

From Annex to Press Release 134/12 on the 146th Regular Session of the IACHR

November 16, 2012

II. The Human Rights Situation in the Region

Deportation of Haitian Nationals by the United States

During these sessions, the Inter-American Commission received information regarding the situation of Haitian nationals who are deported back to Haiti from the United States, in a context marked by the continuing humanitarian crisis and other difficulties in the receiving country since the January 2010 earthquake. In this regard, the IACHR recognizes that the United States has been applying a differentiated policy that limits the decision to deport to persons sentenced for crimes, and that such a decision is put to a test that includes an analysis of factors such as medical condition and family ties in the United States. It should also be noted that the United States has cooperation programs in place in Haiti specifically aimed at assisting the deportees upon their arrival to their country.

In spite of the above, the IACHR expresses its concern that the United States, after resuming deportations to Haiti in January 2011, proceeded to deport some of the beneficiaries of Precautionary Measure 5/11. That measure had been granted for a group of persons who were facing deportation and who alleged that they would not have access to medical treatment in Haiti to address their health situation, or that there was a special situation with respect to their young children in the United States. As part of the measures, the IACHR had asked that the United States suspend the deportation process until Haiti is able to guarantee that detention conditions and access to medical care for persons in custody comply with applicable minimum international standards, and the procedures in place to decide upon and review deportations adequately take into account the beneficiaries' right to family life and their family ties in the United States.

The information presented to the Inter-American Commission indicates that the individuals who were deported allegedly do not have access to adequate medical care in Haiti, and the satisfaction of other basic needs is further affected by the weak structure of the Haitian State following the 2010 earthquake. Many of them were apparently deported despite presumed family ties in the United States, where they were the main income providers. As highlighted by Michel Forst, United Nations Independent Expert on Haiti, in his June 2012 report, the minimum measures that must be adopted by States when deporting Haitians, in accordance with their international legal obligations, should include consideration of humanitarian factors and ensure adequate reintegration and support services for persons forcibly returned to Haiti. In the same report, the Independent Expert indicated that "some member States that are forcibly returning individuals to Haiti may not be following these obligations, raising serious concerns about the rights to life, health, dignity, family, due process, and access to justice."

The Inter-American Commission again calls on the United States to suspend deportations to Haiti of persons of Haitian origin who have are seriously ill or who have family members in the United States, especially when those family members are children and those at risk of deportation were the family's primary breadwinners. This suspension should be maintained until Haiti can guarantee that access to medical treatment meets the minimum applicable standards.

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