 27, 2009, whereby it requested that the State submit a complementary report by no later than September 7, 2009, stating the steps taken toward implementing what was ordered in the third and fourth operative paragraphs of the Order of July 8, 2009, and where relevant, providing more detail on the impact that the constitutional reform described in its report could have on the implementation of those operative paragraphs. Likewise, it asked the State to indicate the specific actions taken toward implementing the measures ordered to the benefit of each of the beneficiaries. The Secretariat’s communication of June 3, 2010 through which it requested that the representatives forward a list with the names of the people who received the safe-conducts.¹

9. The communications of June 8, 2010, and October 7, 2011, whereby the representatives forwarded to the Court a list with the names of the people who received safe-conducts and those pending delivery, as well as a list with the names of those whose document was not renewed.

CONSIDERING THAT:

1. 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 has recognized the jurisdiction of the Court, pursuant to Article 62 of the same, on March 25, 1999.

2. 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 adopt such provisional measures as it deems pertinent in matters it has under consideration. With respect to a case not yet submitted to the Court, it may act at the request of the Commission.”

3. The provisions of Article 63(2) of the Convention make it obligatory for the State to adopt the provisional measures ordered by this Tribunal, as the basic principles of International Law, backed by international case-law, indicate that States must comply with their obligations under the Convention in good faith (*pacta sunt servanda*).²

¹ In the Order of the Court of August 18, 2000, the Court asked the State to provide the beneficiaries with identification documents indicating that they are beneficiaries of provisional measures of protection ordered by the Inter-American Court to prevent them from being deported or expelled from the Dominican Republic. Regarding this, the State granted safe conducts “in order for the beneficiaries to be able to clear up and legalize their migratory status.” The State indicated that the safe conducts “are not national identification cards or passports [but] only provisional documents granted, in this case, [...] to the beneficiaries [...] and] whose only purpose is to allow them to travel freely domestically, without any risk.” Cf. State Report of September 5, 2005.

² Cf. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of June 14, 1998, Considering 6; *Case of González Medina and Family*. Provisional Measures regarding the Dominican Republic. Order of the Court of August 30, 2011, Considering 4, and *Matter of the Unidad de Internación Socioeducativa*. Provisional Measures regarding Brazil. Order of the Court of September 1, 2011, Considering 3.

4. Under International Human Rights Law, provisional measures are not only precautionary in nature, in the sense that they preserve a juridical situation: They are also fundamentally protective in the sense that they protect human rights in seeking to prevent irreparable damage to persons. The measures are applied provided that the basic requirements of extreme gravity and urgency and prevention of irreparable damage to persons are met. Thus, provisional measures become a true judicial guarantee of a preventive nature.³

5. Article 63(2) of the Convention requires that in order for the Court to be able to issue provisional measures, three conditions must be present: i) "extreme gravity"; ii) "urgency", and iii) that they seek to "avoid irreparable damages to persons." These three conditions are co-existing and must be present in all situations in which the Tribunal's intervention is requested. Likewise, the three conditions described must persist for the Court to be able to maintain the protection ordered. If one of them ceases to be present, the Tribunal must assess the appropriateness of continuing with the protection ordered.⁴

6. Based on its competence and within the framework of provisional measures, the Court must consider only those arguments related strictly and directly with extreme gravity, urgency, and the need to avoid irreparable damage to persons. Thus, when deciding if provisional measures are to remain in place, the Tribunal must analyze if the situation of extreme gravity and urgency that led to their adoption persists, or if new circumstances that are equally grave and urgent require they remain in force. Any other matter may only be brought before the Court as part of a corresponding contentious case.⁵

7. On October 13, 2005, the Inter-American Commission issued Report on Admissibility No. 68/05, petition No. 12.271 in the case of *Benito Tide Méndez, Antonio Sensión, Andrea Alezi, Janty Fils-Aime, William Medina Ferreras, Rafaelito Pérez Charles, Berson Gelim et al. - Dominican Republic*, in which it concluded that "the case is admissible and [the Commission] is competent to hear the complaint submitted by the petitioners [...] pursuant to the provisions of articles 46 and 47" of the American Convention.⁶

8. Pursuant to the Orders issued by the Inter-American Court (*supra* Having Seen 2), the decision was made to lift the provisional measures benefiting Rafaelito Pérez Charles, Andrea Alezy, and Pedro Ruquoy. The State was ordered to a) maintain the measures it had adopted and immediately order the measures necessary to effectively protect the life and personal integrity of Benito Tide Méndez, Antonio Sensión, Janty Fils-Aime, William Medina Ferreras, Berson Gelin, and Solange Pierre, as well as the children of the latter; b) designate a State authority in the Dominican Republic to which the beneficiaries and/or their

³ Cf. *Case of the Newspaper "La Nación"*. Provisional Measures regarding Costa Rica. Order of the Court of September 7, 2001, Considering 4; *Case of González Medina and Family*. Provisional Measures regarding the Dominican Republic, *supra* footnote 2, Considering 5, and *Matter of the Unidad de Internación Socioeducativa*. Provisional Measures regarding Brazil, *supra* footnote 2, Considering 4.

⁴ Cf. *Case of Carpio Nicolle*. Provisional Measures regarding Guatemala. Order of the Court of July 6, 2009, Considering 14; *Matter of the Unidad de Internación Socioeducativa*. Provisional Measures regarding Brazil, *supra* footnote 2, Considering 5, and *Case of Wong Ho Wing*. Provisional Measures regarding Peru. Order of the Court of October 10, 2011, Considering 3.

⁵ Cf. *Matter of James et al.* Provisional Measures regarding Trinidad and Tobago. Order of the Court of August 29, 1998, Considering 6; *Matter of the Unidad de Internación Socioeducativa*. Provisional Measures regarding Brazil, *supra* footnote 2, Considering 6, and *Case of Wong Ho Wing*. Provisional Measures regarding Peru, *supra* footnote 4, Considering 4.

⁶ Cf. <http://www.cidh.oas.org/annualrep/2005sp/RepDominicana12271sp.htm>

representatives may turn for issues related to the implementation what was ordered in these measures; likewise, the State was ordered to renew or issue the safe-conducts to the beneficiaries of the provisional measures as soon as possible; c) create a work group or team of State officials with the participation of the beneficiaries and/or their representatives to effectively collaborate with the implementation of the measures ordered by the Court, and d) coordinate with the beneficiary to appoint a suitable person to provide protection to Ms. Solange Pierre.⁷

A) Regarding the appointment of a State authority and the issuing and renewal of safe-conducts

9. In its brief dated September 7, 2009, the State reported that it had appointed Ricardo Ruiz and Ana Lorna Regalado, human rights analysts with the State Secretariat of Foreign Affairs, to be in charge of verifying the implementation of the provisional measures.

10. Regarding the renewal and issuance of safe-conducts for the beneficiaries, in communications dated July 20, 2010, and March 28, 2011, the State reported that on April 7 and 10, 2010, it delivered the safe-conducts to the beneficiaries, with delivery to six unnamed beneficiaries pending because they were not able to be present when the safe-conducts were handed out. The State indicated that the beneficiaries could go to the General Immigration Office to receive the pending safe-conducts. Subsequently, through its reports of September 1 and November 4, 2011, the State indicated that the representatives had had no further communication with the General Immigration Office and that thus, the safe-conducts had not been delivered.

11. In their comments dated March 16, 2010, the representatives suggested granting more power to the State agency that would be designated to receive the beneficiaries' complaints regarding problems with the use of the safe-conducts. This was so that the agency may "issue new documents or replace those that [may have] problems." Such an action would eliminate the need to turn to this Court to request the measure every time it becomes necessary. In a number of briefs, the representatives indicated that no governmental authority whatsoever had contacted them regarding delivery of the pending safe-conducts. They added that the State "continues to transfer the burden of compliance with the measures to the beneficiaries." Likewise, the representatives indicated that they have unsuccessfully tried to contact Rafael Cruz, legal counsel of the General Immigration Office. It seems he no longer holds the position, and they have not been informed of the name of the new person in charge.

12. Additionally, in the brief dated June 8, 2010, the representatives forwarded to the Court a list with the names of the people whose safe-conducts were issued or renewed by the State. From the information filed it can be concluded that safe-conducts were received by the five members of the Medina Ferreas family and the nine members of the Fils-Aime family (both families reside in Anse-A-Pitre, Haiti); and the four members of the Sensión family, the eight members of the Jean family, and Mr. Berson Gelin (all residents of the Dominican Republic). The people who have not yet received the safe-conducts were Carolina Medina Ferreras and Nene Fils-Aime, both residents of Anse-A-Pitre, Haiti; and William Gelin, Reyita Antonia Sensión, Emiliano Mache Sensión, Maximiliano Sensión, and the newborn baby girl of Ana Lidia Sensión, all residents of Dominican Republic. Similarly, in their briefs of October 7 and November 30, 2011, the representatives once again forwarded

⁷ Cf. *Matter of Haitians and Dominicans of Haitian origin in the Dominican Republic*. Provisional Measures regarding the Dominican Republic. Order of the Court of July 8, 2009, operative paragraphs 2, 3, 4 and 5.

to the Court a list with the names of the people whose safe-conducts were not renewed,⁸ as well as the names of new family members that need one.⁹ Regarding the latter, the representatives indicated that they were in “the same situation of insecurity that led to the granting of provisional measures for their parents” and that due to their status as minors, “they require special protection from the State[. For this reason] they requested that the provisional measures be extended [by issuing safe-conducts to] the new family members until the situation leading to this complaint is resolved,” with the purpose of guaranteeing that they can freely go about their daily business without fear of being deported.

13. The representatives also stated that the beneficiaries are subjected to “episodes of violence” at the hands of the authorities due to lack of knowledge regarding the validity of their safe-conducts. The representatives attributed these incidents to the State’s failure to adopt the measures agreed on at the first meeting of the work team implementing the measures ordered by this Court. The measures ordered are as follows: “a) [d]eliver to the families a copy of the official Order that creates the documents so they may show it to the authorities when they suffer similar situations; b) [f]orward an official letter to all police authorities and armed forces with a copy of the order (with the names of the beneficiaries) and instruct said officials to respect the validity of the documents; c) [p]lace a copy of the order on the walls of the offices that operate on the border so that it may be visible to all, and d) [p]rovide them with the telephone number of a state office where they may denounce this type of episode.” Likewise, they indicated that these measures are necessary to guarantee the effectiveness of the safe-conducts.

14. In its brief of comments dated March 18, 2011, the Commission stated its concern at the failure to deliver all the safe-conducts, highlighting the importance of completing it and the need to adopt complementary measures to guarantee the effectiveness of the documents. Additionally, in its comments dated October 20, 2011, it warned that the State has not yet provided information in this regard. In addition, with regard to the representatives’ request to “expand the granting of safe-conducts to the new family members,” the Commission argued that “risk factors have been identified that justify their acknowledgment as beneficiaries.” Based on this and “by virtue of the principle of protection of the family and the special measures that must be adopted in order to protect the best interest of children,” the Commission asked the Court to order the State to issue safe-conducts to new family members.

15. The Court notes that the State reported that it appointed an authority to which the beneficiaries and/or their representatives may turn for issues related to the implementation of these measures. However, the representatives stated they had not been able to establish communication with that person after the meeting of March 4, 2010, and they do not know who now holds that position. Based on this, this Tribunal asks the State to provide the following information in its next report: a) the person in charge of this measure and the person’s contact information, and b) the duties and actions for which this person is responsible with regard to this measure.

16. Likewise, the Tribunal points out that on April 7 and 10, 2010, the State granted and renewed the safe-conducts for the beneficiaries of the present provisional measures.¹⁰ In

⁸ Of the relatives who are residents of Haiti, Carolina Medina Ferreras, Nene Fils-Aime and William Gelim. Of the relatives residing in the Dominican Republic, Reyita Antonia Sensión.

⁹ From the Gelim family, Gili Sainlis, Jamson Gelim, Faica Gelim and Kenson Gelim. From the Sensión family, Analideire Sensión and Emiliano Mache Sensión.

¹⁰ Namely, the State granted and renewed safe conducts for beneficiaries Antonio Sensión, William Medina

addition, pursuant to what the representatives and the State had agreed upon, safe-conducts were granted to approximately 27 of the beneficiaries' relatives. According to the representatives' latest information, four of the beneficiaries' relatives were not granted a renewal of their safe-conduct. Of those, three live in Haiti and one lives in the Dominican Republic. In addition, the representatives asked that safe-conducts be given to six more family members, something they reiterated in their comments dated November 30, 2011. Regarding this, the Court finds that the State has taken action toward providing the beneficiaries of these measures (*supra* Having Seen 2) and their relatives with safe conducts. This Tribunal likewise recognizes the State's willingness to grant safe conducts to the relatives of the beneficiaries who have not yet received them.

B) Regarding a work group or team to collaborate in the implementation of the measures ordered by the Court

17. In its report dated February 12, 2010, the State mentioned that it appointed a team to collaborate in the implementation of the measures ordered by the Court and it provided additional details on the team's composition. Likewise, in several briefs, the State reported that on March 4, 2010 and January 17, 2011 the team's two first meetings were held in Santo Domingo, the Dominican Republic. It reported that in those meetings, they discussed the matter of the safety of Mrs. Pierre, the search for an amicable solution, the renewal of the pending safe-conducts, and the general execution of the provisional measures. It is important to mention that the team agreed in its first meeting to meet regularly every three months. According to the information provided by the State, as of this date, the details for the next meeting have not yet been agreed upon. Additionally, in its latest report dated November 4, 2011, the State noted that, despite their interest in holding the meetings regularly, the representatives "have not established further contact with the State" toward doing so.

18. In comments dated October 7, 2011, the representatives stated that despite making attempts, they have not been able to schedule a new meeting. They expressed disappointment that thus far, none of the additional measures on the issuance and renewal of the safe-conducts that were suggested during the work group's first meeting have been implemented by the State (*supra* Considering 12).

19. In its brief of comments dated March 18, 2011, the Commission "argue[d] that the existence and maintenance of fluid communication within a context of coordination and cooperation was essential for achieving better implementation of the [...] provisional measures [in question]." Likewise, in its observations of October 21, 2011, it reiterated the importance of the participation of the beneficiaries in the implementation of these measures and the need to continue with the meetings in order to achieve "proper treatment [of] each of the beneficiaries' situations and needs."

20. This Tribunal recalls that in its Order of July 8, 2009, it ordered the State to "create - immediately and pursuant to its legal framework - a work group or team made up of State officials to effectively collaborate with the implementation [of the] measures ordered by the Court, and that it consider the participation of the beneficiaries and/or their representatives." Regarding this, this Tribunal observes that the team was duly created; however, despite having agreed to hold work meetings every three months, the team held

Ferreras, Berson Gelin, and Janty Fils-Aïme (deceased). Regarding Mr. Benito Tide Méndez, up-to-date information is not available. Neither the representatives nor the Commission have indicated that he lacks a safe conduct (see Considering 31).

its first meeting on March 4, 2010, and its last meeting on January 17, 2011. The Court understands the importance of the measures agreed on during the meetings (*supra* Considering 13). It therefore requests that in subsequent reports, the parties forward information to the Court on the scheduling of the next meetings and the measures to be implemented.

C) Regarding the situation of Mr. Jeanty Fils-Aime

21. In its report of February 12, 2010 the State requested the lifting of the provisional measures regarding Mr. *Jeanty Fils-Aime*, resident of Haiti.

22. In their comments dated November 20, 2010, and March 11, 2011, the representatives stated that in the month of October 2010, they learned of the death of Mr. Fils-Aime due to respiratory problems.

23. In its brief of March 18, 2011 the Commission took note of the death of Mr. Jeanty Fils-Aime.

24. Because of the death of Mr. Fils-Aime, the provisional measures to his benefit are rendered null.

D) Regarding the situation of Berson Gelin, Antonio Sensión, William Medina Ferreras, and Benito Tide Méndez

25. In its briefs dated July 23 and September 7, 2009, the State indicated that the attack on Mr. Berson Gelin's personal integrity took place on Haitian territory. It was thus prevented from adopting any protective measures to his benefit. Nevertheless, it mentioned that it had forwarded the complaint to the corresponding institutions and the alleged attackers residing in Dominican territory were being investigated. Likewise, it asked that the provisional measures to the benefit of Berson Gelin be lifted due to the State's lack of jurisdiction to carry out any action within Haitian territory and due to Mr. Berson Gelin's "irregular immigration status."

26. Regarding Antonio Sensión, William Medina Ferreras, and Benito Tide Méndez, the State has not provided specific information regarding their individual situations.

27. From the information provided by the representatives, the following can be concluded regarding the situation of each of the beneficiaries:

a) Mr. Berson Gelin

He has a safe-conduct. On the other hand, the representatives reported in the brief dated July 14, 2009, that on July 6, 2010, in the city of Anse-a-Pitre, Haiti, Mr. Berson Gelin had been attacked by a group of three men allegedly of Dominican origin. In their brief of March 16, 2010, the representatives indicated that the beneficiary currently resides in Santo Domingo and still suffers physically and emotionally from the attack. They reiterated that the State "[has] not offered specifics that would indicate its commitment to moving forward with a serious investigation of the incidents that took place with regard to [to Mr. Gelin]."

b) Mr. Antonio Sensión

Mr. Sensión and his next of kin reside in Dominican Republic and their safe-conducts were renewed in the month of April 2010.

c) Mr. William Medina Ferreras

Mr. William Medina, who resides in Haitian territory, obtained his safe-conduct in the month of March 2002, and the safe-conducts of both him and his next of kin were renewed in the month of April 2010. However, they stated the family is terrified to return to Dominican Republic due to the acts of violence and discrimination, as well as due to lack of economic means, since according to the representatives in order to return to Dominican territory the border authorities ask them for money illegally.

d) Mr. Benito Tide Méndez

In comments dated October 16, 2009, and March 16, 2010, the representatives stated that communication with the beneficiary had been interrupted since Mr. Tide Méndez mentioned in a 2007 interview that he was afraid of "possible retaliation from the Dominican authorities" and due to difficulties with accessing the area where the beneficiary lives. Additionally, they stated that Mr. Tide Méndez "continue[d] to face acts of discrimination," such as the refusal to replace his Dominican identification on March 28, 2007. They added that they will continue in their efforts to reestablish contact as soon as possible. Also, they reported in comments dated October 16, 2009, that Mr. Tide Méndez had a safe-conduct. However, in the communications forwarded by the representatives on June 8, 2010, and October 7, 2011, his name was not included on any of the lists of people who received safe-conducts or did not receive them, nor have the representatives offered updated information on his specific situation.

28. In comments dated June 3, 2010, the Commission reiterated that it was not appropriate for the State to raise issues of admissibility or the merits of the case in its reports when the case was currently being processed before the Commission. Likewise, it added that in requesting that the measures be lifted, the State did not submit information demonstrating that the circumstances leading to the adoption of the measures had changed. Likewise, the Commission noted that the State did not present information regarding the steps taken to clarify the "acts of violence" that took place with regard to Mr. Berson Gelin. Finally, it "reiterated that it was necessary and important for the State to continue to ensure the validity and effectiveness of the measures adopted, especially the safe-conducts granted to the beneficiaries and their next of kin."

29. The Court recalls that when a State requests the lifting or modification of the provisional measures ordered, it must present evidence and arguments sufficient to allow the Tribunal to assess that the risk or threat no longer meets with the requirements of extreme gravity and urgency to avoid irreparable damages. At the same time, the representatives of the beneficiaries that want the measures to continue must present evidence of the reasons why.¹¹

30. The Tribunal acknowledges that the lack of threats does not necessarily mean there is no risk to a person. However, given the passage of a certain amount of time with no threats, the Tribunal must examine the reasons why the threats are no longer taking place in order to determine if the provisional measures should be maintained. At the same time, it

¹¹ *Matter of Haitians and Dominicans of Haitian origin in the Dominican Republic*. Provisional Measures regarding the Dominican Republic, *supra* footnote 7, Considering 19.

should not forget the essentially provisional and temporary nature that protective measures must have.¹²

31. The Court finds that it cannot be concluded from the information provided by the parties that the alleged attacks carried out against Mr. Berson Gelin in Haiti are related with the purpose of these measures, as the attacks took place outside the jurisdiction of the Dominican Republic. The Court will therefore not rule on this with regard to this matter.

32. Regarding Mr. Benito Tide Méndez, neither the representatives nor the Commission have provided updated information on his situation. The representatives stated that they lost communication with Mr. Benito Tide in 2009, and therefore as of that date, they have not forwarded any information whatsoever that could prove incidents against said beneficiary and allow for an assessment of his situation. The Court finds that the situation of extreme gravity, urgency, and imminent risk on which the adoption of these provisional measures to his benefit was based no longer persists. His situation is therefore no longer characterized by the standards set forth in Article 63(2) of the Convention. Thus, the Court considers it appropriate to lift the provisional measures to his benefit.

33. Finally, the Court considers it appropriate to maintain the measures adopted to the benefit of Berson Gein, Antonio Sensión, and William Medina Ferreras for an additional period of at least eight months. In order to evaluate whether to maintain the provisional measures, the Tribunal finds it necessary for both the representatives and the Inter-American Commission to submit precise and detailed reports on the current situation of each of the mentioned beneficiaries with regard to the object for which the present measures were adopted. Where necessary, they must justify the reasons for maintaining the measures to their benefit with regard to their precautionary nature in relation to the merits case being processed before the Commission (*supra* Considering 7).

E) Regarding Ms. Solain Pie or Solain Pierre or Solange Pierre and her children

34. In its reports dated March 25 and September 1, 2011, the State reiterated that since the establishment of the provisional measures to the benefit of Mrs. Pierre and her children, "there have been no attacks on [their physical and person] integrity." Likewise, it added that Solange Pierre has turned down the State's offers of security. For this reason, the State asked that the provisional measures granted to her benefit be lifted.

35. In its report dated November 4, 2011, with regard to the harassment and threats allegedly suffered by the beneficiary - reported by the representatives in their comments dated April 29 and June 7, 2011 (*infra* para. 36) - the State indicated that it had not been notified of these facts, reiterating that "in the 10 years since the provisional measures were adopted, the beneficiaries have not reported a single act of aggression against them."

36. Regarding this, the representatives stated in comments dated April 29 and October 7, 2011, that Solange Pierre continues to be subjected to attacks and campaigns that seek to discredit her based on her work, among them: a) arrests by police officers on more than 10 different occasions, all of which have been unjustified, based on her physical appearance and related with the work she does. Additionally, she has been denied telephone communication and on one occasion, one of her children was forced to do "30 push-ups" on

¹² *Matter of Haitians and Dominicans of Haitian origin in the Dominican Republic*. Provisional Measures regarding the Dominican Republic, *supra* footnote 7, Considering 20.

very hot pavement; and b) verbal threats to her face and in the media issued by State agents or individuals, including being summoned by the President of the Legal Consultant Group (GSV in its Spanish acronym), who has threatened her with accusations of “committing a crime against the State and/or terrorism to the detriment of the Dominican Republic.” These incidents have caused anxiety and fear for Ms. Solange Pierre. In comments dated November 30, 2011, the representatives reported on new threats against Solange Pierre and her family, including the creation of a Facebook page entitled “Let’s throw Sonia Pierre out of our country” and the following of her daughter Leticia Dandre Pie by an unknown man on November 5, 2011. Based on this, and with the purpose of guaranteeing her safety, on November 22, 2011, she joined the employees of MUDHA in filing a criminal complaint with the National Prosecutor’s Office.

37. The representatives also indicated that Mrs. Pierre has not turned down the offers for security: On the contrary, they state that she was the one who initiated communications with the State. They added that the State had limited her protection, arguing that it was impossible to appoint a permanent guard and asserting budgetary limitations. In response, the representatives proposed that the State provide an exclusive telephone number that Mrs. Pierre could call in the event of “any threat to her safety or that of her family.” According to the information provided by the representatives, the State did not respond to this request. Instead, it limited itself to suggesting “that Sonia should call the emergency number available to the general population.” In their comments dated November 30, 2011, the representatives asked that given this, the “State be ordered to provided Sonia Pierre and her family with the financial resources necessary to armor the family car and to be able to hire private security for a period of at least three months, a period that could be reevaluated subsequently.”

38. In comments dated March 18, 2011, the Commission argued that the provisional measures should be maintained because “the situation of gravity and urgency that correctly served as grounds to grant the [measures] is ongoing.” It added that “the State has not taken specific measures to protect the life and integrity of Ms. Pierre” and that the State “has a duty to reach a consensus with the beneficiaries with regard to the measures implemented to their benefit through adequate mechanisms of participation.” Based on this, the Commission asked the Court to dismiss the State’s request to lift the provisional measures regarding Mrs. Pierre. Likewise, in its observations of October 20, 2011, the Commission warned that the State has not yet addressed the representatives’ comments with regard to the worsening of the situation of risk facing Solange Pierre and her children. It also expressed its concern over the summoning of the beneficiary on October 3, 2011, and recalled the State’s obligations to protect all people who provide information to the Commission and abstain from retaliating against them. Based on this, it asked that the Court “require the State to forward information on the reason, scope, and content of said ‘summons.’”

39. This Court notes that the representatives have provided information that supports the maintenance of these measure benefiting Solange Pierre and her children, and they requested that the State make a contact number available for any eventuality related with her safety. For its part, the State has not provided updated information regarding the protective measures granted to her benefit. This Court recalls that the State has a duty to ensure the personal integrity of the beneficiaries of the measures. For this reason, it orders the Dominican Republic to provide – in coordination with the designated authority (*supra* Considering 15), the work group (*supra* Considering 20), and the beneficiaries – the most suitable mechanism for providing protection to the beneficiaries and for allowing the beneficiary to be able to establish contact with an authority capable of responding to any possible eventuality related with her safety and personal integrity.

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 27 of its Rules of Procedure,¹³

DECIDES TO:

1. Lift the provisional measures to the benefit of Janty Fils-Aime and Benito Tide Méndez, pursuant to Considering 24 and 32 of this Order.
2. Ratify the relevant parts of the Orders of the Inter-American Court of Human Rights of June 16, August 7 and 18, September 14, and November 12, 2000; May 26, 2001; October 5, 2005; February 2, 2006; and July 8, 2009, in the sense that the State must maintain the measures it has adopted for an additional period of at least eight months, calculated as of the notification of the instant Order. The Tribunal will subsequently assess the appropriateness of keeping them in force to the benefit of Antonio Sension, William Medina Ferreras, and Berson Gelin, pursuant to the provisions of Considering 33 of this Order.
3. Ratify the pertinent parts of the Orders of the Inter-American Court of Human Rights (*supra* Operative Paragraph 2) in order to maintain the measures to the benefit of Ms. Solain Pie or Solain Pierre or Solange Pierre and her children, pursuant with the provisions of Considering 39 of this Order.
4. Order the State to continue implementing the measures that are sufficient and necessary to: a) appoint a state authority in the Dominican Republic to which the beneficiaries and/or their representatives may turn for all issues related with the implementation of provisions of these measures; b) continue with the periodic meetings of the work group or team made up of State officials, with the participation of the beneficiaries and/or their representatives, in order to effectively collaborate with the implementation of the measures ordered by the Court. This is pursuant to the provisions of Considering 15 and 20 of this Order.
5. Order the State to establish, in mutual agreement with Ms. Solange Pierre, the most suitable mechanism for attending to any eventuality related with her safety and personal integrity as well as that of her children, and order it to provide the information required pursuant to the provisions of Considering 39 of this Order.
6. Order the State to submit a clear and detailed report to this Court no later than February 1, 2012, on the specific actions taken toward implementing these measures, pursuant to the information requested in Considering 15, 20 and 39 of this Order.
7. Order the representatives of the beneficiaries and the Commission to submit a clear and detailed report to this Court by no later than February 1, 2012, pursuant to the information requested in Considering 20, 33 and 39 of this Order.

¹³ Rules of Procedure approved by the Court in the LXXXV Regular Session held from November 16-28, 2009.

8. Order the parties to submit their comments on the reports - once they have received them - by the required deadlines.
9. Order the Secretariat of the Court to notify the State, the Inter-American Commission of Human Rights, and the victims or their representatives of this order

Diego García-Sayán
President

Leonardo A. Franco

Manuel E. Ventura Robles

Margarette May Macaulay

Alberto Pérez Pérez

Eduardo Vio Grossi

Pablo Saavedra Alessandri
Secretary

So ordered,

Diego García-Sayán
President

Pablo Saavedra Alessandri
Secretary