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**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 29/2024**

Precautionary Measure No. 96-15  
Marienys Pavó Oñate regarding Cuba  
May 11, 2024  
(Extension)

**I. INTRODUCTION**

1. On March 27, 2024, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission”, “the Commission” or “the IACHR”) received a request to extend the precautionary measures urging the IACHR to require that the State of Cuba (hereinafter “Cuba” or “the State”) protect the rights of Marienys Pavó Oñate, wife of Julio Alfredo Ferrer Tamayo, who is a member of the “Cubalex” Legal Information Center and beneficiary of these precautionary measures. According to the request, Ms. Pavó Oñate has been harassed by state agents since Ferrer Tamayo has been abroad. It was alleged that she is the target of these acts in retaliation for her husband’s international human rights work and their aim is to prevent him from returning to Cuba.

2. Under the terms of Article 25 of its Rules of Procedure, the Commission requested information from the State on April 2, 2024, in order to make a decision on the request for extension. The IACHR did not receive a response from the State, and the granted deadline has since expired. The representation submitted additional information on April 9, 2024.

3. Upon analyzing the submissions of fact and law offered by the representation, in the context Cuba is currently experiencing, the Commission considers that the information provided shows *prima facie* that Marienys Pavó Oñate is in a serious and urgent situation, since her rights to life and personal integrity are at risk of irreparable harm. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission requests that Cuba: a) adopt the necessary measures to guarantee the life and personal integrity of Marienys Pavó Oñate; b) consult and agree upon the measures to be adopted with the beneficiary and the representation she designates; and c) report on the actions implemented to investigate the alleged facts that gave rise to these precautionary measures, so as to prevent such events from reoccurring.

**II. BACKGROUND INFORMATION**

4. On April 22, 2015, the Inter-American Commission granted precautionary measures in favor of Laritza Diversent Cambara, Bárbara Estrabao Bichili, Yamara Rodríguez Curbelo, Yasser Rojas Valdés, Claribel Moreno Camejo, María de los Ángeles Bonet Hevia, Eliocer Cutiño Rodríguez, Yureisy Ceballos Pendones, Yunieski Sanmartín Garcés, Yaima Pérez León, Rolando Antúnez Gómez, and Carlos Manuel Cortada Cardoso, members of Cubalex.<sup>1</sup> On November 14, 2016, the Commission extended the precautionary measures to include Teresa Perdomo Sánchez, Leonardo Romero Cruz, Arianna Caridad Romero Bonet, Dayán Alfredo Pérez Noriega, Diego Ricardo Ricardo Silva, Amado Jorge Iglesia Cruz, and Julio Alfredo Ferrer Tamayo, also members of Cubalex.<sup>2</sup>

5. At that time, the Commission requested the State to adopt necessary measures to preserve the life and personal integrity of the identified persons, as well as the measures so that they can carry out their activities as human rights defenders without being subjected to acts of violence, threats, and harassment.

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<sup>1</sup> IACHR, [Resolution No. 13/15](#), PM 96-15 - Members of Cubalex, Cuba, April 22, 2015.

<sup>2</sup> IACHR, [Resolution No. 55/16](#) (EXTENSION). PM 96-15 - Members of the Cubalex Legal Information Center, Cuba, November 14, 2016.

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Moreover, that the measures to be agreed upon with the beneficiaries and their representation, and that information be provided on the actions implemented to investigate the alleged events that led to the granting of the precautionary measures and prevent these events from reoccurring.

6. When issuing the precautionary measures, the Commission noted that, according to the information available, Cubalex members faced threats, harassment, and persecution in retaliation for their human rights work at both national and international level.<sup>3</sup> The IACHR took note of multiple forms of intimidation allegedly perpetrated by state authorities, in addition to campaigns to delegitimize Cubalex's work.<sup>4</sup>

7. Throughout these nine years, the State has not submitted any type of response to these precautionary measures.

### **III. SUMMARY OF THE INFORMATION PRESENTED BY THE REPRESENTATION**

8. The representation alleged that the Cuban State has not adopted any measures to implement the precautionary measures, and that, on the contrary, this international proceeding is framed in a context where the situation of human rights defenders in Cuba has been deteriorating and there is an alleged "repressive escalation". According to the representation, on September 20, 2023, beneficiary Julio Alfredo Ferrer Tamayo filed a lawsuit on behalf of himself and Cubalex against *Asamblea Nacional del Poder Popular* (National Assembly of People's Power), requesting the passing of a law that "guarantees the free exercise of the right to protest and assemble as set forth in the Cuban Constitution itself". It was alleged that, in retaliation, he was arrested on the public highway by State Security on September 22, 2023. He was taken to the Infanta y Manglar police station for questioning. On that occasion, he was allegedly pressured to drop the legal actions and was advised to leave the country. Mr. Ferrer Tamayo was released after half an hour of interrogation.

9. The beneficiary Ferrer Tamayo left Cuba for the United States on February 26, 2024, to participate in a Public Hearing convened by the IACHR in its 189th Regular Period of Sessions (POS), which took place on February 29, 2024.<sup>5</sup> In his absence from Cuba, his wife, Ms. Marienys Pavó Oñate, began to experience harassment, threats, and persecution by state agents allegedly in retaliation for her husband's work.

10. The proposed beneficiary is reportedly receiving calls asking about Mr. Ferrer Tamayo. On February 29, the date of the Public Hearing, she received two calls and subsequently recorded calls on March 6, 7 (twice), 10, 12, 15, 17, and 19, 2024. On April 4, 2024, the proposed beneficiary reportedly received another threatening call from a State official, who indicated that she has the "obligation" to make her husband understand that he cannot return to the country. The same call was repeated minutes later.

11. Security agents reportedly visited and questioned the proposed beneficiary at her workplace. The first visit reportedly took place on March 18, 2024, when an agent asked her about the meeting between her husband and the beneficiary Laritza Diversent, director of Cubalex. The agent allegedly did not believe that the proposed beneficiary did not know anything about it, and told her that he would return with his boss the following day. On March 19, 2024, two state agents reportedly entered Ms. Pavó Oñate's office, closed the doors, and prevented her from carrying out her daily work. Both state agents again questioned her about the alleged meeting between the beneficiaries Ferrer Tamayo and Diversent. They added that if her husband returned to Cuba, they would prevent him from leaving the island again. The proposed beneficiary was questioned about the location of her daughter and grandchildren.

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<sup>3</sup> Ibidem, para. 14.

<sup>4</sup> IACHR, [Resolution No. 13/15](#), PM 96-15 - Members of Cubalex, Cuba, April 22, 2015, para. 6.

<sup>5</sup> IACHR, [Public Hearing 189 Period of Sessions. Cuba: Right to freedom of association](#), February 29, 2024.

12. The representation argued that, given the beneficiary Ferrer Tamayo's ongoing human rights advocacy work, the acts of intimidation that the proposed beneficiary has been facing may escalate. Moreover, it has been highlighted that the consistent surveillance through frequent calls and visits from State Security agents places individuals in a state of vulnerability. It also gives rise to a feeling of being constantly exposed with every action or decision they undertake. The beneficiary Ferrer Tamayo is reportedly abroad with a tourist visa and "has stated his firm conviction to return to the country, although he also contemplates the threats that his wife received during this time and that were directed at him".

#### **IV. ANALYSIS ON THE ELEMENTS OF SERIOUSNESS, URGENCY, AND IRREPARABLE HARM**

13. The precautionary measures mechanism is part of the Commission's function of overseeing compliance with the human rights obligations set forth in Article 106 of the Charter of the Organization of American States. These general oversight functions are provided for in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the IACHR Statute. The mechanism of precautionary measures is set forth in Article 25 of the Commission's Rules of Procedure. In accordance with that Article, the Commission grants precautionary measures in serious and urgent situations in which these measures are necessary to avoid an irreparable harm to persons.

14. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-American Court" or the "Inter-American Court of Human Rights") have repeatedly established that precautionary and provisional measures have a dual nature, one being protective and the other precautionary.<sup>6</sup> Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights.<sup>7</sup> To do this, the IACHR shall assess the problem raised, the effectiveness of state actions to address the situation described, and how vulnerable the persons proposed as beneficiaries would be left in case the measures are not adopted.<sup>8</sup> Regarding their precautionary nature, these measures have the purpose of preserving legal situations while under the study of the IACHR. They aim to safeguard the rights at risk until the petition pending before the inter-American system is resolved. Their object and purpose are to ensure the integrity and effectiveness of an eventual decision on the merits and, thus, avoid any further infringement of the rights at issue, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures enable the State concerned to comply with the final decision and, if necessary, to guarantee the ordered reparations.<sup>9</sup> In the process of reaching a decision, and according to Article 25(2) of the Rules of Procedure, the Commission considers that:

- a. "serious situation" refers to a grave impact that an action or omission can 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;

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<sup>6</sup> I/A Court H.R., Matter of the Yare I and Yare II Capital Region Penitentiary Center (Yare Prison), Provisional Measures regarding Venezuela, Order of March 30, 2006, considerandum 5; Case of Carpio Nicolle et al. v. Guatemala, Provisional Measures, Order of July 6, 2009, considerandum 16.

<sup>7</sup> I/A Court H.R., Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 8; Matter of Bámaca Velásquez, Provisional Measures regarding Guatemala, Order of January 27, 2009, considerandum 45; Matter of Fernández Ortega et al., Provisional Measures regarding Mexico, Order of April 30, 2009, considerandum 5; Matter of Milagro Sala, Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5.

<sup>8</sup> I/A Court H.R., Matter of Milagro Sala, Provisional Measures regarding Argentina, Order of November 23, 2017, considerandum 5; Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 9; Matter of the Criminal Institute of Plácido de Sá Carvalho, Provisional Measures regarding Brazil, Order of February 13, 2017, considerandum 6.

<sup>9</sup> I/A Court H.R., Matter of Capital El Rodeo I and El Rodeo II Judicial Confinement Center, Provisional Measures regarding Venezuela, Order of February 8, 2008, considerandum 7; Matter of "El Nacional" and "Así es la Noticia" newspapers, Provisional Measures regarding Venezuela, Order of November 25, 2008, considerandum 23; Matter of Luis Uzcátegui, Provisional Measures regarding Venezuela, Order of January 27, 2009, considerandum 19.

- b. “urgent situation” refers to risk or threat that is imminent and can materialize, thus requiring immediate preventive or protective action; and
- c. “irreparable harm” refers to injury to rights which, due to their nature, would not be susceptible to reparation, restoration or adequate compensation.

15. In analyzing those requirements, the Commission reiterates that the facts supporting a request for precautionary measures need not be proven beyond doubt. The information provided should be assessed from a *prima facie standard of review to determine whether a serious and urgent situation exists*.<sup>10</sup> Similarly, the Commission recalls that, by its own mandate, it is not called upon to determine any individual liabilities for the facts alleged. Moreover, in this proceeding, it is not appropriate to rule on violations of rights enshrined in the American Convention or other applicable instruments. This is<sup>11</sup> better suited to be addressed by the Petition and Case system. The following analysis relates exclusively to the requirements set forth in Article 25 of the Rules of Procedure, which can be resolved without making any determinations on the merits.<sup>12</sup>

16. When assessing compliance with the procedural requirements of a request for precautionary measures, Article 25(6) of its Rules of Procedure establishes that the Commission must take into account the context in which the request is filed. Since 1985, the Inter-American Commission has continuously included Cuba in Chapter IV.B of its Annual Report in accordance with Article 59, paragraphs 6.a, 6.b, 6.c, and 6.d.<sup>13</sup> In 2023, the IACHR observed that Cuba continues to face structural challenges stemming from the absence of the essential elements of representative democracy, particularly the continuation of a single-party model, the absence of free elections and political pluralism, and the prohibition of association for political purposes.<sup>14</sup>

17. In its annual reports, the IACHR has been recording the intensification of the repression of dissidents in Cuba, in particular since protests that took place in July 2021.<sup>15</sup> In this regard, in its 2023 Annual Report, the IACHR emphasized that the human rights situation of human rights defenders continues to be of concern. According to the information received and the data collected via the monitoring carried out by this Commission, human rights defenders in Cuba persistently face acts of harassment, arbitrary violations of the right to freedom of movement, freedom, safety, and personal integrity.<sup>16</sup>

18. The Commission has indicated that the minimum conditions necessary to guarantee the

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<sup>10</sup> I/A Court H.R., Matter of Members of the Miskitu Indigenous Peoples of the North Caribbean Coast regarding Nicaragua. Extension of Provisional Measures. Order of August 23, 2018, considerandum 13; Matter of the children and adolescents deprived of their liberty in the “Complejo do Tatuapé” of the Fundação CASA. Extension of Provisional Measures regarding Brazil. Order of July 4, 2006, considerandum 23.

<sup>11</sup> Inter-American Commission on Human Rights (IACHR), Resolution 2/2015, Precautionary Measure No. 455-13. Matter of Nestora Salgado regarding Mexico, January 28, 2015, para. 14; Resolution 37/2021, Precautionary Measure No. 96/21. Gustavo Adolfo Mendoza Beteta and family regarding Nicaragua, April 30, 2021, para. 33.

<sup>12</sup> In this regard, the Court has indicated that “[it] cannot, in a provisional measure, consider the merits of any relevant arguments that are not strictly related to the extreme gravity, urgency, and the necessity to avoid irreparable damage to individuals.” See: I/A Court H.R. Matter of James et al. regarding Trinidad and Tobago. Provisional Measures. Order of August 29, 1998, considerandum 6; Case of the Barrios Family vs. Venezuela. Provisional Measures. Order of April 22, 2021, considerandum 2.

<sup>13</sup> IACHR, [Rules of Procedure of the Inter-American Commission on Human Rights](#), August 1, 2013, Art. 59(6).

<sup>14</sup> IACHR, [2023 Annual Report. Chap. IV.b. Cuba](#). OEA/ Ser. L/V/II, December 31, 2023, para. 7.

<sup>15</sup> See: IACHR, [2022 Annual Report. Cap. IV.B Cuba](#). OEA/Ser.L/V/II, April 1, 2023, section III.B. In this sense, “[s]ince July 11, 2021, the IACHR has documented eight waves of repression by the State, in which it observed: (1) the use of force and intimidation and smear campaigns; (2) arbitrary arrests, mistreatment, and deplorable prison conditions; (3) criminalization of protesters, judicial persecution, and violations of due process; (4) closure of democratic forums through repression and intimidation to discourage new social demonstrations; (5) ongoing incarceration, trials without due process guarantees, and harsh sentences; (6) legislative proposals aimed at curtailing, surveilling, and punishing dissent and criticism of the Government and at criminalizing the actions of independent civil society organizations; (7) harassment of relatives of persons detained and charged for taking part in the protests; and (8) deliberate cuts in Internet access”, para. 44.

<sup>16</sup> IACHR, [2023 Annual Report. Chap. IV.b. Cuba](#). OEA/ Ser. L/V/II, December 31, 2023, para. 45.

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defense of human rights do not exist in Cuba.<sup>17</sup> On the contrary, it is observed that those who perform acts in defense of human rights operate in a hostile environment, characterized by acts of intimidation and harassment by state authorities. They are also subject to unjustified criminal proceedings to criminalize those who seek to defend human rights in the country.<sup>18</sup>

19. In addition, the Commission warned of the use of alleged arbitrary detentions to hinder the work of human rights defenders. In this regard, the IACHR acknowledged the human rights defenders who were arrested in order to prevent them contacting international entities, or in retaliation for complaints against the State.<sup>19</sup>

20. Given that the “extension” of these precautionary measures has been requested, the Commission recalls that one of the requirements is that the alleged facts have a “factual connection” with the events that called for the adoption of the precautionary measures. In the matter at hand, the Commission observes that the proposed beneficiary Marienys Pavó Oñate is being intimidated and harassed as she is the wife of the beneficiary Ferrer Tamayo and because of the human rights defense work they carry out. Therefore, the IACHR considers that the requirement of factual connection has been met, to the extent that the situation that places Mr. Ferrer Tamayo at risk, as a member of Cubalex, is being extended to the proposed beneficiary.

21. In analyzing the requirement of *seriousness*, the IACHR highlights that the alleged situations that place Ms. Pavó Oñate at risk are inserted in the context of repression of dissent and persecution of human rights defenders. In this regard, the IACHR has observed a pattern of State actions, such as surveillance, home or work visits by State agents, threatening phone calls, intimidating detentions and/or questioning, and immigration restrictions accompanied by threats,<sup>20</sup> all of which are aimed at hindering and retaliating against human rights defenders.

22. The Commission observes that, according to the representation, the proposed beneficiary has been receiving insistent and threatening calls from state agents. These calls have been recorded on at least nine days. In addition, state agents reportedly showed up at her workplace on two occasions, between March and April 2024. In these instances, state agents allegedly sought to intimidate Ms. Pavó Oñate into divulging information about her husband. Their aim was reportedly to ensure that her husband did not return to Cuba or to hinder his future departures from the country. Furthermore, the proposed beneficiary was reportedly questioned about her relatives. Given the nature of the information received, the Commission considers that the alleged State actions are part of the aforementioned pattern of harassment identified against human rights defenders.

23. The Commission also considers that Ms. Pavó Oñate is being monitored by state agents, who not only have full knowledge of her workplace, but also of her work schedule and private office. Furthermore, the information at hand indicates that these agents had the authority to enter the beneficiary’s workplace without facing any interrogation. Additionally, they could subject the proposed beneficiary to interrogations and intimidation in private, behind closed doors. Given this situation, the Commission understands that the proposed beneficiary does not have any resources to protect herself against the actions of state agents. The Commission states that the proposed beneficiary encounters substantial obstacles when attempting to report her situation to internal mechanisms with the aim of receiving protection. This is particularly challenging due to allegations suggesting the involvement of security agents themselves in the circumstances she is facing within the current context of Cuba.

24. The Commission considers that the alleged situation that Ms. Pavó Oñate is facing is

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<sup>17</sup> Ibidem, para. 57.

<sup>18</sup> Ibidem.

<sup>19</sup> Ibidem, paras. 48 and 50.

<sup>20</sup> Ibidem, para. 177.

aggravated given that it derives from a situation that places her at risk that has already been identified against the determined members of Cubalex in 2015 and 2016. Among these members is her husband, Mr. Ferrer Tamayo. In this line, it is especially relevant that the alleged perpetrators of the situations that place her at risk are state agents. This is a particularly serious matter, given that these authorities have a role in guaranteeing and protecting rights,<sup>21</sup> and precautionary measures have been in force for approximately nine years. In the same way, it is observed that the situations that place her at risk also affect the beneficiaries' closest relatives when they want to travel abroad in the framework of their human rights defense work.

25. The Commission states that it has not received official information from the State, despite repeated requests. The Commission regrets the State's unwillingness and recalls that, without information from the State, it is impossible to know the possible protection measures implemented in favor of the proposed beneficiary, or to receive communication that refutes the allegations of risk presented. On the contrary, all the information available allows this Commission to warn that State agents have been adopting actions that intensify the situation that places the proposed beneficiary at risk, instead of mitigating it.

26. In addition, given that the State also failed to report information in the context of these precautionary measures being in force, the Commission recalls that the failure to comply with the State duty to report on all the measures adopted in the implementation of its decisions of international protection measures, such as precautionary measures, is particularly serious, given the legal nature of these measures, which seek to prevent irreparable harm to people in serious and urgent<sup>22</sup> situation. The duty to inform constitutes a dual obligation that requires, for its effective fulfillment, the formal presentation of a document on time, and the specific, true, current and detailed material references to the issues on which that obligation falls.<sup>23</sup>

27. In light of the particular characteristics of this matter in the context in which it is inserted, and considering the beneficiary Ferrer Tamayo's upcoming return to Cuba, the Commission concludes that, from a *prima facie standard*, the rights to life and personal integrity of Ms. Marienys Pavó Oñate are in a situation of serious risk.

28. With regard to the *urgency* requirement, the IACHR considers that it has been met, since the facts described suggest that the risk situation not only continues, but is likely to be exacerbated over time. The foregoing, given the lack of protection measures implemented by the State and the continuity of the human rights defense work carried out by the beneficiaries that are members of Cubalex. It also takes into account the international complaints issued by beneficiary Ferrer Tamayo. All of this indicates that the proposed beneficiary faces an imminent risk that requires the adoption of measures to safeguard her life and personal integrity.

29. The Commission finds the requirement of *irreparable harm* met since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

30. Lastly, the IACHR recalls that, according to Article 63 of the IACHR Rules of Procedure, the State concerned in public hearings "shall grant the necessary guarantees to all the persons who attend a hearing or who in the course of a hearing provide information, testimony or evidence of any type to the Commission.

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<sup>21</sup> IACHR, [Resolution 7/2024](#), PM 95-24 - Eddy Antonio Castillo Muñoz, Nelly Griselda López García, and Juan Carlos Baquedano regarding Nicaragua, March 1, 2024, para. 29; IACHR, [Resolution 25/2023 \(PM 61-23\)](#), Members of the Pataxó Indigenous People located in the Barra Velha and Comexatibá Indigenous Lands in the state of Bahia regarding Brazil, April 24, 2023, para. 51.

<sup>22</sup> I/A Court H.R., Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia. Provisional Measures, Order of February 7, 2006, considerandum 16; and Matter of Luisiana Ríos et al. (Radio Caracas Televisión – RCTV). Provisional Measures, Order of September 12, 2005, considerandum 17.

<sup>23</sup> I/A Court H.R. Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia, Provisional Measures. Order of February 7, 2006, considerandum 16; and Matter of Luisiana Ríos et al. (Radio Caracas Televisión – RCTV), Provisional Measures. Order of September 12, 2005, considerandum 17.

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That State may not prosecute the witnesses or experts, or carry out reprisals against them or their family members because of their statements or expert opinions given before the Commission.”

**V. BENEFICIARY**

31. The IACHR declares Marienys Pavó Oñate as beneficiary, who is duly identified in these proceedings.

**VI. DECISION**

32. The Inter-American Commission concludes that this request meets, *prima facie*, the requirements of seriousness, urgency, and irreparable harm outlined in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Cuba:

- a) adopt the necessary measures to guarantee the life and personal integrity of Marienys Pavó Oñate;
- b) consult and agree upon the measures to be adopted with the beneficiary and the representation she designates; and
- c) report on the actions taken to investigate the alleged events, which led to the adoption of these precautionary measures to prevent such events from reoccurring.

33. The Commission also requests that the Government of Cuba inform the Commission within 15 days from the date of this resolution on the adoption of the required precautionary measures and update that information periodically.

34. The Commission emphasizes that, under Article 25 (8) of its Rules of Procedure, the granting and extension of this precautionary measure and its adoption by the State do not constitute a prejudgment on any violation of the rights protected under the applicable instruments.

35. The Commission instructs the Executive Secretariat of the IACHR to notify the State of Cuba and the representation of this resolution.

36. Approved on May 11, 2024, by Roberta Clarke, President; Edgar Stuardo Ralón Orellana, First Vice-President; Carlos Bernal Pulido, Second Vice-President; José Luis Caballero Ochoa; Arif Bulkan; Andrea Pochak; and Gloria Monique de Mees, members of the IACHR.

Jorge Meza Flores  
Assistant Executive Secretary