

**INTER-AMERICAN COMMISSION ON HUMAN RIGHTS  
RESOLUTION 24/2021**

Precautionary Measure No. 374-20

Roberto de Jesús Quiñones Haces regarding Cuba

March 9, 2021

Original: Spanish

**I. INTRODUCTION**

1. On April 29, 2020, the Inter-American Commission on Human Rights (“the Inter-American Commission”, “the Commission” or “the IACHR”) received a request for precautionary measures in favor of Mr. Roberto de Jesús Quiñones Haces (“the proposed beneficiary”), filed by *The Global Liberty Alliance*, and *Legal Defense Fund* (“the requesting party” or “the applicants”), urging the IACHR to instruct the State of Cuba (“the State” or “Cuba”) to adopt the necessary measures to protect the proposed beneficiary’s rights to life and personal integrity. According to the request, the proposed beneficiary has been threatened, harassed, and persecuted by state agents in the framework of his work as a journalist.

2. On June 18 and July 16, 2020, the Commission requested information from the State, in accordance with Article 25 of its Rules of Procedure. To date, the State’s response has not been received. For their part, the applicants provided additional information more recently on February 16, 2021.

3. Upon analyzing the submissions of fact and law provided by the applicants, the Commission considers that the information presented shows *prima facie* that Silverio Portal Contreras is in a serious and urgent situation, given that his rights to life and personal integrity are at serious risk. 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 Mr. Roberto de Jesús Quiñones Haces. Such measures must allow him to continue carrying out his work as a journalist without being subjected to threats, harassment or acts of violence in the exercise thereof; b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and c) report on the actions taken to investigate the events that led to the adoption of the precautionary measures at hand, so as to prevent them from reoccurring.

**II. SUMMARY OF FACTS AND ARGUMENTS**

**1. Information alleged by the applicants**

4. Roberto de Jesús Quiñones Haces is a lawyer, journalist, and human rights defender in Cuba. According to the request, during the years that Dr. Quiñones has dedicated himself to independent journalism, he has suffered acts of intimidation, harassment, allegedly arbitrary detentions, deprivation of liberty, violation of domicile, among other human rights violations, and has been prohibited to leave the country. As an example, on April 18, 2019, he was reportedly arrested for “hostile writings” to the government; and, subsequently, the proposed beneficiary was purportedly convicted of the crimes of “resistance and disobedience,” serving time from September 11, 2019 to September 4, 2020, in the Guantanamo provincial prison.

5. During the period of deprivation of liberty, the proposed beneficiary was allegedly subjected to “constant threats, mistreatment and aggression by officers of the penitentiary system,” allegedly on the orders of State officials. He was allegedly punished for reporting his situation in prison and was threatened with the loss of rights, such as the right to make phone calls to his family. In that sense, on October 4, 2019, the proposed beneficiary was purportedly subject to a disciplinary council for having

published an article on CubaNet. The measure proposed by the prison authorities was a ban on making phone calls for a month.

6. In addition to the foregoing, Mr. Quiñones Haces did not receive adequate and timely medical care in prison and was kept in inadequate conditions, such as lack of light and air, and unsanitary conditions. In this context, on May 8, 2020, the proposed beneficiary's lawyer was "intimidated by the State Police, urging him to desist from defending the proposed beneficiary for 'being a criminal' and calling him a 'mercenary' for working with the Global Alliance for Freedom."<sup>1</sup>

7. Following his release from Guantanamo provincial prison on September 4, 2020, the proposed beneficiary was reportedly once again the target of monitoring, harassment, and threats. According to the request, he allegedly received threatening calls on at least four occasions, between September and December 2020,<sup>2</sup> from unidentified persons or a State officer. The threats indicate that he could be beaten or run over in the street "at any time" if he continues to denounce the situation in the Guantánamo provincial prison; and that if he continued writing for "CubaNet" and offering interviews, he will go back to jail. He was allegedly threatened by a state officer with re-arrest if he left Guantánamo and even his home. Subsequently, on seven occasions<sup>3</sup> he purportedly received calls in which once answered, they immediately hang up, "while [the presumption of the proposed beneficiary] is that they called to verify whether or not he was at home."

8. The request also added information regarding frequent surveillance over the residence and monitoring of the proposed beneficiary when leaving home, including by car. According to the information provided, Mr. Quiñones Haces has noted surveillance and/or follow-ups on September 4, 20 and 27; October 9, 10, 11, 18 and 25; November 15 and 29; and December 9 and 10, 2020.

9. The requesting party also indicated that, to preclude the proposed beneficiary from carrying out independent journalism, his telephone and/or internet has been blocked sometimes, registering at least five periods of service suspension between 2020 and 2021,<sup>4</sup> and the provider has informed that access problems "are not due to causes attributable to them." Lastly, the applicants alleged that the situation of the proposed beneficiary has worsened "following the events with the San Isidro Movement and the November 27 Movement."<sup>5</sup>

## **2. Response from the State**

10. On June 18, 2020, the Commission requested information from the State, reiterating it on July 16, 2020, and no response has been received to date.

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

11. The mechanism of precautionary measures is part of the Commission's function of overseeing Member States 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 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

<sup>1</sup> Mr. Quiñones Haces' lawyer is the beneficiary of precautionary measure 954-16.

<sup>2</sup> September 6 and 8, November 27, December 9, 2020.

<sup>3</sup> December 12, 15, and 28, 2020; January 27, 28 and 31; and February 6, 2021.

<sup>4</sup> September 9-11 and 26-28, November 27, December 8-10, 2020, and January 27-30, 2021.

<sup>5</sup> IACHR, The IACHR rejects the arbitrary operation against the San Isidro movement in Cuba and reiterates its international human rights obligations, November 28, 2020. Available [in Spanish] at <https://www.oas.org/es/cidh/prensa/comunicados/2020/286.asp>; IACHR, The Office of the Special Rapporteur expresses concern about the persistent harassment against journalists, artists, and human rights defenders who exercise their freedom of expression in Cuba, February 5, 2021. Available at <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1193&lID=1>

serious and urgent situations in which these measures are necessary to avoid an irreparable harm to persons.

12. 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.

13. In analyzing those requirements, the Commission reiterates 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.<sup>6</sup>

14. Preliminarily, the Commission recalls that, by its own mandate, it is not called upon to rule on the criminal liability of individuals. Moreover, it is also not appropriate in this proceeding to analyze the allegations regarding the arbitrariness of the detention of the proposed beneficiary, insofar as this necessarily requires a compatibility analysis in light of the American Declaration and the applicable standards, which exceeds the mechanism of precautionary measures. Nor is it appropriate to rule on allegations referring to reported violations of rights recognized in the American Declaration, which should be carried out within the framework of the analysis of a petition, upon verifying compliance with the admissibility requirements or their exceptions. In this sense, the Commission will only focus on the analysis of compliance with the requirements established in Article 25 of the Rules of Procedure, which can be done without making any assessments on the merits.

15. As a contextual element in which the alleged facts are framed, as part of its monitoring work, the IACHR has identified persistent harassment against independent journalists in Cuba. According to the IACHR report on freedom of expression in Cuba, “the existing legal framework in Cuba places independent journalists in a situation of illegality [...]. The Office of the Special Rapporteur [for Freedom of Expression] is emphatic in stressing that the repression of independent journalists in Cuba constitutes a systematic and prolonged practice.”<sup>7</sup> The Commission and its Office of the Special Rapporteur have recently observed alleged acts of violent state repression of passive protests by journalists, artists and writers, calling on Cuba “to put an end to harassment against those who

<sup>6</sup> In this regard, for instance, referring to the provisional measures, the Inter-American Court has considered that such standard requires a minimum of detail and information that allow for a *prima facie* assessment of the urgent and serious situation. IACHR, *Matter of the children and adolescents deprived of their 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. Available [in Spanish] at [http://www.corteidh.or.cr/docs/medidas/febem\\_se\\_03.pdf](http://www.corteidh.or.cr/docs/medidas/febem_se_03.pdf)

<sup>7</sup> IACHR, Special Report on the Situation of Freedom of Expression in Cuba, OEA / SERL/V/II IACHR/RELE/INF.21/18. December 31, 2018, para. 83.

legitimately exercise their freedom of expression, including summonses, arbitrary detentions, pressure on their families and environment, and judicial harassment.”<sup>8</sup>

16. As reference, the IACHR has also identified specific situations presenting a risk in this context and issued the corresponding precautionary measures. For instance, precautionary measures have been recently granted in favor of 20 identified members of the San Isidro Movement. The information available indicates that the Movement includes persons from the artistic and social spheres, such as defenders and journalists. It was alleged that the proposed beneficiaries are at risk due to threats, harassment, surveillance, persecution, detentions, and acts of violence by state actors and third parties. As part of the activities of the Movement, its members purportedly hold various protests and demonstrations in the country or seek to report events that have occurred affecting their members.

17. At the time of entering the analysis of the seriousness requirement, the IACHR observes that, according to the request, the proposed beneficiary is identified as an independent journalist in Cuba, having previously been subjected to intimidation and harassment, and he was even prohibited from leaving the country. The Commission notes with particular concern that, during the time that he was deprived of his liberty, the state officers responsible for his custody had a hostile behavior towards the proposed beneficiary. In that sense, in the period of approximately one year that he was deprived of his liberty (September 2019-September 2020), it is noted that he purportedly suffered threats, mistreatment and attacks from “officers of the prison system.” As a demonstration of the previous assessment, it was indicated that the officers sought to prevent the proposed beneficiary from reporting the situation in prison and threatened to prohibit him from making calls to his family, which reportedly ultimately happened for a period of one month (see *supra* para. 5). In addition to the foregoing, also during the period of his detention, the proposed beneficiary was not provided timely and adequate medical care, denouncing “inadequate conditions” of detention (see *supra* para. 6).

18. Upon his release in September 2020, the Commission observes that the animosity against the proposed beneficiary did not cease, as events against him continued to occur. In this regard, the request indicates that, between September 4, 2020 until February 16, 2021, the date on which the applicants most recently provided information, the proposed beneficiary received at least 4 calls with direct threats, which include the possibility of hitting or running over him “at any time” if he continues his journalistic work. The request also indicates that he had received anonymous calls to his home on seven occasions, and a state officer had intimidated him by stating that he should stay at home. Moreover, it was indicated that he has been subject to follow-up and surveillance on more than 12 occasions, on different days.

19. For the Commission, such events reflect an ongoing risk that the proposed beneficiary has been facing. The information available reflects that the threats and intimidation seek that the proposed beneficiary limit his journalistic work, or that those responsible for such events can control his location. In this context, the Commission understands that, even though state actors are allegedly involved, the State has not deployed any protection measures in favor of the proposed beneficiary.

20. The Commission notes that, despite having requested information on June 18 and July 16, 2020, to date no communication has been received from the State of Cuba. The Commission regrets the lack of response from the State, and although the foregoing is not sufficient *per se* to justify the granting of a precautionary measure, it does prevent the Commission from having observations from the State and therefore analyzing whether the allegations of the applicants turn out to be disproved or not, as well as knowing the actions that, if applicable, are being implemented to address the alleged

<sup>8</sup> IACHR, The IACHR rejects the arbitrary operation against the San Isidro movement in Cuba and reiterates its international human rights obligations, November 28, 2020. Available [in Spanish] at <https://www.oas.org/es/cidh/prensa/comunicados/2020/286.asp>; IACHR, The Office of the Special Rapporteur expresses concern about the persistent harassment against journalists, artists, and human rights defenders who exercise their freedom of expression in Cuba, February 5, 2021. Available at <http://www.oas.org/en/iachr/expression/showarticle.asp?artID=1193&IID=1>. See also: IACHR, 20 identified members of the San Isidro Movement (MSI) regarding Cuba, Resolution 14/21 (PM 1101-20), February 11, 2021. Available [in Spanish] at [https://www.oas.org/es/cidh/decisiones/pdf/2021/res\\_14-2021\\_mc-1101-20\\_cu-es.pdf](https://www.oas.org/es/cidh/decisiones/pdf/2021/res_14-2021_mc-1101-20_cu-es.pdf).

risk. Special seriousness is entailed by the allegations that state officers are involved in the events of risk that the proposed beneficiary has been facing, at least since 2019.

21. Taking into account the foregoing, the Commission considers that the elements provided by the applicants, assessed in the previously mentioned context, are sufficient to consider from the *prima facie* standard applicable to the precautionary measures mechanism, that the rights to life and personal integrity of Roberto de Jesús Quiñones Haces are at serious risk.

22. Regarding the urgency requirement, the Commission considers that it has been met given the frequent, continued, and current nature of the alleged events of harassment and threats. Furthermore, it is taken into consideration that the proposed beneficiary has continued to work as an independent journalist. Moreover, the context in which his situation is framed, the lack of information on protection measures implemented in his favor, the lack of investigation into the alleged facts, added to the reported participation of state officers in events of risk, indicate that he could be exposed to possible attacks coming to fruition against him at any time.

23. 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, due to their own nature, the maximum situation of irreparability.

#### **IV. BENEFICIARY**

24. The Commission declares that the beneficiary of this precautionary measure is Mr. Roberto de Jesús Quiñones Haces, who is duly identified in this proceeding.

#### **V. DECISION**

25. In view of the aforementioned background, the IACHR considers that this matter meets *prima facie* the requirements of seriousness, urgency and irreparable harm set forth in Article 25 of its Rules of Procedure. Consequently, the Commission requests that Cuba:

- a) adopt the necessary measures to protect the rights to life and personal integrity of Mr. Roberto de Jesús Quiñones Haces. Such measures must allow him to continue carrying out his work as a journalist without being subjected to threats, harassment or acts of violence in the exercise thereof;
- b) consult and agree upon the measures to be adopted with the beneficiary and his representatives; and
- c) report on the actions taken to investigate the events that led to the adoption of the precautionary measures at hand, so as to prevent them from reoccurring.

26. The Commission requests that the Government of Cuba kindly inform the Commission, within a period of 10 days, as from the date of this communication, regarding the adoption of the precautionary measures that have been agreed upon and to periodically update this information.

27. The Commission stresses that, pursuant to Article 25(8) of the Commission's Rules of Procedure, 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 Declaration of the Rights and Duties of Man and other applicable instruments.

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28. The Commission instructs its Executive Secretariat to notify the State of Cuba and the applicants of this Resolution.

29. Approved on March 9, 2021 by: Joel Hernández García, President; Flávia Piovesan, Second Vice-President; Margarete May Macaulay, Esmeralda Arosemena de Troitiño, Julissa Mantilla and Stuardo Ralón, members of the IACHR.

María Claudia Pulido  
Acting Executive Secretary