

**ORDER OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS
OF AUGUST 7, 2000**

**REQUEST FOR PROVISIONAL MEASURES IN FAVOR OF
HAITIAN AND HAITIAN-ORIGIN DOMINICAN PERSONS
IN THE DOMINICAN REPUBLIC¹**

HAVING SEEN:

1. The brief of the Inter-American Commission on Human Rights (hereinafter the "Commission") of May 30, 2000 and its appendices, whereby, pursuant to Articles 63(2) of the American Convention on Human Rights (hereinafter the "Convention" or the "American Convention"), and 25 of the Rules of Procedure of the Court, it submitted to the Inter-American Court of Human Rights (hereinafter the "Court") a request for provisional measures in favor of Haitian and Haitian-origin Dominican persons subject to the jurisdiction of the Dominican Republic (hereinafter the "State," or the "Dominican Republic"), who are at risk of being "expelled" or "deported" collectively (hereinafter the "alleged victims"), in relationship to case N° 12.271, currently before the Commission.

2. The brief of the Commission of June 13, 2000, whereby it submitted an *addendum* to its request for provisional measures (*supra* 1) and informed that it had acknowledged the identity of some of the alleged victims, who had given their approval for purposes of being named in the context of the request.

3. The Order of the President of the Court of July 16, 2000, whereby the State and the Commission were summoned to a public hearing that would be held at the seat of the Court on August 8, 2000, as of 10:00 hours, so as for the Court to hear its points of view on the events and circumstances that justified the request for provisional measures.

4. The brief of the Commission of July 21, 2000, whereby it accredited the persons who would represent it at the public hearing (*supra* 3); proposed Ms. Solange Pie and Mr. R.P. Pedro Ruquoy as experts to provide information at the hearing; and requested the permission of the Court to show, during said audience, a video with testimonies from alleged victims.

5. The brief of the Inter-American Commission of July 25, 2000, where it expressed the need to have at its disposal the two expert witnesses that it offered, in consideration of the following reasons:

- a) The expert witnesses offered shall provide information concerning the situation of the "Haitian-Dominicans and Haitians" who live in the Dominican Republic; they shall refer to the practice of "expulsion" to which the latter are

¹ Judges Oliver Jackman and Sergio García-Ramírez informed the Court that, due to *force majeure*, they were unable to be present at the public hearing of August 8, 2000, and at the deliberations and signing of this order.

subjected; they shall provide information on the frequency and form of the "expulsions" carried out over the past eight months, and on the consequences of the "expulsions and deportations;"

b) The depositions of the expert witnesses shall furnish the Court with elements of special informative value to acquire a better understanding of the context within which the request for provisional measures has been made;

c) Father Pedro Ruquoy has worked for more than two decades with the Haitian and the Haitian-Dominican communities in the Dominican Republic. On the basis of his work he can provide a unique perspective concerning the living conditions of the alleged victims; and

d) Ms. Solange Pie, Director of the Haitian-Dominican Women's Movement, has worked for more than 14 years with the Haitian and the Haitian-Dominican population; her work has exposed her to the reality of the alleged victims, and she has done research on the situation of those who have been "expelled and deported" from the Dominican Republic.

6. The communication from the State of August 1, 2000, whereby it both, accredited the persons who would represent it in the public hearing, and objected to the offer of "expert witnesses" made by the Commission, on the following basis:

a) Ms. Solange Pie is the Director of the Haitian-Dominican Women's Movement, an organization that has been the main source of information to the petitioners and the Commission; she is widely known in the Dominican Republic for her performance as an activist on the matter of Haitian immigrants, and she appears as a petitioner in another case before the Commission, which is closely related to the case that has originated this request;

b) The Reverend Father Pedro Ruquoy is a founder and member of Centro Puente, an organization that stands out as one of the institutions that have vested the greatest amount of interest in all matters relative to the situation of Haitian immigrants in the Dominican Republic, and who has, on many occasions, played an active role in reports against the Dominican authorities; and

c) On the basis of the preceding, the "expert witnesses" proposed by the Commission are parties having an interest in the case, but not independent technical advisors, experts or professionals who can offer totally objective and impartial information and opinions, as per the requirements of Article 49 of the Rules of Procedure of the Court, and Article 19 of its Statute.

7. The brief of the Commission of August 4, 2000, in response to the objection presented by the State (*supra* 6), whereby it reiterated the need to have the two experts that it had offered present in the public hearing.

CONSIDERING:

1. That the Commission has indicated to this Tribunal that Father Pedro Ruquoy and Ms. Solange Pie would render statements concerning the situation of the alleged

victims and the alleged practice of "expulsion" and the consequences thereof, in order to illustrate the context within which this request has been submitted.

2. That the purpose of the depositions of Father Pedro Ruquoy and Ms. Solange Pie bears no relationship to technical or specialized items with respect to which this Tribunal would request the opinion of experts.

3. That Article 44(1) of the Rules of Procedure of the Court establishes, however, that the Court may "Obtain, on its own motion, any evidence it considers helpful. In particular, it may hear as a witness, expert witness, or in any other capacity, any person whose evidence, statement or opinion it deems to be relevant."

4. That, in accordance with the reasons expressed by the State and the Commission, both, Father Pedro Ruquoy, and Ms. Solange Pie have worked with the alleged victims, and have directly perceived the circumstances and conditions in which they live, whereby this Tribunal orders the appearance of both to hear their statements in their capacity as witnesses.

5. That the fact that a person has a direct interest in the outcome of a proceeding or may have taken part as a petitioner in a case before the Commission, is not a cause for hindrance to deposing before this Court which, in its practice, has even admitted statements from the victim and her or his relatives (*I-A.Courth.R., Loayza-Tamayo Case. Judgment of September 17, 1997. Series C N° 33; I-A.Courth.R., Castillo-Páez Case. Judgment of November 3, 1997. Series C N° 34; I-A.Courth.R., Suárez-Rosero Case. Judgment of November 12, 1997. Series C N° 35; I-A.Courth.R. Blake Case. Judgment of January 24, 1998. Series C N° 36; I-A.Courth.R. Paniagua-Morales et al. Judgment of March 8, 1998. Serie C N° 37; I-A.Courth.R. Villagrán-Morales et al the two experts that it had offered. Judgment of November 19, 1999. Series C N°63*).²

NOW, THEREFORE,

THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

Based on Article 63(2) of the American Convention, and Articles 25, 44(1), and 45 of the Rules of Procedure of the Court,

DECIDES:

1. To summon Father Pedro Ruquoy in order that, as of 10:00 hours of the 8th day of August, 2000, he appear before the Inter-American Court of Human Rights to render a testimonial statement concerning the alleged practice of "expulsion and deportation" of Haitian and Haitian-origin Dominican nationals in the Dominican Republic.

2. To summon Ms. Solange Pie, in order that, as of 10:00 hours of the 8th day of August, 2000, she appear before the Inter-American Court of Human Rights to render a testimonial statement concerning the alleged practice of "expulsion and

² This Court has observed the same practice in the stage of reparations (*I-A.Courth.R., Loayza-Tamayo Case. Reparations (Art. 63.1 American Convention on Human Rights). Judgment of November 27, 1998. Series C N° 42; I-A.Courth.R. Suárez-Rosero Case. Reparations (Art. 63.1 American Convention on Human Rights). Judgment of January 20, 1999, Series C N° 44.*

deportation" of Haitian and Haitian-origin Dominican nationals in the Dominican Republic.

3. To request the State of the Dominican Republic to facilitate the exit from and entry into its territory of Father Pedro Ruquoy and Ms. Solange Pie, who have been summoned by the Inter-American Court of Human Rights to render a testimonial statement in relationship to the request for provisional measures.

4. To establish that this summons shall be governed by the provisions of Article 45 of the Rules of Procedure of the Inter-American Court of Human Rights, according to which "the party requesting the production of evidence shall defray the cost thereof."

Done in Spanish and English, the Spanish text being authentic, in San Jose, Costa Rica, on this seventh day of August, 2000.

Antônio A. Cançado Trindade
President

Máximo Pacheco-Gómez

Hernán Salgado-Pesantes

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