

**ORDER OF THE PRESIDENT OF THE
INTER-AMERICAN COURT OF HUMAN RIGHTS**

OF MAY 30, 2014

VICTIM'S LEGAL ASSISTANCE FUND

**CASE OF THE GARÍFUNA PUNTA PIEDRA COMMUNITY AND
ITS MEMBERS *v.* HONDURAS**

HAVING SEEN:

1. The brief of October 1, 2013 and its attachments, which the Inter-American Commission on Human Rights (hereinafter "the Commission" or "Commission") filed for the Garifuna Punta Piedra Community and its members before the Inter-American Court of Human Rights (hereinafter "the Court," "Court," or "the Tribunal"), for the State of Honduras (hereinafter "the State" or "Honduras").

2. The brief of January 3, 2014, in which the representatives of the alleged victims (hereinafter "the representatives") filed their pleadings, motions, and evidence (hereinafter "brief of pleadings and motions") and requested the application of the Victim's Legal Assistance Fund of the Court to "provide funding for litigation in this case, given the lack of economic means to cover litigation expenses."

3. The note of the Secretariat of the Court of February 10, 2014, in which it was stated that the representatives did not provide any specific probative evidence of the lack of financial resources of the alleged victims in the case. In accordance with Articles 2 and 3 of the Rules of Procedure for the Fund, the representatives, by no later than February 18, 2014, must provide a sworn statement by the authorities of the community or other evidentiary means to prove that the alleged victims "lack sufficient financial resources to cover the costs of the proceedings before the Court."

4. The communication of February 21, 2014, in which the representatives requested an extension to submit the documentation required given that "[t]he community is located at a great distance and the insecurity in the region due to drug gangs impede the hiring of a notary public who accepts entering the community to receive the sworn declaration of the members authorized for that purpose."

5. The note of the Secretariat of the Court of February 21, 2014, wherein the requested extension was provided and it was noted that the documentation must be provided by no later than March 2, 2014.

6. The communication of February 25, in which the representatives requested the admission of testimonial and expert evidence in order to properly establish the violations alleged in the brief pleadings and motions. In this regard, they noted that at the time of filing the brief of pleadings and motions, "it was impossible to provide and attach the relevant parts of the evidence that has now been offered in light of insurmountable difficulties given that the represented community is a great distance away, approval of the assembly of the community under the specific terms of their organization which requires collective knowledge and decision

making, and the unsafe conditions caused by the drug gangs operating in the area.” In this regard, the representatives offered three witness statements and expert opinion.

7. The communication of March 1, 2014, and its attachments, wherein the representatives provided the sworn declaration of Mrs. Mirian Merced Miranda Chamorro, in which she noted that “the members of the Punta Piedra community [...] do not have the financial recourses to attend the hearing in the case.”

8. The note of the Secretariat of March 3, 2014, which noted the requests made in regard to the admission of testimonial and expert evidence, as well as the request to apply the Fund to be assessed and considered by the President of the Court.

9. The brief of April 10, 2014, and its attachments, wherein the State provided the answer to the brief submitting the case and the observations to the brief of pleadings and motions. The State did not carry out any objection in regard to the request of the representatives to apply the Victim’s Legal Assistance Fund or to the evidence provided.

CONSIDERING THAT:

1. Honduras has been a State Party to the American Convention (hereinafter “the American Convention” or “the Convention”) since September 8, 1977, and recognized the contentious jurisdiction of the Court of September 9, 1981.

2. In 2008, the General Assembly of the Organization of American States (hereinafter the “OAS”) created the Legal Assistance Fund of the Inter-American Human Rights System (hereinafter “the Inter-American System’s Assistance Fund) and commissioned the OAS Permanent Council to draft the rules of procedure for the Fund,¹ adopted in November 2009.² This Assistance Fund was created “to facilitate access to the inter-American human rights system by persons who currently lack the resources needed to bring their cases before the system.”³ According to said Rules of Procedure adopted by the Permanent Council, the Inter-American System’s Assistance Fund has two separate accounts: one corresponding to the Inter-American Commission and the other to the Inter-American Court. As regards the financing of the Inter-American System’s Assistance Fund, currently this depends on “voluntary capital contributions from the Members States of the OAS, the Permanent Observer States, and other States and donors that may wish to collaborate with the Fund.”⁴ In addition, according to Article 4 of the Rules of Procedure approved by the Permanent Council, it corresponded to the Court to establish the formal requirements for eligibility to request assistance, and also the approval procedure.

3. Pursuant to the aforementioned, on February 4, 2010, the Court adopted the Rules of Procedure of the Assistance Fund, which came into force on June 1, 2010, in order to “regulate the operation of, and access to the Fund [...] for the litigation of cases before it.”⁵ As

¹ AG/RES. 2426 (XXXVIII-O/08) Resolution adopted by the General Assembly of the OAS during its XXXVIII Period of Regular Sessions of the OAS, in the fourth plenary session, held on June 3, 2008, “*Establishment of the Legal Assistance Fund of the Inter-American Human Rights System*,” operative paragraph 2(b).

² CP/RES. 963 (1728/09), Resolution adopted on November 11, 2009, by the OAS Permanent Council, “*Rules of Procedure for the Operation of the Legal Assistance Fund of the Inter-American Human Rights System*.”

³ AG/RES. 2426 (XXXVIII-O/08), *supra* note 3, operative paragraph 2(a), and Resolution CP/RES. 963 (1728/09), *supra* note 2, Article 1(1).

⁴ Rules of procedure of the Inter-American System’s Assistance Fund, *supra* note 3, article 2(1).

⁵ Rules of procedure of the Inter-American Court of Human Rights on the Operation of the Victims’ Legal Assistance Fund approved by the Court on February 4, 2010, Article 1.

established in these Rules of Procedure, in order to use this Fund, a presumed victim must fulfill three requirements: 1) request this in the brief with pleadings, motions and evidence; 2) prove, by means of a sworn affidavit and other appropriate evidence that satisfies the Court, that they lack sufficient financial resources to cover the costs of litigation before the Inter-American Court, and 3) indicate precisely the aspects of their participation in the proceedings that require the use of the resources of the Assistance Fund.

4. As stipulated in Article 3 of the Rules of Procedure of the Court's Assistance Fund, on receiving a request to use these resources, the Secretariat of the Court must conduct a preliminary review of the request for assistance and require the requesting party to present any additional background information required for the request to be submitted to the consideration of the President of the Court, who will assess the request and take the pertinent decision within three months of receiving all the required information.

5. The representatives requested assistance from the Fund to "provide [funding] for litigation in this case, given the lack of sufficient financial resources to cover the costs of the litigation," specifically "those related to airline transport costs, accommodations, and food for the victim's representatives and the witnesses summoned to appear before the Honorable Court." In response to the request for additional information, they sent the statement of Mirian Merced Miranda Chamorro, which states that "members of the Punta Piedra community [...] do not have the financial resources to attend the hearing in this case."

6. First, the President noted that the request to apply the Legal Assistance Fund of the Court was made in the brief of pleadings and motions on behalf of the members of the Garifuna Punta Piedra Community and supported by a statement of a member of the community. The President understands that the request was made on behalf of the alleged victims, and notes the lack of economic resources, to which, for purposes of this case, considered sufficient, as evidence, the statement filed pursuant to Article 2 of the Rules of Procedure of the Victim's Legal Assistance Fund of the Court. In turn, the President noted that the State presented no objection to the request made by the representatives.

7. Moreover, the President recalls that the Assistance Fund of the Court is made up of voluntary donations from cooperating sources, to which these limited resources are insufficient to cover all expenses related to appearance and possible presentation of evidence before the Court by the alleged victims. Given the aforementioned, this Presidency will assess each specific case the request for assistance presented with regard to available funds, taking into account the need for assistance that could arise in other cases before the Court, so as to safeguard the proper administration and fair distribution of these limited resources.

8. The President takes note that, at the current stage of the proceedings, it is not possible to determine which of the testimonies offered by the representatives will be received by the Court, or in what form they will be received. Under Article 50(1) of the Court's Rules of Procedure, this determination corresponds to the Court or to its President, once the parties have forwarded their final lists of the declarants they propose and the right to defense has been ensured, in the terms of Articles 45 to 49 of the Court's Rules of Procedure.

9. Based on the foregoing considerations, the President finds admissible the presumed victims' request to use the Court's Legal Assistance Fund, in the understanding that it will be to cover expenditure relating to the appearance of declarants in a possible public hearing before the Court, as well as the presentation of testimony to the Court. In this regard, based on the resources currently available in the Assistance Fund, the presumed victims will be awarded the necessary financial assistance for the presentation of a maximum of two declarations and one expert opinion, either by affidavit or at the public hearing. In addition, the President finds it

appropriate to postpone determination of the specific amount, purpose and object of the financial assistance that will be provided to the alleged victims when this Presidency, or the Court, rules on the admissibility and relevance of the statements of the alleged victims and of the testimonial and expert evidence offered and, as appropriate, at the opening of the oral proceedings, in accordance with Article 50(1) of the Court's Rules of Procedure, in order to be certain which statements will be received by the Court, and also the way in which they will be received.

10. Lastly, the President recalls that, pursuant to Article 5 of the Rules of Procedure of the Fund, the State will be informed in a timely manner of the expenditures made from the Victim's Legal Assistance Fund so that the State may submit observations thereto by the established deadline.

THEREFORE:

THE PRESIDENT OF THE INTER-AMERICAN COURT OF HUMAN RIGHTS,

in exercise of his authority in relation to the Victims' Legal Assistance Fund of the Court and in accordance with Article 31 of the Court's Rules of Procedure and Article 3 of the Rules of Procedure of the Legal Assistance Fund,

DECIDES TO:

1. Declare admissible the request submitted by the alleged victims, through their representatives, to use the Victims' Legal Assistance Fund of the Inter-American Court of Human Rights, so that the necessary financial assistance will be granted for the possible attendance at the hearing, charged to the Fund, of a maximum of two representatives and for the presentation of a maximum of three statements and one expert opinion, be it at the hearing or by way of *affidavit*, and that the specific amount, purpose and object of this assistance will be defined when deciding on the presentation of testimonial and expert evidence, and on the opening of the oral proceedings, in accordance with Article 50 of the Court's Rules of Procedure, as established in Considering paragraph 9 of this Order.

2. Require the Secretariat of the Court to provide notification of this order to the representatives of the alleged victims, the State of Honduras, and the Inter-American Commission on Human Rights.

Humberto Antonio Sierra Porto
President

Pablo Saavedra Alessandri
Secretary

So ordered,

Humberto Antonio Sierra Porto
President

Pablo Saavedra Alessandri
Secretary

