
**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 26/2021**

Precautionary Measure No. 552-20

María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez
regarding Cuba
March 14, 2021
Original: Spanish

I. INTRODUCTION

1. On June 11, 2020, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission” or “the IACHR”), received a request for precautionary measures filed by the International Institute on Race, Equality and Human Rights (hereinafter “the applicants”), urging the Commission to request that the State of Cuba (hereinafter “the State” or “Cuba”) protect the rights of María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez. According to the request, such persons are at risk as they are subjected to intimidation, harassment, and threats in the current context of Cuba. They also stated that they have been allegedly subjected to constant detentions over time.

2. Under the terms of Article 25(5) of the Rules of Procedure, the IACHR requested information from the State on June 18, 2020. To this date, the State has not provided a response. The applicants subsequently submitted additional information on June 18, July 7, October 26, and November 19, 2020, and February 3 and 4, 2021.

3. Upon analyzing the submissions of fact and law made by the applicants, the Commission considers that the information presented shows *prima facie* that María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez are in a serious and urgent situation, since their 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 protect the rights to life and personal integrity of María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez. To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiaries by protecting their rights in relation to acts of risk that are attributable to third parties, in accordance with the standards established by international human rights law; b) adopt the necessary measures so that the beneficiaries can carry out their activities either as independent journalists or human rights defenders without being subjected to acts of violence, threats, intimidation, and harassment in the performance of their work; c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and d) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

II. SUMMARY OF FACTS AND ARGUMENTS PROVIDED BY THE PARTIES

1. Information provided by the applicants

4. María de los Ángeles Matienzo Puerto¹ (freelance journalist and writer) and Kirenia Yalit Núñez

¹ According to the request, she has been working as an independent journalist for seven years and her articles have appeared in various independent media such as Cubanet and *Diario de Cuba*.

Pérez² (psychologist and coordinator of the independent civil society organization Cuban Youth Dialogue Table) were identified as lesbians and as a couple. The request indicated that the events took place within a context of criminalization of activities by independent journalists, activists and human rights defenders. The applicants stated that the COVID-19 pandemic has particularly increased their vulnerability. The information below describes the alleged acts against the proposed beneficiaries that occurred between 2013 and 2021.

5. In 2013, Matienzo allegedly received phone calls from an officer who identified himself as Marcos, who asked her to meet him in a public place on two occasions. In 2014, the officer told her that she could be arrested, that she was not the leader of anything, and that they were going to prove that to her. Matienzo replied that the next time he would formally summon her to a police station. After this encounter, Matienzo's mother was summoned and interrogated. On December 30, 2014, Matienzo's home was surrounded by four civilians, who prevented her from leaving. According to the request, Matienzo's neighbors alerted her, brought her food, and told the officers that she did not live there.

6. In January 2015, some State Security officers allegedly posed taxi service providers and waited near the place where she usually went for this service. The driver interrogated her and told her that he wanted to take her home. Matienzo finally gave him the address of a building near her home. On October 2, 2015, Núñez and other members of the Cuban Youth Dialogue Table were intercepted by patrols, detained, and beaten up when they were traveling from the province of Holguín to the province of Granma to provide human rights training. According to the request, the officers told them that they were not welcome in that province and they would not be allowed to carry out any counterrevolutionary activity. The members of the Cuban Youth Dialogue Table tried to enter the province of Holguín, but they were told that they were not allowed and escorted back to Havana. Núñez is currently banned from travelling to the rest of provinces in the country as she has been deemed a "persona non grata." On May 20, 2016, a man in civilian clothes approached the home of Núñez's mother and gave her niece an official summons for Núñez. She did not appear, considering that the manner in which it was delivered was illegal. As a result of this, a State Security officer identified as Captain Alex appeared there three days later and told Núñez's mother that if she were to attend any meeting with civil society organizations, she would be arrested. Her mother and the State Security officer had an argument at that time.

7. In 2016, Matienzo and Núñez moved in together. In 2017, the police arrived at their building and claimed to have received a complaint for public scandal involving them both. One of the neighbors of the outer apartments did not let them pass and, afterwards, informed Matienzo and Núñez. On June 26, 2017, Núñez had scheduled a trip to Cancun, Mexico for the event "*Caminos para una Cuba democrática IV*" ("Roads towards a democratic Cuba IV"). On the way to the airport, a private car waved her taxi to stop. The private car parked in front of the taxi to prevent it from leaving and three men got off the car. They told Núñez that she had to go with them and pulled her out of the car by the arm. She asked where they were going and why they had stopped her, but all they told her was that she could not board her plane. The men never identified themselves and drove around the outskirts of the city for two hours until Núñez missed her flight. The taxi driver, scared, returned to Matienzo and Núñez's house with her suitcases and told Matienzo what had happened.

8. In February 2018, Núñez intended to participate in the 167th Period of Sessions of the Inter-American Commission to present her report "Girls, boys and adolescents in Cuba." However, the day before the trip, a man showed up at her and Matienzo's house, warning them that if she went to the airport, there would be personal repression of some sort but did not specify. The man introduced himself as

² As coordinator of the "Cuban Youth Dialogue Table," and according to the request, she seeks to train young people from all over the country on knowledge and democratic values, human rights, and political pluralism, including learning about the design and development of political proposals in favor of the people.

Walfrido, and provided a State Security card to confirm his identity. On November 24, 2018, Núñez returned from the “*Florece Resistencia*” (“Flourish resistance”) event, convened by the Simone de Beauvoir Leadership Institute, and was detained by officers of the Immigration and Foreign Police. Núñez’s suitcase was seized, several work materials confiscated, and a warning was issued for importing counterrevolutionary documentation referring to some brochures on gender equality in Latin America. In the document, she stated that she was interrogated by a Confrontation officer and an Immigration officer but they never identified themselves as such.

9. On June 15, 2019, Matienzo and Núñez were on their way to the award ceremony of the “*Ensayar Cuba Futura*” contest at the headquarters of the Museum of Dissidence in Cuba when, upon leaving their home, they were detained by five men dressed in civilian clothes and two in uniforms belonging to the National Revolutionary Police. They were taken to the police station in Zanja. There, Núñez was taken to one of the interrogation rooms. Matienzo was not allowed to enter. When Matienzo asked about Núñez, she was told that she had been taken to a different place and, at her insistence, she was told that she was never detained. Matienzo went to the other police station where officer Ernesto told her not to insist as the consequences could be worse. After a 5-hour interrogation, Núñez was released and contacted Matienzo. Núñez said that Major Alejandro was the one who gave the orders. She asked to be told why she was being detained and to be identified in the detention book, but she did not get any response. By order of Major Alejandro, she was taken to the “*Zapata y C*” unit in a private car, where she was interrogated for 5 hours but refused to answer to the interrogation. During the interrogation, Núñez was told that her work with young people was not allowed and that she had to keep Matienzo at bay; they searched her wallet; a jacket with the logo of the Cuban Youth Dialogue Table was confiscated; she was told that she could not make joint plans with other projects, especially the San Isidro Movement (the aforementioned event was a joint effort with the San Isidro Movement) and that they would not allow those activities. Núñez asked for a certificate of confiscation, but did not receive one.

10. On June 23, 2019, Núñez received a formal summons signed by First Officer Miguel. The summons said that the objective was to interview her at the Department of Immigration and Foreign Police. However, the address of the meeting place was at the National Directorate of Prisons, which made Núñez decide not to appear. On September 8, 2019, there was a call for the “*Marcha de los Girasoles*” (“Sunflower March”) for the release of so-called “political prisoners,” as well as the day of celebrations and pilgrimage for the day of the “*Virgen de la Caridad del Cobre*” (“Our Lady of El Cobre”). Matienzo and Núñez lived very close to the sanctuary and, since very early in the morning, their home was surrounded by 15 State Security officers. They were unable to leave their home that day. On December 9, 2019, they received calls from an unknown phone number and a man who identified himself as Major Alejandro told them that they were not allowed to leave their home for 24 hours. On December 10, 2019, they tried to leave their home but received a call from Major Alejandro, who informed them that a police operation was in place from a neighboring house and they were under surveillance. They could not leave until December 11, 2019, under threat of arrest if they left earlier.

11. On February 1, 2020, Núñez was supposed to travel to Brussels for an event of the European Parliament on human rights violations in Cuba. However, Major Alejandro appeared at the house and told them that neither she nor Matienzo were allowed to leave. When Núñez asked why they were not allowed to leave, he did not answer and only repeated that they were not allowed to and that he would be outside, watching them. He said that if she tried to leave, she would be arrested and taken to a Police Unit. Major Alejandro also threatened Matienzo with prosecuting her for the crime of contempt. A few minutes later, both went down to take a picture of Major Alejandro, who lowered the visor of his motorcycle helmet and took some steps back. Núñez’s phone rang with a call from an unknown number which turned out to be Major Alejandro, who threatened them again, especially threatening Núñez with prosecuting her for contempt, and even said that if they tried to leave again, it would be even worse.

12. On February 2, 2020, around midnight, a Colombian journalist that Matienzo had met during her internship at the newspaper *“El Tiempo”* wrote to tell her that she was going to Cuba. The journalist asked if she could receive her luggage a week before the trip and Matienzo agreed. Matienzo became suspicious when she asked about the contents of the luggage, with the response being that they were pieces of gold. Then she asked Matienzo about her mother and mentioned her name, which raised her suspicions, as it was not possible for her to know that name. Matienzo called that friend and found that she was in Australia and did not know of any luggage. They had clearly “duplicated” her account just to communicate with Matienzo. She also received an invoice of Avianca, which with the help of some of her friends she verified was fake. When the lie was exposed, the account disappeared. However, the event caused great concern to her mother, who is prone to nervous breakdowns.

13. On March 9, 2020, Núñez was on her way to a breakfast meeting at the United States Embassy in Cuba when she saw a man in civilian clothes approaching her with a patrol following closely behind. She realized that they were coming for her, which gave her time to send a message to Matienzo saying “police” to alert her to what was happening. She was taken to the *“Zapata y C”* police station, where she was held for two hours. They asked for her phone number but she refused to provide it, so she was taken to the basement by three police officers and a stranger. She was fined with 100 Cuban pesos for “breaching the area of a security operation”; however, Núñez reports that she was just crossing the street and no security operation was in sight.

14. From the beginning of the quarantine in late March, 2020, Matienzo received several friendship requests by fake profiles in her Facebook account. On May 22, 2020, she received a message from “Grettel,” who asked whether she supported the freedom of Cuba and that there was “something” that she wanted to explain to her. Matienzo, used to being informed of complaints against her articles through similar means, decided to reply and accepted a call. The conversation lasted one minute and 34 seconds and “Grettel” told her that this was not a real profile and that she was part of an organization in Miami that “provided money to Cuban opposition organizations” and needed to know whether she was against the government or not before sending any money. She said that she could ask journalist Camila Acosta and that they would provide “300 to 400 USD to every Cuban for them to stay at home.” She was told that acquaintances would contact her. The next day, she was contacted by *“Mojon Oloroso”* [“Smelly Turd”], a fake profile that attacked and threatened other persons with murder. Matienzo did not respond or see the messages out of fear. Over the years, several other false profiles have contacted her. Matienzo did not always lodge complaints as she considers that her work is to denounce the violations of the human rights of others and not hers, but she considers that the numbers of these profiles have increased since the beginning of the quarantine. On another occasion during 2018, she was chatting with Daniurka González, activist for the rights of persons with disabilities, when the conversation suddenly took a tone that seemed strange for Matienzo, so she called Daniurka and found that she was not who she was chatting with. Matienzo denounced the incident in Cubanet.

15. On June 15, 2020, Matienzo’s mother dropped by her house to bring her some medicines and see how her daughter was doing. To go there, Matienzo’s mother used a car assigned for her work since there was no public transport in the city due to the COVID-19 quarantine. When she returned to work that day, her immediate supervisor called her to her office to tell her that someone had been there to “check” on her, and that she was forbidden from using the work car to visit Matienzo again as she was under surveillance. Matienzo’s mother has been a member of the communist party for 20 years and told them that they only talk about personal issues and nothing related to politics at all. Matienzo is very concerned as this may lead to her mother being fired from work and, as she is very close to retirement, being fired would make her lose her rights to do so. State officers had not interrogated Matienzo’s mother since 2014.

16. On the morning of June 30, 2020, Major Alejandro went to Matienzo and Núñez's house to forbid them from leaving the house for the rest of the day. He informed them that if they tried to, they would be arrested and that they had a police operation outside the house. Matienzo reported that a person from State Security was watching them from the house of the president of the Committee. The reason for this operation was the peaceful demonstration for the death of Hansel Hernández at the hands of the police. Later, when Matienzo and Núñez tried to leave, they met a stranger in the corridor who started threatening them and said that if they tried to leave, they would be arrested and imprisoned. Núñez asked why he refused to let them out and what crime they had committed to be under de facto house arrest. The individual replied that they were going to take her to jail and accuse her of spreading the epidemic.

17. On October 10, 2020, Independence Day in Cuba and anniversary of the "*Grito de Yara*" ("Shout of Yara"), Núñez and Matienzo were detained. Núñez was detained at around 5:00 in the afternoon when she and other activists were headed to the headquarters of the San Isidro Movement for a concert for commemoration of the date. As she approached the headquarters, a State officer started to incite the other people nearby to restrain Nuñez and the group that was with her. A person in civilian clothes tried to take her phone while a group of people pushed, yelled at, and battered them. Finally, the police intervened and detained them both. The acts of repudiation continued inside the patrol (the police officers made comments such as "worms," "leave the country," "mercenaries") and left them inside the patrol, without air, for over an hour. Núñez says they tried to ask them to open the door or give them water, but the police refused, so they were suffocating.

18. They were then taken to the Zanja police unit, in the Havana Downtown municipality. Once there, each activist was taken to a different patrol except for Núñez. They escorted her to the police unit and she was taken to an interrogation room where Major Alejandro took her cell phone and other belongings. During the interrogation, Major Alejandro accused her and the other activists of intent to attack other people, saying: "We know that you and the others were trying to attack the people there. Did you think they were going to let you do that without a response? We are not going to allow anyone to be above the revolution. We are going to change the way we take you on, and we can put you in jail." At around 8:00 p.m. they let her go due to the pressure of several people, including Matienzo, who appeared outside the unit for the release of the activists.

19. Later that night, Núñez, Matienzo, and other activists decided to go to the police unit of "*Cuba y Chacón*" to ask about other activists who had not yet been released. On the way to the unit, they noticed that a man was following and taking photos of them, but they continued walking. Once they arrived, they entered and asked for the detainees but at that moment a caravan of police and private cars arrived. Several people got out, held the women and pushed them into the various cars. Matienzo stated that they were driven around the city with the sirens and lights on, being dropped off at their homes. During the drive, the police also stopped traffic to create the appearance that they were transporting criminals. They also took away their identity cards and refused to tell them why they were detained or where they were being taken. Upon arriving home, their identity cards were returned to them. On top of these acts, there were calls from unknown numbers for both, where they were told that they were being watched and that they were not allowed to leave home, as well as campaigns on social media that seek to defame Núñez.

20. In the afternoon of November 17, 2020, Major Alejandro approached the house of the proposed beneficiaries to inform them that they were prohibited from leaving their home. He warned them that if they did not obey, they would be detained. Since that warning, two State Security officers and two police officers have remained outside their home, keeping surveillance to prevent them from leaving. The proposed beneficiaries do not know the identity of the officers as they have refused to produce any identity document. On November 18, 2020, in the afternoon, a State Security officer who identified himself as Lieutenant Alfredo knocked on the door of the house of the proposed beneficiaries to tell them: "if you

try to leave, you know what will happen.” From their home, Matienzo and Núñez were able to observe and photograph that they were under full-time surveillance by a State Security officer and two police officers. On the same day, Núñez lost all internet connection on her cell phone for half a day. The proposed beneficiaries attribute this fact to a deliberate action from the Telecommunications Company (ETECSA), as it is very common for activists and opponents to the government to experience phone service suspension.

21. On January 27, 2021, independent activists and artists called for a peaceful protest in front of the Ministry of Culture. Among the independent activists and artists was the 27N collective, created after the repression of January 27, 2021 and members of the San Isidro Movement. The attendants demanded dialogue with the Vice Minister of Culture and demanded the release of those detained, who were thus prevented from demonstrating at the Ministry of Culture. The current Minister of Culture went out to try to disperse the demonstrations but ended up attacking an independent journalist which caused violent responses and several persons were detained and assaulted. During the following days, several members of the independent journalist and activist community were detained.

22. In the night of January 28, 2021, Matienzo was at Hector Luis Díaz Cosh’s home and Núñez was at Oscar Casanella’s home because they had received information regarding acts of repudiation that were going to be carried out against Díaz Cosh and Casanella. Both intended to report these events in the Cuban independent media, but the acts did not come to fruition and Núñez walked to Díaz Cosh’s house accompanied by Casanella. Half an hour after their arrival, a neighbor reported that the police were outside. Casanella decided to go home and Matienzo and Núñez went out with him to make sure he got home safely (he lives 100 meters away from Hector Luis Díaz Cosh’s house). As he left the house, Casanella was approached by State Security. He repeated several times that he was just headed home, but State Security did not let him go. At this time, Matienzo was recording the detention with her cell phone when a State Security officer, who identified himself as Magdiel, tried to snatch the phone from her and drag her to the patrol car. Seeing this violent act, Núñez tried to prevent Matienzo from being dragged away, which led to the same officer physically assaulting her. Núñez ended up with several bruises. Another State Security officer stopped the situation, and both were released, but not before Madgiel warned them that he could take her cell phone away.

23. On January 29, 2021, a State Security officer who identified himself as Raúl knocked on Matienzo and Núñez’s door to notify them that they were not allowed to leave their home. Matienzo and Núñez managed to record the conversation. The officer said: “We are here; we have nothing more to discuss because you are not going to talk to us. However, if you try to go out, we will be there and you will not be able to” and “we can create a justification, any that we want.”

24. Lastly, the applicants stated that no complaint has been filed with the state authorities because the police, State Security, and the justice system in Cuba lack the necessary independence to ensure an adequate assessment of the risks that the proposed beneficiaries allegedly face.

2. Information provided by the State

25. The Commission requested information from the State on June 18, 2020. There has been no response to this date.

III. ANALYSIS OF THE ELEMENTS OF SERIOUSNESS, URGENCY, AND IRREPARABLE HARM

26. Precautionary measures are one of the mechanisms of the Commission for the exercise of its function of overseeing compliance with human rights obligations, as established in Article 106 of the

Charter of the Organization of American States. These general oversight functions are established in Article 41(b) of the American Convention on Human Rights, as well as in Article 18(b) of the Statute of the IACHR. The precautionary measures mechanism is described in Article 25 of the Rules of Procedure of the Commission. 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.

27. The Inter-American Commission and the Inter-American Court of Human Rights (“the Inter-American Court” or “I/A Court H.R.”) have established repeatedly that precautionary and provisional measures have a dual nature, both protective and precautionary. Regarding the protective nature, these measures seek to avoid irreparable harm and protect the exercise of human rights. Regarding their precautionary nature, these measures have the purpose of preserving a legal situation while it is being considered by the IACHR. Their precautionary nature aims to safeguard the rights at risk until the request pending before the Inter-American System is resolved. Their object and purpose are to ensure the integrity and effectiveness of the decision on the merits and, thus, prevent the alleged rights from being violated, a situation that may adversely affect the useful effect (*effet utile*) of the final decision. In this regard, precautionary or provisional measures allow the State concerned to comply with the final decision and, if necessary, implement the ordered reparations. For such purposes, in accordance with 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;
- 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.

28. The Commission recalls that the facts supporting a request for precautionary measures need not be proven beyond doubt; rather, the purpose of the assessment of the information provided should be to determine *prima facie* if a serious and urgent situation exists.³

29. As a preliminary matter, the Commission deems it relevant to clarify that, in this proceeding, it is not called upon to determine whether any violations against the rights of the proposed beneficiaries have occurred. In this sense, the Commission will not rule on the alleged arbitrariness of the detentions or the various procedural and substantial questions following the questioning of the detentions. The Commission is also not called upon to rule on the attribution of criminal or other liabilities regarding the persons involved in this matter. The analysis carried out by the Commission herein is exclusively related to the requirements of seriousness, urgency, and risk of irreparable harm established in Article 25 of its Rules of Procedure, which can be resolved without making any determinations on the merits which are specific to the petition and case system.

30. The Commission is also taking the context of Cuba into account when understanding the alleged facts. In this regard, it is emphasized that the Commission has consistently identified that human rights defenders in Cuba are often deprived of their liberty in allegedly arbitrary manners under certain types of criminal offenses –such as contempt, public attacks, and disorder– and are sometimes subjected to

³ For instance, in relation to provisional measures, the Inter-American Court has considered that minimum details and information that allow for the *prima facie* assessment of an extremely serious and urgent situation are required. IACHR, Matter of Children and adolescents deprived of liberty in the “Complexo do Tatuapé” of the Fundação CASA. Request for extension of provisional measures. Provisional Measures regarding Brazil. Order of the Inter-American Court of Human Rights of July 4, 2006. Considerandum 23.

attacks, threats, and mistreatment within prisons.⁴ Recently, near the end of 2020, the Commission expressed its concern about the increase in criminalization and harassment against activists, journalists and artists in Cuba,⁵ reiterating the obligations of the State of Cuba in terms of freedom of expression, as well as personal liberty and security.⁶

31. Considering the above context, and with regard to the requirement of seriousness, the Commission notes that the information provided indicates the occurrence of the following specific events against the proposed beneficiaries between 2013 and 2021:

- i) Discrediting statements from state officers. For instance, they told Matienzo that “she was not the leader of anything, and that they were going to prove that to her” in 2014; Núñez was told in 2019 “that they were not going to allow her to work with young people” and that “she had to keep Matienzo at bay”; Matienzo was told “not to insist or the consequences could be worse” in 2019; in 2020, both were told, as they had to carry out advocacy work, that it would be worse for them if they left their home; and in 2020 Núñez was also told, after being detained, “we are not going to allow anyone to be above the revolution” and “we are going to change the way we take you on”;
- ii) monitoring and surveillance by police officers and unknown persons, in some cases with an audiovisual record (see *supra* para. 19);
- iii) police officers showed up at their homes to warn them not to carry out activities with Cuban civil society. Similarly, even when Núñez was detained, police officers told her that she could not continue with her activities, confiscating her personal belongings;
- iv) after Núñez was detained in 2019, police officers did not inform Matienzo about her whereabouts or denied that she had been detained. Matienzo learned of Núñez’s whereabouts after she was released. Similarly, in October 2020, they were detained and locked inside a patrol car without air for over an hour;
- v) impediments to leave the country to participate in international events, while, for example, in 2017, civilians took Núñez out of the taxi in which she was going to the airport; in 2018, a person with a State Security card told Núñez that “if she went to the airport she would face personal repression of some sort”; and in 2020, a police Major prevented them from leaving on the day that Núñez had to travel to Brussels;
- vi) confiscation of material considered “counterrevolutionary” after Núñez’s immigration detention when she returned from abroad;
- vii) presence of the police and civilians who purportedly surround their home or prevent them from leaving, as happened, for example, in 2019 when Matienzo and Núñez sought to attend an event related to Cuban “dissidence” (see *supra* para. 9) or when they wanted to go to a demonstration for the so-called “political prisoners” (see *supra* para. 10). More recently, for

⁴ IACHR, Special Report on the Situation of Freedom of Expression in Cuba, 2018, paragraph 136.

⁵ IACHR, Press Release No. 280-20. The IACHR and its Office of the Special Rapporteur express grave concern over the increase in criminalization and harassment of activists, artists, and independent journalists in Cuba, available at <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1191&IID=1>, Washington, November 23, 2020.

⁶ Press Release No. 286-20, The IACHR rejects the arbitrary operation against the San Isidro movement in Cuba and reiterates its international human rights obligations, available [in Spanish] at <http://www.oas.org/es/cidh/prensa/comunicados/2020/286.asp>, Washington, November 28, 2020.

- example, in November 2020, a police officer warned them that they could not leave their home under the message that “if you go out, you know what will happen to you” (see *supra* para. 20); and in January, 2021, the police appeared at the home of the proposed beneficiaries to notify them that they were prohibited from leaving their home (see *supra* para. 23);
- viii) fake profiles on social networks that allegedly impersonate identities in order to obtain information on the proposed beneficiaries, while in 2020 one of those profiles threatened Matienzo with murder;
 - ix) threats from unknown persons and acts of repudiation against the proposed beneficiaries, with comments such as “worms,” “leave the country,” or “mercenaries,” as occurred in October 2020, the date when attacks against them took place. Such threats reportedly also came to fruition in the form of attacks when they were travelling to other provinces in Cuba, with Núñez being unable to enter other provinces upon being considered a “persona non grata.” More recently, in January 2021, there were attacks against them, and Núñez presented with bruises as a result.

32. Regarding these facts, the Commission observes, first, that they have taken place over approximately 7 years, which makes it apparent that they occurred over time when the proposed beneficiaries intend to carry out their work as human rights defenders or independent journalists. Second, it is noted that the facts faced by the proposed beneficiaries seek to severely limit their actions in the context of Cuba, having managed to prevent their participation in national and international events. Third, it is possible to indicate that events of risk have come to fruition in the form of attacks, not just threats, that the proposed beneficiaries have faced over time. Fourth, the Commission emphasizes that the ongoing presence of the police near their homes and during their travels reflects that the state authorities maintain strict control of the actions of both proposed beneficiaries or, in any case, as they were unable to maintain that control, they reportedly resort to threats and intimidation towards them. Fifth, it is observed that hostility and animosity towards the proposed beneficiaries has spread to civilians allegedly separated from just police officers, who are related to them or support them, as indicated by the events narrated in the request.

33. Sixth, it is observed that the threats or intimidation have also appeared on social media via fake profiles, which purportedly seek to obtain information on the proposed beneficiaries. Seventh, the information available suggests that police officers have sought to discredit the work of the proposed beneficiaries within Cuban society, issuing disqualifications towards them, which has even caused that third parties also disqualify them or seek to attack them. On this issue, the Commission notes with special concern that the tenor of one of the disqualifying messages indicated that Núñez had to “keep” her partner Matienzo “at bay,” which manifests an existing gender bias regarding the work of women human rights defenders. In this regard, the IACHR has indicated that this creates an “accentuated” risk around prejudices related to “the roles that they should play in society.”⁷ In this context, the Commission observes that there is no information on the implementation of any protection detail for the proposed beneficiaries.

34. The Commission notes that, despite having requested information from the State, to date no communication has been received from the State of Cuba. The Commission regrets the lack of response from the State, which prevents the Commission from learning the State’s position regarding this request, as well as any actions implemented in order to address the risk described. At the same time, according to the information provided by the applicants, the risk described comes from actions of State actors. On

⁷ IACHR, Towards a Comprehensive Policy to Protect Human Rights Defenders, 2017, para. 43. Available at <http://www.oas.org/en/iachr/reports/pdfs/Defensores-eng-2017.pdf>

another note, although it is not for the Commission to determine the perpetrators of the events of risk, or if they are attributable to state actors, at the time of assessing this request it does take into account the seriousness of the possible participation of State actors according to the allegations presented, as this would place the proposed beneficiaries in a situation of vulnerability.

35. In these circumstances, and in light of the analysis carried out, the Commission considers, from the applicable *prima facie* standard and in the context that the State of Cuba is going through, that it is sufficiently proven that the rights to life and personal integrity of María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez are at serious risk.

36. Regarding the requirement of urgency, the Commission deems that it has been met considering that the information provided suggests that the risk for the proposed beneficiaries is likely to continue and exacerbate over time as both of them continue with their activities. The Commission does not have specific information provided by the State sufficient to assess the actions that have been taken to address the alleged situation of risk. There is also no information available to indicate that the alleged situation has been properly mitigated or no longer exists. In this sense, it is necessary to implement immediate measures to protect their rights.

37. As regards the requirement of irreparable harm, the Commission considers that it is met, since the possible impact on the rights to life and personal integrity constitutes the maximum situation of irreparability.

IV. BENEFICIARIES

38. The Commission declares that the beneficiaries are María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez, who have been duly identified in this proceeding.

V. DECISION

39. The Commission considers that this matter meets *prima facie* the requirements of seriousness, urgency and irreparable harm contained in Article 25 of its Rules of Procedure. Consequently, the Commission requests that the State of Cuba:

- a) adopt the necessary measures to protect the rights to life and personal integrity of María de los Ángeles Matienzo Puerto and Kirenia Yalit Núñez Pérez. To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiaries by protecting their rights in relation to acts of risk that are attributable to third parties, in accordance with the standards established by international human rights law;
- b) adopt the necessary measures so that the beneficiaries can carry out their activities either as independent journalists or human rights defenders without being subjected to acts of violence, threats, intimidation, and harassment in the performance of their work;
- c) consult and agree upon the measures to be adopted with the beneficiaries and their representatives; and
- d) report on the actions taken to investigate the alleged events that led to the adoption of this precautionary measure, so as to prevent them from reoccurring.

40. The Commission also requests that the Government of Cuba kindly inform the Commission, within

a period of 15 days as of the date of this communication, on the adoption of the precautionary measures that have been agreed upon and to periodically update this information.

41. The Commission emphasizes that, pursuant to Article 25(8) of the Rules of Procedure of the Commission, the granting of precautionary measures and their adoption by the State do not constitute a prejudgment regarding the possible violation of the rights protected in the American Convention and other applicable instruments.

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

43. Approved on March 14, 2021, by: Joel Hernández, President; Antonia Urrejola Noguera, First Vice-President; Flávia Piovesan, Second Vice-President; Esmeralda Arosemena de Troitiño, Edgar Stuardo Ralón Orellana, and Julissa Mantilla Falcón, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary