

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS
RESOLUTION 29/2021**

Precautionary Measures No. 1101-20

**Aminta D’Cárdenas Soroa and Carlos Manuel Álvarez regarding Cuba
(Persons associated with the San Isidro Movement)**

March 24, 2021

(Extension)

Original: Spanish

I. INTRODUCTION

1. On February 15, 2021, the Inter-American Commission on Human Rights (hereinafter “the Inter-American Commission,” “the Commission” or “the IACHR”) received a request for the inclusion of new beneficiaries, made by the representatives of the measures granted on February 11, 2021 in favor of 20 identified members of the San Isidro Movement. The representatives urged the IACHR to request that the State of Cuba (hereinafter “the State” or “Cuba”) protect the rights of Aminta D’Cárdenas Soroa and Carlos Manuel Álvarez. According to the request, the two identified persons are at risk due to their association with the San Isidro Movement (MSI), having been the object of follow-ups, harassment and attacks in Cuba’s current context.

2. The IACHR requested information from the State on February 23, 2021, in accordance with Article 25(5) of the Rules of Procedure. The representatives submitted additional information on March 7, 2021.

3. Upon analyzing the allegations of fact and law submitted by the applicants, the Commission considers that the information presented shows *prima facie* that Aminta D’Cárdenas Soroa and Carlos Manuel Álvarez are in a serious and urgent situation, given that 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 the two beneficiaries identified as being associated with the San Movement Isidro (MSI). To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiaries, and protect their rights in relation to acts of risk 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 as human rights defenders, without being subjected to acts of violence, intimidation and harassment in performance of their work; c) consult and agree upon the measures to be adopted with the beneficiaries and their representation; and d) report on the actions taken to investigate the alleged events that led to the adoption of these precautionary measures, so as to prevent them from reoccurring.

II. PRECAUTIONARY MEASURES GRANTED ON FEBRUARY 11, 2021

4. On February 11, 2021, the IACHR issued Resolution 14/2021, through which it granted precautionary measures in favor of 20 identified members of the San Isidro Movement (MSI) in Cuba. Upon analyzing the allegations of fact and law submitted by the applicants, the Commission considered that the information provided shows *prima facie* that the 20 identified members of the San Isidro Movement (MSI) are in a serious and urgent situation, given that their rights to life and personal integrity are at risk of irreparable harm.

5. Consequently, in accordance with Article 25 of the IACHR Rules of Procedure, the Commission

requested that Cuba: a) adopt the necessary measures to protect the rights to life and personal integrity of the 20 identified members of the San Isidro Movement (MSI). To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiaries, and protect 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 as human rights defenders, without being subjected to acts of violence, intimidation and harassment in the performance of their work; c) consult and agree upon the measures to be adopted with the beneficiaries and their representation; and, d) report on the actions taken to investigate the alleged events that led to the adoption of these precautionary measures, so as to prevent them from reoccurring.¹

6. Since the granting of the precautionary measures, the IACHR has not received a response from the State, and the deadline has expired.

III. SUMMARY OF FACTS AND ARGUMENTS ALLEGED BY THE PARTIES REGARDING THE REQUEST FOR EXTENSION

1. Information provided by the representation

7. The request indicates that Aminta D’Cárdenas and Carlos Manuel Álvarez are associated for their activism with the San Isidro Movement. In particular, the representation’s request referred to the alleged facts presented below.

- *Aminta D’Cárdenas*

8. Aminta D’Cárdenas was born with a congenital left hip dislocation, which was complicated by medical negligence when she was very young. The proposed beneficiary has mobility limitations and a sort of hemiplegia, for which she limps, requires permanent support on a crutch, and has stability problems.

9. On October 10, 2020, the proposed beneficiary reported surveillance at her house. Upon leaving for the MSI headquarters, she was detained in a patrol along with three other activists in the middle of a “repudiation” rally. Among the protesters at the “repudiation” rally was a woman who shouted to his face, referring to his crutches: “Don’t you feel sorry for yourself for being here.” The proposed beneficiary was transported along with the group to the police station and then to her house at around 7 p.m.

10. On November 27, 2020, the proposed beneficiary was under “police surveillance,” which was described as “arbitrary house arrest” in order to prevent her from participating in the artists’ demonstration in front of the Ministry of Culture. She had reportedly gone out for a meal when she was intercepted on the first floor of her building by a woman in civilian clothes and another uniformed woman who told her that “she could not leave and that she had to wait for the State officer who was going to give her explanations.” According to the request, the officer told her that “she could not leave for a while, until what was happening in the Ministry of Culture was over.” By December 15, 2020, there allegedly were ten consecutive days of police surveillance and “house arrest” following the demonstrations in front of the Ministry of Culture.

11. Finally, on February 16, 2021, the request indicated that a week after being exposed in the

¹ IACHR, Resolution 14/2021. Precautionary Measures No. 1101-20. 20 identified members of the San Isidro Movement (MSI) regarding Cuba, February 11, 2021. Available at http://www.oas.org/en/iachr/decisions/pdf/2021/res_14-2021_mc-1101-20_cu-en.pdf

“National Television News,” she reported that a collective email was circulating among her close group of friends and colleagues, where her identity was impersonated with the intention of creating division in the MSI.

- *Carlos Manuel Álvarez*

12. Carlos Manuel Álvarez was identified as a “journalist with international projection.” The request referred to his academic training and journalistic career, as well as to the awards he allegedly won.²

13. On November 24, 2020, the proposed beneficiary returned to Cuba and gathered at the MSI headquarters. The following evening, the medical authorities picked him up at journalist Monica Baró’s house, an address he gave to the medical authorities when he left the airport. Allegedly, the COVID-19 test results had been altered. Given that the medical authorities did not find him at the house, they demanded that he appear to take the exams again, but the proposed beneficiary did not do so, thinking that it was an argument from State Security to get him to leave the MSI headquarters.

14. On November 27, 2020, after the raid of the MSI headquarters, the proposed beneficiary was transferred in a closed vehicle to the police station. According to the request, he was taken barefoot to the polyclinic, where he had a PCR test. Subsequently, State Security and the Municipal Director of Epidemiology of the medical center reportedly took him to Mónica Baró’s house. He allegedly received the results the following day, and had to be in quarantine until November 29, 2020. On November 30, 2020, the Municipal Director of Epidemiology informed him that the “PCR” was negative and that he could receive visitors. Nevertheless, according to the request, the proposed beneficiary remained confined at his house illegally and arbitrarily, as police and State Security officers remained on the ground floor of the building 24 hours a day to prevent him from leaving. His cell phone line has reportedly been inactive since the incident at MSI headquarters.

15. On December 1, 2020, a State Security officer ordered Carlos Manuel Álvarez to accompany him, and took him to a house described by the applicants as a “visiting house” of the Department of State Security, where those interrogated are often filmed without their consent and then exposed in the national media. In that place, the proposed beneficiary was reportedly interrogated for three hours. According to the request, the authorities pressured him to report on the reasons why he had decided to enter the MSI headquarters on November 24, 2020. It was indicated that the authorities had reportedly tried to link him to foreign governments, referred to the financing of “El Estornudo,” and treated him as a mercenary. They threatened him with criminal prosecution for spreading the epidemic “if he did not stay calm,” or if he did anything they considered “counterrevolutionary.” Subsequently, they told him that if he left the next day, they would let him go. The request indicated that the proposed beneficiary has “permanent residence” in the country.

16. On the evening of December 1, 2020, within minutes of returning to the house where he was staying, there was already police surveillance, which continued until December 3, 2020. On December 3, 2020, the proposed beneficiary traveled to the province of Matanzas where his family resides. The following day, the police and state security authorities established surveillance and imposed what they called “home confinement.” On December 4, 2020, the proposed beneficiary was arrested when he tried

² The request specified that the proposed beneficiary studied journalism at the University of Havana. In 2016, he co-founded the literary magazine “El Estornudo.” He has published opinion articles for international media such as the New York Times, the BBC, *El País*, The Washington Post and Al Jazeera, and his stories have appeared in publications such as “Gatopardo” and “El Malpensante.” In 2013, he won the Calendario Award for his collection of short stories “La tarde de los sucesos definitivos” (“The Afternoon of Definitive Events”). In 2017, he published “La tribu, retratos de Cuba” (“The tribe, portraits of Cuba”), a collection of journalistic pieces related to his native country. In 2016, he was mentioned as one of the 20 most prominent Latin American writers at the Guadalajara International Book Fair, and the following year he was included in the “Bogotá List.”

to visit his mother's house, using a health justification, despite the fact that his medical tests were negative for COVID-19 and he had authorization to travel. He was allegedly forced into a patrol and returned to the family house. On December 5, 2020, police surveillance and "home confinement" were kept in front of the house on the sidewalk, less than 10 meters away, to prevent his mobility.

17. On December 14, after 15 days under police surveillance, two State Security officers in civilian clothes, one of which had a camera that allegedly filmed everything, detained the proposed beneficiary at his grandparents' house in Matanzas, when he was about to go out, without the intervention of the National Revolutionary Police. After discussing with his parents, two physicians, who asked where he would be taken without receiving a response, one of the officers grabbed Carlos Manuel's arms and folded them behind his back and introduced him into a vehicle similar to a cage car, without informing him whether the detention was authorized by the police or any military institution. The detention was broadcast live on *El Estornudo's* profile. He was taken to an immigration office, where he was interrogated and threatened. He was released the same day in the evening, after a 6-hour interrogation.

18. In the afternoon of December 21, 2020, the proposed beneficiary was summoned urgently to appear before the police station. At that time, the proposed beneficiary was to conduct an investigative journalism workshop with the participation of Salvadoran reporter Oscar Martinez. The proposed beneficiary was interrogated for two hours at the station and forcibly transferred to Matanzas, where his parents live. The request indicates that he was beaten by the officers (in civilian clothes) at a stop along the way when he tried to escape.

19. That day at almost midnight, the proposed beneficiary posted on his Facebook wall:

"During the last month, I have gone through four interrogations, three detentions, a kidnapping, an escape from the political police, three or four television programs and several press articles where I am defamed, corrections to my biography in the national web encyclopedia, constant calls to my cell phone that function as warning calls, several warning calls of I don't know what, and permanent surveillance. I saw people chasing me as I moved faster to take shelter from the sudden rain of a grey December morning under a shade. I then saw them leave just as I left, maybe a little fed up of chasing a kid who does not take the bus and prefers to walk through all of Havana."

20. Finally, the request indicated that the proposed beneficiary left the country on January 9, 2021, for "work reasons" but will allegedly return "soon" as "he expressed his desire to return." He does not have residence in any other country, nor does he intend to apply for asylum or self-exile abroad "for now."

2. Information provided by the State

21. The Commission requested information from the State on February 23, 2021. There has been no response to this date and the granted deadlines have expired.

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

22. 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.

23. The Inter-American Commission and the Inter-American Court of Human Rights ("the Inter-

American Court” or “I/A Court H.R.”) have repeatedly established 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, to 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.

24. 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

25. As a preliminary matter, the Commission deems it relevant to clarify that, in this proceeding, it is not called upon to determine whether there have been violations to the rights of the proposed beneficiaries. In this sense, the Commission will not rule on the alleged arbitrariness of the detentions or the various procedural and substantive questions around 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.

26. The Commission is also taking the context of Cuba into account when understanding the alleged facts. In this regard, it is stressed 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 attacks, threats and mistreatment within prisons.⁴ Recently, near the end of 2020, the Commission expressed its concern about the escalation of 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

³ In this regard, for instance, referring to provisional measures, the Inter-American Court has indicated that a minimum of detail and information is required to make a *prima facie* assessment on whether an extremely serious and urgent situation exists. 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.

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.

well as personal liberty and security.⁶

27. In this matter, the Commission observes that the representation requested the addition of two persons as part of the group of beneficiaries of the precautionary measures granted through Resolution 14/2021. Inasmuch as this request requires an analysis of the situation of those persons in light of Article 25 of the Rules of Procedure and regarding the precautionary measures currently in force, the IACHR will process the request of the representation as a request for extension. Therefore, it will consider Aminta D'Cardenas Soroa and Carlos Manuel Álvarez as the proposed beneficiaries in this matter.

28. In that regard, and as a preliminary issue, the Commission recalls that a requirement for the extension of precautionary measures is that the facts alleged in the request for extension have a “factual connection” with the events that justified the initial adoption of the precautionary measures.⁷ In this matter, the Commission notes that the two persons identified are associated with the San Isidro Movement, and in that sense they share the relationship of membership to the organization in a similar manner to the twenty beneficiaries of the precautionary measures. In the same way, the IACHR notes that, to the extent that the two proposed beneficiaries are associated with the San Isidro Movement, there are common risk factors due to their association to the Movement, which is consistent with the allegations presented by the representation in this matter. In this sense, the IACHR considers that the requirement of “factual connection” has been met.

29. Regarding the seriousness requirement, the Commission observes that the two proposed beneficiaries have faced various alleged events of a similar nature to those faced by the twenty beneficiaries of precautionary measures, in their capacity as members or associates of the San Isidro Movement. In the case of *Aminta D'Cardenas Soroa*, the representatives referred to the following alleged events between October 2020 and February 2021:

- Constant police surveillance of her home, which prevented her from participating in demonstrations related to the San Isidro Movement, with such fact being described by the representation as “house arrest”.
- On one occasion, the police surveillance allegedly lasted up to ten consecutive days.
- Despite the fact that the proposed beneficiary has tried to leave her home, police officers have prevented her from doing so, as is the case of what happened in November 2020.
- During a demonstration in October 2020, the proposed beneficiary was detained, sent to a police station and afterwards taken back home.
- Impersonation of her identity in groups of friends and colleagues aiming to create division within the San Isidro Movement, after being “exposed” in national media.

30. In the case of *Carlos Manuel Álvarez*, the representatives referred to the following alleged events between November 2020, and January 2021:

- Although the proposed beneficiary was supposed to be in quarantine until November 29, 2020, as a preventive measure due to COVID-19, he was allegedly prevented from leaving his home after that date because police officers and State Security remained in place 24 hours a day, preventing him from doing so.
- In December 2020, the proposed beneficiary was questioned by State Security in order to obtain

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 at http://www.oas.org/en/iachr/media_center/PReleases/2020/286.asp, Washington, November 28, 2020.

⁷ In this regard, see: IACHR, Resolution 10/17, Precautionary Measure No. 393-15 Detainees in “Punta Coco” regarding Panama, March 22, 2017, para. 28; and I/A Court H.R., Fernández Ortega *et al.* regarding Mexico. Resolution of Provisional Measures of November 23, 2010, considerandum 19.

information regarding his role in the San Isidro Movement. On that occasion, it was stated that he was treated as a “mercenary” and that he should “calm down” referring to activities classified as part of the “counterrevolution.” He was also told to leave the country.

- In the same way, there were attempts to link him with foreign governments connected to the financing of the magazine “El Estornudo.”
- In December 2020, there was police surveillance of his home for approximately 3 days as well as later when he went to visit his family in another province. By December 14, 2020, the representation indicated that he had been under police surveillance for 15 days.
- On December 14, 2020, two civilian State Security officers arrested the proposed beneficiary as he was leaving his grandparents’ house. He was interrogated and then released.
- On December 21, 2020, the proposed beneficiary was summoned to a police station at the same hour when he was supposed to host a workshop.
- Upon arriving at the station, the proposed beneficiary was interrogated and then “forcibly” transferred to the province where his parents live. On the way, the representation indicated that the proposed beneficiary had been beaten up.

31. Having considered the information provided by the representation, the Commission notes that the alleged facts are related to the sources of risk already identified regarding the rest of the members of the San Isidro Movement, currently beneficiaries of precautionary measures. In this manner, as was the case for other members of the Movement, the Commission observes that both proposed beneficiaries have been subjected to very close police surveillance which has not been limited to surveillance but also activities to prevent them from carrying out their tasks related to the Movement that they are a part of. In this sense, it is possible for the Commission to notice that state officers keep extensive monitoring of their actions and even movements in various provinces of Cuba. Following their detention, the Commission observes the allegations that, in the case of Carlos Manuel Alvarez, there had been physical assaults after he was summoned to appear at the police station. Although it was reported that the proposed beneficiary had left the country, the representation indicated that he would return to the country “soon,” having traveled for work reasons only.

32. The alleged facts are particularly concerning insofar as they relate to precautionary measures in force and the State has not provided any type of response on the measures adopted. In this regard, the Commission recalls, following the Inter-American Court, that failure to comply with the State duty to report on all the measures adopted in compliance with its decisions is especially serious, given the legal nature of these measures that seek to prevent irreparable harm to persons in serious and urgent situations.⁸ The duty to inform constitutes a dual obligation that requires, for its effective fulfillment, the formal presentation of a document on time and specific, true, current and detailed material references to the issues on which that obligation falls.⁹

33. The Commission notes that, despite having requested information from the State, no communication has been received from the State of Cuba to this date. 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, and according to the information provided by the applicants, the risk described comes from actions of State actors. On 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

⁸ I/A Court H.R. Matter of Communities of Jiguamiandó and Curvaradó regarding Colombia. Provisional Measures. Order of the Inter-American Court of Human Rights of February 7, 2006. Considerandum 16, and Case of Luisiana Ríos *et al.* (Radio Caracas Televisión – RCTV). Provisional Measures. Resolution of the Inter-American Court of Human Rights of September 12, 2005. Considerandum 17.

⁹ *Ibid.*

presented, as this would place the proposed beneficiaries in a situation of vulnerability.

34. 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 has been sufficiently proven that the rights to life and personal integrity of Aminta D’Cárdenas Soroa and Carlos Manuel Álvarez are at serious risk.

35. Regarding the urgency requirement, the Commission deems that it has been met given that the information provided suggests that the risk for the proposed beneficiaries is likely to continue and exacerbate over time as the members of the San Isidro Movement continue with their activities. The Commission does not have the necessary specific information provided by the State to assess the actions that have been taken to address the alleged situation of risk. There is also no information available to indicate whether the alleged situation has been properly mitigated or no longer exists. Therefore, the immediate implementation of protection measures in favor of the proposed beneficiaries is necessary.

36. 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

37. The Commission declares that the beneficiaries are Aminta D’Cárdenas Soroa and Carlos Manuel Álvarez, who have been duly identified in this proceeding.

V. DECISION

38. 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 the two beneficiaries identified as being associated with the San Isidro Movement (MSI). To this end, the State must both ensure that state actors respect the life and personal integrity of the beneficiaries, and protect their rights in relation to acts of risk 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 as human rights defenders without being subjected to acts of violence, 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 these precautionary measures, so as to prevent them from reoccurring.

39. 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.

40. 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.

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

42. Approved on March 24, 2021 by: Antonia Urrejola, President; Julissa Mantilla, First Vice-President; Flávia Piovesan, Second Vice-President; Esmeralda Arosemena de Troitiño, Joel Hernández García and Edgar Stuardo Ralón Orellana, members of the IACHR.

María Claudia Pulido
Acting Executive Secretary