
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS RESOLUTION
21/2024**

Precautionary Measures No. 280-24
Julio César Góngora Millo regarding Cuba
10 April 2024
Original: Spanish

I. INTRODUCTION

1. On February 26, 2024, the Inter-American Commission on Human Rights ("the Inter-American Commission", "the Commission" or "the IACHR") received a request for precautionary measures from the Cuban Observatory for Human Rights ("the requesting party") urging the Commission to require the State of Cuba ("the State" or "Cuba") to adopt the necessary measures to protect the rights to life and personal integrity of Julio César Góngora Millo ("the proposed beneficiary"). According to the request, he is at risk due to threats, intimidation, harassment and surveillance attributed to state agents, as well as the lack of medical attention in retaliation for his work as a human rights activist in the country.

2. In accordance with Article 25.5 of the Rules of Procedure, the Commission requested additional information from the petitioner on March 7, 2024 and received the response on March 11, 2024. Subsequently, information was requested from the State and the petitioner, who submitted a response on April 2, 2024. The State of Cuba has not submitted any information to date, as the deadlines have expired.

3. After analyzing the allegations of fact and law made by the petitioner, updated to date, the Commission considers that the proposed beneficiary is in a serious and urgent situation, since his rights to life, health and personal integrity are at risk of irreparable harm. Therefore, based on Article 25 of its Rules of Procedure, the Commission requires Cuba to: a) adopt the necessary measures to protect the rights to life and personal integrity of the beneficiary; b) adopt the necessary protection measures so that the beneficiary can continue to carry out his work in defense of human rights, without being subjected to threats, intimidation, harassment, and acts of violence. This implies, among other measures, that the State provide the corresponding medical care so that she can carry out her work; and c) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this resolution and thus avoid their repetition.

II. SUMMARY OF FACTS AND ARGUMENTS

A. Information provided by the applicant

4. According to the petitioner, the proposed beneficiary is a person with a disability, human rights activist, coordinator of the organization "Cuba Independiente y Democrática" (CID) and active collaborator of the Cuban Observatory for Human Rights. Since he was 16 years old, he has been an individual activist, denouncing human rights violations through social networks. He would also dedicate himself to educating the community on fundamental rights. Since his activity became notorious and contrary to the interests of the Communist Party, the proposed beneficiary was stigmatized as a "counterrevolutionary". The application questions the arbitrariness of the actions of various State agents.

5. The proposed beneficiary would have been prohibited from holding meetings with the other members of the CID, through direct surveillance at her home; she would not be able to participate in civic activities of a substantive nature.

independent politician outside of his home, by preventing him from being transferred to other meeting points with detentions in his home or temporary detentions; he would not be able to carry out actions to influence and educate on human rights in the community; he would have been subject to cuts in internet services; and there would be a refusal to provide him with medical attention, among others. Recent events included the following:

- On April 30, 2022, the home of the proposed beneficiary was guarded by an entourage of State agents who set up a command post;
- On June 30, 2022, the proposed grantee was besieged by police officers who tried to summon and arrest him;
- On July 2, 2022, he was interrogated in his own home by State agents, who threatened him with contempt of court and incitement to commit a crime;
- On September 12, 2022, State Security agents threatened friends of the proposed beneficiary for having helped him obtain the necessary medicines for his health condition;
- On December 18, 2022, State security agents harassed two of his friends outside his home after visiting him. They were arrested and threatened because of their links to the proposed beneficiary described as a "dissident";
- On January 19, 2023, the proposed grantee's internet service was blocked;
- On January 20, 2023, the proposed grantee was harassed by the police;
- On July 21, 2023, the proposed beneficiary filed a complaint against the hospital for failure to provide his medical records;
- On December 9, 2023, security agents, dressed in civilian clothes and assisted by vehicle, deprived him of leaving his home to participate in events related to the worldwide celebration of "Human Rights Day". Photos of the alleged security agents were attached.

6. It was added that the constant surveillance of his home makes it difficult for him to exercise his individual and public freedoms to promote human rights and to denounce violations of rights carried out by Cuban State forces and representatives. In her last communications, the petitioner alleged that no other repressive acts occurred, given that her current state of health would prevent her from continuing her activism. In this regard, it was explained that the proposed beneficiary has a permanent cystostomy and an open wound between the anus and the scrotum with a high risk of infection. The aforementioned injury has existed for 11 years.

7. It was reported that he would need daily treatment with adequate supplies (sufficient dressings and antiseptic solutions), and an eventual evaluation to explore surgery to close the wound. However, he would be denied specialized medical care and effective surgical intervention for being considered "dissident" and "opposition" to the government. It was argued that the management of the "Abel Santamaría" Hospital in the city of Pinar del Río denied the proposed beneficiary access to his medical records. Also, he has been denied an MRI, allegedly because this service is not available for "people who oppose the political system". The application reported that the proposed beneficiary has been maintained on unstable wet cures. Recurrent episodes of infection were reportedly resolved with antibiotics supplied outside the Cuban health system. It was alleged that he would be prohibited from receiving medicines or curative supplies sent from abroad. The petitioner considers that the State seeks to keep him "incapacitated" and in a permanent state of vulnerability.

8. The petitioner indicated that the proposed beneficiary has made oral complaints and claims in and before the top management of the "Abel Santamaría" Hospital of Pinar del Río, which have not been answered in writing. At his personal insistence, several specialists have attended him at the same Provincial Hospital, but none of them decided to proceed or to inform other doctors to solve the problem. It was pointed out that there were orders from the Ministry of the Interior not to treat his situation. The proposed beneficiary reported increased fatigue and tiredness, pain in his joints and bones. He would have depression and anxiety. Since December 2023, the proposed beneficiary reported a new purulent discharge without being able to define the origin of the new septic focus. Due to the region of the infection, he remains most of the time bedridden half-naked or in a wheelchair.

B. State Response

9. The Commission requested information from the State on March 19, 2024. To date, and with the deadlines having expired, no response has been received.

III. ANALYSIS OF THE ELEMENTS OF SEVERITY, URGENCY AND IRREPARABILITY

10. The precautionary measures mechanism is part of the Commission's function of supervising compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general supervisory functions are established in Article 41(b) of the American Convention on Human Rights, which is also reflected in Article 18(b) of the IACHR Statute, and the precautionary measures mechanism is described in Article 25 of the Commission's Rules of Procedure. Pursuant to that article, the Commission grants precautionary measures in situations that are serious and urgent, and in which such measures are necessary to prevent irreparable harm to persons.

11. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or "IACHR Court") have repeatedly determined that precautionary and provisional measures have a double character, one tutelary and the other precautionary¹. Regarding the tutelary character, the measures seek to avoid irreparable damage and preserve the exercise of human rights². To this end, an assessment must be made of the problem posed, the effectiveness of state actions in the situation described and the degree of unprotection in which the persons for whom measures are requested would be left in the event that they are not adopted³. With respect to precautionary measures, the purpose of precautionary measures is to preserve a legal situation while it is being evaluated by the IACHR. The purpose of precautionary measures is to preserve the rights at possible risk until the petition before the Inter-American System is resolved. Its object and purpose is to ensure the integrity and effectiveness of the decision on the merits and, in this way, to avoid harming the alleged rights, a situation that could render innocuous or distort the useful effect (*effet utile*) of the final decision. In this sense, the precautionary or provisional measures thus allow the State in question to comply with the final decision and, if necessary, guarantee the reparations ordered⁴. For the purposes of making a decision, and in accordance with article 25.2 of its Rules of Procedure, the Commission considers that:

- a. The "gravity of the situation" implies the serious impact that an action or omission may have on a protected right or on the eventual effect of a pending decision in a case or petition before the organs of the Inter-American System.
- b. The "urgency of the situation" is determined by means of the information provided, indicating the risk or threat that may be imminent and materialize, thereby requiring a

¹ Inter-American Court of Human Rights (IACHR Court). Case of the Yare I and Yare II Capital Region Penitentiary Center (Yare Prison). Request for Provisional Measures presented by the IACHR with respect to the Bolivarian Republic of Venezuela. Resolution of the Court of March 30, 2006, Whereas 5; I/A Court H.R., I/A Court H.R., Case of Carpio Nicolle et al. Case of Carpio Nicolle et al. v. Guatemala. Provisional Measures. Judgment of July 6, 2009, Whereas 16.

² IACHR Court. Case of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Whereas 8; I/A Court H.R., Case of Bámaca Velásquez. Bámaca Velásquez Case. Provisional Measures regarding Guatemala. Judgment of the Court of January 27, 2009, Whereas 45; I/A Court H.R., Case of Fernández Ortega et al. Case of Fernández Ortega et al. Provisional Measures regarding Mexico. Judgment of the Court of April 30, 2009, Whereas 5; I/A Court H.R., Matter of Milagro Sala. Milagro Sala Case. Request for Provisional Measures with respect to Argentina. Resolution of the Court of November 23, 2017, recital 5.

³ IACHR Court. Milagro Sala Case. Request for Provisional Measures with respect to Argentina. Resolution of the Court of November 23, 2017, Whereas 5; IACHR Court. Matter of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures with respect to Venezuela. Judgment of the Court of February 8, 2008, Whereas 9; I/A Court H.R., Judgment of the Court of February 8, 2008, Whereas 9; I/A Court H.R.. Matter of the Plácido de Sá Carvalho Penal Institute. Provisional Measures with respect to Brazil. Resolution of the Court of February 13, 2017, Whereas 6.

⁴ IACHR Court. Matter of the Internado Judicial Capital El Rodeo I and El Rodeo II. Provisional Measures regarding Venezuela. Judgment of the Court of February 8, 2008, Whereas 7; I/A Court H.R., Case of "El Nacional" and "Así es Noticia" Newspapers. Case of "El Nacional" and "Así es la Noticia" Newspapers. Provisional Measures regarding Venezuela. Order of the Court of November 25, 2008, Whereas 23; I/A Court H.R., Case of Luis Uzcátegui. Case of Luis Uzcátegui. Provisional Measures regarding Venezuela. Judgment of the Court of January 27, 2009, Whereas 19.

preventive or tutelary action.

- c. The "irreparable damage" consists of the affectation of rights that, by their very nature, do not are susceptible to repair, restoration or adequate compensation.

12. In the analysis of the aforementioned requirements, the Commission reiterates that the facts that motivate a request for precautionary measures do not need to be fully proven. The information provided, in order to identify a serious and urgent situation, must be assessed on a *prima facie*⁵ standard. The Commission also recalls that, by its own mandate, it would not be appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments⁶, since such a determination is made under the Petitions and Cases System. The following analysis refers exclusively to the requirements of Article 25 of the Rules of Procedure, which can be carried out without the need to enter into substantive assessments⁷.

13. Likewise, at the time of understanding the alleged facts, the Commission takes into account the context of Cuba. In 2022, the IACHR decided to include the country in Chapter IV-B of its Annual Report, given that the situation of the country falls within the provisions of Article 59, paragraphs 6.a. i.⁸ and 6. c.⁹ of its Rules of Procedure¹⁰. The Commission has been closely monitoring the human rights situation in Cuba, where the non-observance of the essential elements of representative democracy and the absence of conditions that provide guarantees for judicial independence continue to be structural aspects that have a profound impact on the enjoyment of human rights and fundamental freedoms in the country.¹¹ In its 2022 Annual Report, the Commission continued to take cognizance of various facts that hindered the enjoyment of the rights of persons under the jurisdiction of the Cuban State, such as arbitrary restrictions to the right to assembly and association, and to freedom of expression and dissemination of thought - particularly in the context of the various social protests that have taken place in the country since July 2021.¹¹ In this regard, the Commission identified that the Cuban State has not been able to guarantee the right to freedom of assembly and association, and to freedom of expression and dissemination of thought. In this regard, the Commission identified that these human rights violations have mainly affected human rights defenders.¹³

14. In analyzing the *seriousness* requirement, the Commission considers it pertinent to take into account the context indicated, as well as the particular situation of the proposed beneficiary Julio César Góngora Millo. The Commission notes that the proposed beneficiary would carry out human rights activism activities, as a result of which he would be identified as a "counterrevolutionary" or "dissident" by the State. Such

⁵ IACHR Court. Case of Inhabitants of the Communities of the Miskitu Indigenous People of the Northern Caribbean Coast Region with respect to Nicaragua. Extension of Provisional Measures. Resolution of the Inter-American Court of Human Rights of August 23, 2018, Whereas 13; IACHR Court. Matter of children and adolescents deprived of liberty in the "Complexo do Tatuapé" of Fundação CASA. Request for extension of provisional measures. Provisional Measures with respect to Brazil. Judgment of the Inter-American Court of Human Rights of July 4, 2006, Whereas 23.

⁶ Inter-American Commission on Human Rights (IACHR). Resolution 2/2015. Precautionary Measures No. 455-13. Matter of Nestora Salgado with respect to Mexico. January 28, 2015, para. 14; IACHR. Resolution 37/2021. Precautionary Measures No. 96/21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua. April 30, 2021, para. 33.

⁷ In this regard, the Inter-American Court has stated that the Court "cannot, in a provisional measure, consider the merits of any relevant argument other than those that are strictly related to extreme gravity, urgency and the need to avoid irreparable harm to persons. See in this regard: I/A Court H.R. James et al. v. Trinidad and Tobago. Provisional Measures. Resolution of the Inter-American Court of Human Rights of August 29, 1998, Whereas 6; I/A Court H.R., Case of the Barrios Family v. Venezuela. Case of the Barrios Family v. Venezuela. Provisional Measures. Resolution of the Inter-American Court of Human Rights of April 22, 2021, Whereas 2.

⁸ A serious violation of the fundamental elements and institutions of representative democracy provided for in the Inter-American Democratic Charter, which are essential means for the realization of human rights, including: (i) if there is discriminatory access to or abusive exercise of power that undermines or contravenes the rule of law, such as the systematic infringement of the independence of the judiciary or the lack of subordination of state institutions to the legally constituted civil authority;

⁹ The commission by a State of massive, serious and systematic violations of the human rights guaranteed in the American Declaration, the American Convention, or other applicable human rights instruments.

¹⁰ IACHR. Annual Report 2022. Chap. IV.b. Cuba. April 1, 2023, paras. 7 and 8.

¹¹ Op cit, paras. 2-3.

¹² Op cit, para. 4

¹³ Op cit, para. 5.

The allegations are in line with the context faced by people in the country for dedicating themselves to the defense and promotion of human rights.

15. Likewise, the Commission has been informed that the proposed beneficiary has been exposed to the following facts: (i) acts of threats attributed to state agents against the proposed beneficiary and persons to him; (ii) following by state agents in order to prevent his participation in the event commemorating the international human rights day; (iii) constant surveillance in his home by Cuban state security agents; (iv) siege and direct harassment by state agents; (v) state agents would prevent him from leaving his home; and (vi) cuts of the proposed beneficiary's internet service, among others. The events faced by the proposed beneficiary would be aimed at prohibiting him from holding meetings with the other members of his organization and preventing his participation in civic activities of independent political content.

16. In addition to the foregoing, it has been alleged that the proposed beneficiary is being denied medical attention by the State as part of the retaliatory actions against him. In this regard, the Commission notes that it is particularly serious that the State is denying medical attention to the proposed beneficiary, especially when, according to the information available, he has already been treated in a State Hospital, and in view of the alleged infections that the proposed beneficiary would have. Although the request indicated that the proposed beneficiary would have received medicines or supplies "outside the Cuban health system", the Commission understands that this does not imply that the State can disregard his medical situation and refuse to provide him with the corresponding care. The Commission does not have sufficient medical elements to analyze the current health situation of the proposed beneficiary, particularly in the absence of judicial complaints at the domestic level. However, it does note that, at present, the proposed beneficiary would not be able to take any action in his favor because he would be in a situation of vulnerability due to being bedridden or in a wheelchair. Although the proposed beneficiary would be receiving non-State support for his health, the Commission notes that, as new retaliatory actions, it would be seeking to prevent him from receiving medical support, such as medicines or supplies, from abroad. Consequently, the allegations presented in the petition reflect the existence of a continuum of acts attributed to the State, with the objective of stopping the proposed beneficiary from carrying out human rights activism, even if it means putting his health at risk.

17. In view of the situations analyzed above, the Commission regrets the lack of response from the State, after having requested its observations on the present application. The foregoing situation prevents the Commission from obtaining information from the State on the situation of the proposed beneficiary. Given the lack of response from the State, the Commission does not have elements that would allow it to refute the allegations of the petitioning party or to identify information on measures effectively adopted by the State to mitigate the alleged risk situation of the proposed beneficiary. On the other hand, although it is not up to the Commission to determine the authorship of the risk events, nor whether they are attributable to State agents, at the time of assessing the present request it does take into account the seriousness of the possible participation of State agents, according to the allegations presented, since this would place the proposed beneficiary in a situation of greater vulnerability.

18. In these circumstances, the Commission considers, based on the applicable *prima facie* standard and in the context that the State of Cuba is going through, it is sufficiently proven that the rights to life and personal integrity of Julio César Góngora Millo are at serious risk.

19. With respect to the *urgency* requirement, the Commission considers that it has been met. The Commission notes that the facts described suggest that the situation of risk is likely to continue and exacerbate over time, given the nature of the alleged facts in the context in which they are inserted, so that it is necessary to adopt measures to safeguard his rights to life and personal integrity immediately. In the same sense, as indicated above, the Commission does not have specific information provided by the State that would allow it to assess the actions that have been taken to protect the rights to life and personal integrity of the victims.

would be taking to address the alleged risk situation. There is also no information to indicate that the alleged situation has been duly mitigated or has disappeared.

20. Regarding the requirement of *irreparability*, the Commission observes that it has been met, insofar as the potential impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARY

21. The Commission declares as beneficiary of the precautionary measures Julio César Góngora Millo, who is duly identified in this proceeding.

V. DECISION

22. The Commission considers that the present case meets *prima facie* the requirements of seriousness, urgency and irreparability contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests Cuba to:

- a) adopt the necessary measures to protect the rights to life and personal integrity of the beneficiary;
- b) adopt the necessary protection measures so that the beneficiary may continue to carry out his work in the defense of human rights without being subjected to threats, intimidation, harassment and acts of violence. This implies, among other measures, that the State provide the corresponding medical care so that he/she can carry out his/her work; and
- c) report on the actions taken to investigate the alleged facts that gave rise to the adoption of this resolution and thus avoid its repetition.

23. The Commission requests Cuba to provide details, within 15 days from the date of notification of this resolution, on the adoption of the requested precautionary measures and to update this information on a regular basis.

24. The Commission emphasizes that, in accordance with Article 25(8) of its Rules of Procedure, the granting of these precautionary measures and their adoption by the State do not constitute a prejudgment of any violation of the rights protected in the American Convention and other applicable instruments.

25. The Commission instructs its Executive Secretariat to notify Cuba and the petitioner of this resolution.

26. Approved on April 10, 2024 by Roberta Clarke, Chair; Carlos Bernal Pulido, First Vice-Chair; José Luis Caballero Ochoa, Second Vice-Chair; Edgar Stuardo Ralón Orellana; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.



Tania Reneaum Panszi
Executive Secretary